

# Study on Key Aspects of Land Registration and Cadastral Legislation

Part 2 of 2



*Printed and published on behalf of UNECE Working Party on  
Land Administration by Her Majesty's Land Registry London  
May 2000*

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### PART 2

<u>Annex 2 Indicating answers categorised by country</u>	
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## Country: ALBANIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, there is a law Nr 7843 13/07/97 in the system of land registration*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Law 7501 for the land  
The Law for the restitution and the compensation of the property  
The law for the privatisation of the state apartments  
The Laws of the N.A.P. for the privatisation and other official laws or documents which certified the private property or the Court decisions*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *For maintaining the land register the law places the Central Office of the Immovable Property Registration*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Council of Ministers. The Central Office of the Immovable Property Registrations.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The Chief Registrar*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *In our country the Chief Registrar has a limited statutory powers to decide for questions of landownership and the Registry is a place of record of legal laws and documents.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *Yes, until this problem will be resolved*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *No*

## Country: ALBANIA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes. The law requires this*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *In case of a failure there is a fine 30 days after the schedule*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is a detailed registration based on parcel and from which the Registrar can grant the rights in land.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The law 7652 for the privatisation of the State buildings.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *All forms above mentioned are registered*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The minimum term for the lease to qualify it for registration is over 1 year*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A.
  - *the leasehold*
  - *land in use*
  - *restricted deeds*
  - *mortgage*
  - *court decisions*
  - *restrictions*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The land right which are registered are guaranteed by the State*

## Country: ALBANIA

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. -----

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *For the questions nr 21 and 22 we are preparing a draft*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *A. By application to the Registrar (first of all), then,  
B. By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *A. Wholly*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *An approved enquirer can obtain a copy of any register (kartela) or map of a registered property*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes, we are preparing the bulletin*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *The boundaries are mainly determined by cadastral map and the information given by the co-ordinators.*

30. **What laws govern the recording of ownership boundaries?**

A. *The governmental resolution*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The Central Office of Immovable Property Registration.*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**



## Country: ALBANIA

- A. *Yes, the number of the land registered is unique*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. *Government funding 100%*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

- A. *The Council of Ministers*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

- A. *Yes, under the governmental resolution with the State budget*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

- A. *The legal documents which certified the state and private ownership and the right in land, too.*

37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. *Yes*

38. **Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. *Yes they are; - the documents of ownership specified by the law 7501; the contracts of the purchase; the decision by the Commission of the Restitution of Property; and other legal documents*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. **Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. *According to the Civil Code, the article 186 "the courts, the notaries and other state organs must present for registration to the office which maintains the land register all legal documents which certified the ownership*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. **Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

- A. *The Law for the land registration is unique and closely co-operates with numeric index and index map.*

## Country: ARMENIA

### Section A: CONSTITUTION AND LEGISLATION

1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?
- A. Yes
2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?
- A. Yes
3. If there is, please list the main laws which govern land registration.
- A. *1. The Constitution of the Republic of Armenia  
2. The Civil Code of the Republic of Armenia  
3. The Land Code of the Republic of Armenia  
4. The Law on Real Property of the Republic of Armenia*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?
- A. *The State Unified Cadastral Department of Real Property of the Government of Republic of Armenia*
5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).
- A. *The Head of the State Unified Cadastral Department of Real Property of the Government of Republic of Armenia*
6. Who is authorised to independently supervise or audit the operation of the Land Registration?
- A. *The Senior Registrar*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents (please specify)
- A. *It is simply the place of record of legal facts and documents*
8. Does the act of registration confer legal status on the rights in land?
- A. Yes
9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?
- A. No
10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?
- A. No

## Country: ARMENIA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. Yes
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The owner will lose his property rights in land, after the registration his property rights should be recognized and then the owner can possess his property as he wishes*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The Registrar grants a "guaranteed title" to the land by means of state registration*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A.
  1. *The Constitution of the Republic of Armenia*
  2. *The Civil Code of the Republic of Armenia*
  3. *The Law on Ownership*
  4. *The Law on Condominiums*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *All the forms of ownership*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *It depends on contract's terms*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *All the rights of ownership*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. Yes

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Only the State Guarantees*

## Country: ARMENIA

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *The State guarantees*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A, By application to the Registrar B by application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *B. Partly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *An enquirer can obtain only not State confidential copy of register, but not a map of a registered property*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes*
27. **Is information as to the price paid for a property available to the public?**
- A. *Yes*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *They are determined by co-ordinates precisely*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Law on Registration of the Real Property*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The private surveyors*

## Country: ARMENIA

32. Does the law or any regulation require that unique reference numbers are used for registered land (please specify)

- A. Yes, the Cadastral Code. Any parcel consists of the code with 14 digits, and 4 groups .  
I. Group - 2 digits - Prefecture,  
II. Group - 3 digits - Communities,  
III. Group - 3 digits - Blocks,  
IV. Group - 6 digits - Parcel.

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means ..... % (please specify)

- A. Government funding .....50%, Fees paid by customers..50%

34. Who or what Institution has the authority to decide the level of any fees payable?

- A. The State Unified Cadastral Department of Real Property of the Government of Republic of Armenia

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

- A. The fees are set by regulations

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

- A. 1. The deed on land use and the plan of the land,  
2. For the buildings and constructions the certificate of ownership and the plan of the building or flat.

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

- A. Yes

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

- A. These forms are confirmed as per the decisions of the government of the Republic of Armenia

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

- A. The Licensed Appraisers and Realtors

## Country: ARMENIA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. **Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *The State Unified Cadastral Department of Real Property of the Government of Republic of Armenia solely is responsible for registering land rights, cadastral survey and mapping, land valuation and land use*

## Country: AUSTRIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *Land book ("Grundbuch" kept by the district courts):  
Allgemeines Bürgerliches Gesetzbuch (ABGB),  
Grundbuchsgesetz (GBG),  
Allgemeines Grundbuchsankündigungsgesetz (AllGAG),  
Liegenschaftsteilungsgesetz (LTG),  
Wohnungseigentumsgesetz (WEG),  
Grundbuchumstellungsgesetz (GUG),  
Cadastral Survey ("Grenzkataster": kept by the surveying offices):  
Vermessungsgesetz (VermG)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Land Book: Minister of Justice, Court Administration. Cadastral Survey: Minister of Economy, Federal Office of Cadastre and Metrology.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *See answer to question 4*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Land book: The operation of the land book is an judicial activity governed by the principle of the independence of courts; its supervision is covered by the rule for the supervision of courts.  
Cadastral survey: Federal Office of Cadastre and Metrology*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents (please specify)**
  - A. *The first is true. In regard of the land book the judge (or his/her deputy "Rechtspfleger", afterwards called "registrar") decides following the rules of a specific court procedure what to be registered.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes

## Country: AUSTRIA

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *Land book: in principle the decision has to be "ok " or "not ok". But in some cases (for example lack of certification on payment of property acquisition tax) there may be a provisional registration ("Vormerkung")*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Yes, but a conversion of this kind does not depend on the lapse of a specified time. If the missing document is applied in time the provisional registration is changed to an absolute one, otherwise this registration is deleted.*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *In principle no ! But the Austrian civil code ("Allgemeines bürgerliches Gesetzbuch") states that the property right (for example ownership) is transferred and protected only by registration - so it is up to the purchasers own interest to register promptly.*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *See answer to Question 11*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The second is true.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Wohnungseigentumsgesetz (WEG)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *- Shared Ownership (simple condominium), - Condominium of flats ("Wohnungseigentum"), - Hereditary building right (up to 100 years), - Lease (tenancy), only for a certain time, - other servituts like dwelling right,*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *No minimum time*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgages, servitudes and other real rights*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *Yes ("Annotation of priority")*



## Country: AUSTRIA

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The State guarantees and has to pay indemnity. Under certain conditions the State may regain indemnity by the Registrar who acted erroneously*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *See answer to question 20*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *See answer to questi on 20*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *Land book:*  
*(a) Appeal against the specific decision of the registrar - the local judge may correct this decision, otherwise the (next) court of appeal,*  
*(b) Court action against the holder of the registered right under certain conditions*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly. The auxiliary register of owners (part of the land book database) is open only in certain legally accepted cases*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Everybody can obtain such a copy*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No. but the documents which are the basis of the registration ("title", containing the purchase price) are collected as part of the land book and can be inspected as well.*
27. **Is information as to the price paid for a property available to the public?**
- A. *See answer to question 26.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *The boundaries are determined precisely only if the "Grenzkataster" is established, that is if the boundaries have been surveyed and registered for this purpose (the time being about 30% of Austria)*

## Country: AUSTRIA

30. What laws govern the recording of ownership boundaries?

A. Vermessungsgesetz (VermG)

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?

A. Surveying office (see questions 4 and 5)

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. Yes; every parcel is described uniquely by cadastral district and parcel number

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means ..... % (please specify)

A. In figures 100% paid by fees of the customers (the fees are income of the Minister of Finance; land registration is financed by the budget of the Ministry of Justice or the Ministry of Economy respectively).

34. Who or what Institution has the authority to decide the level of any fees payable?

A. The Ministers involved and/or parliament

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. Yes. Land book: Gerichtsgebührengesetz (GGG), Cadastral Survey: Vermessungsgesetz (VermG)

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. Any documents establishing, transferring or cancelling a real right (written on paper, signatures validated by notary public or court).

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. The land register (land book, cadastral survey) is kept only in a data base which design is not stipulated by law. But the representation of the data is defined by law.

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. No. But law stipulates the content of the application - exact description of the parties, of the contract, of the object, of the changes to be registered.

## Country: AUSTRIA

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

- 39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *Everybody is authorised to create documents and make applications for registration. To carry on such activities for gainful purposes is allowed only to professions like lawyers ("Rechtsanwälte") or notaries public. To avoid problems in practice most parties call on professional services. Mortgaging is usually done by the banks themselves.*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

- 40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *Yes. The land book and cadastral survey use the same database changing only their data, using the data of the other organisation. The tax offices are involved (taxation of the contracts, valuation of land for taxation of real estates) as well as the municipalities (construction offices).*

## Country: BELARUS

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, Land Code (1999)*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, there is*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Civil Code (1998). This new Civil Code came into force after July 1st, 1999. Land Code (1999). There is not any special Registration Law yet.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes it does. State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus (SCLRGC) is responsible for maintaining State Land Cadastre and Land Register in accordance with the Land Code. The head office for maintaining the Cadastre and Register is the National Cadastral Agency (from 1998). NCA is under SCLRGC. Municipalities are responsible for registration building, construction, premises.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Chairman of SCLRGC. Director of NCA*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Nobody is authorised.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents (please specify)**
  - A. *Yes, he does.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, Civil Code (1998) set obligatory of right registration on immovable property from July 1, 1999*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No. The Registrar has no power to grant a provisional title.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *----*

## Country: BELARUS

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Obligatory registration of new rights on Immovable property is introduced by new Civil Code from July 1st 1999*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *Rights is not come into force. Agreements that are not registered are not in fact.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is an examination of the documents by Registrar.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Condominiums Law, January 22 1998*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *The list of rights to be obligatory registered is in Civil Code (1998). Among them: ownership, lease, rights of permanent and temporary using, mortgage, rent, operative control and some others.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *Lease more than one year. This rule comes into force from July 1st, 1999*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *See question 15.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *No*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *No other protection*

## Country: BELARUS

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *No*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *a) Yes,  
b) Yes,  
c) --*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Only for holders of rights*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *No, as a rule.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes, from 1999*
27. **Is information as to the price paid for a property available to the public?**
- A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *All boundaries determined precisely*
30. **What laws govern the recording of ownership boundaries?**
- A. *No laws. Regulations of SCLRDC governs the recording of ownership boundaries*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *SCLRGC*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *It does. Regulations of SCLRGC (1998) require the unique reference number to be used for registered land*

## Country: BELARUS

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. *State Land Cadastral/Land Registration system have Government funding. Registration of building, construction, premises financed by fees paid by customers.*

34. Who or what Institution has the authority to decide the level of any fees payable?

- A. *Ministry of Economic*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

- A. *Regulation*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

- A. *Agreements, court decisions, administrative acts*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

- A. *Regulations of SCLRGC. From 1999 the registration books with inserted pages and its computer data base analogue are used.*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

- A. *No. This is the matter of regulations of SCLRGC*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

- A. *No. There is no such law. In fact so called "Realtors Agencies" are active on the Real Estate market.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

- A. *No. There are no laws that specify formal relationships*

## Country: BELGIUM

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *The Belgian constitution does not include particular rules on land ownership*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *There are three government agencies maintaining land registers:*
    1. *The "Registration" offices registering all kinds of acquisition acts regarding real property for the purpose of taxation,*
    2. *The "Mortgage" offices registering the authentic acts for mortgage purposes,*
    3. *The Cadastre; an inventory of land ownership using geographically referenced cadastral parcels for the purpose of annual income tax.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Official dutch designation (D) :*
    1. *Wetboek der successierechten,*
    2. *Wetboek der registratie- hypotheek en griffierechten,*
    3. *Wetboek van de inkomstenbelastingen 1992.*
    4. *Hypotheekwet*  
*Official French designation (F):*
    1. *Code des droits de succession,*
    2. *Code des droits d'enregistrement, d'hypotheque et de greffe,*
    3. *Code des impots sur les revenus 1992,*
    4. *Loi Hypothecaire*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The three agencies mentioned above are part of the Department of Finance*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Responsible Minister: The Minister of Finance*  
*Postholder responsible for land registry: The head of the mortgage office = "Hypotheekbewaarrder" (D) or "Conservateur des Hypotheques" (F).*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The constitutional institutions*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *It is simply a place of record of legal facts and documents*



## Country: BELGIUM

8. **Does the act of registration confer legal status on the rights in land?**
- A. *No legal rights. Act of registration is just a matter of publicity (publicity of private acts)*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *The Registrar has not any power to grant legality of rights*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *Not at all*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes, it is*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *In case of failure, the contract transferring immovable rights cannot be opposed to a third party.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Register of Deeds*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Law of Condominiums = 1994 June 30. That law compels to register any acts of condominium*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Any right on real estate. Including leasehold for a long time (9 years and more)*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *Nine years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Three kinds of rights:*  
*1. ownership and different sorts of ownership (absolute, provisional, freehold, beneficial);*  
*2. mortgages,*  
*3. judicial sale*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No except at the request of the buyer. In any case, before settling the act, the buyer has to ask the Registrar to know if there is a mortgage*

## Country: BELGIUM

19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration

A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).

A. *No*

21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?

A. *To take legal proceedings*

22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?

A. *The Registrar is personally responsible for the publicity required in the land register*

23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?

- A By application to the Registrar
- B By application to the Court
- C By other means (please specify)

A. *B. By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. Is the register open to public inspection?

- A Wholly
- B Partly
- C In certain circumstances

A. *A. Wholly*

25. Can an approved enquirer obtain a copy of any register or map of a registered property?

A. *Yes*

26. Is the purchase price paid for a property recorded on the land register?

A. *Yes*

27. Is information as to the price paid for a property available to the public?

A. *Yes*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. Is registered land related to a map indicating the extent and the boundaries of the property?

A. *The Belgian cadastre is a parcel based information system containing interests in land. All information is connected to cadastral parcels through a unique parcel identifier. Cadastral maps show the relative location of all parcels in a given region. The cadastral maps range from scales of 1/10000 to 1/500*

## Country: BELGIUM

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Boundaries are determined in relation to cadastral map objects. New cadastral maps are based on ground survey, remote sensing and aerial photography.*

30. **What laws govern the recording of ownership boundaries?**

A. *Belgian cadastre supports taxation and administration activities, management of land and land use. "The Koninklijk Besluit van 26 juli 1877" (D) or "Arrete Royale de 26 juillet 1877" (F) governs the recording of ownership boundaries*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The Cadastre administration*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *The law requires that public acts regarding acquisition of land parcels, land tenure and building refers to the cadastral registration*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Fees paid by Customers 100%*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

A. *Federal Government*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The "Hypotheekwet" or the "Loi Hypothecaire" a specific law on real estate*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Each authentic act transferring immovable rights.*

37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *(Yes)*

38. **Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Yes, a law soon to be voted*

## Country: BELGIUM

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *Notary public, judge, bailiff, public authority*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *There is one administration of real estate since 1st March 1999: Administration of cadaster and real estate which includes different services*

## Country: BOSNIA AND HERZEGOVINA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, Property Law*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes - Land Register, - Measuring and Immoveable Property Cadastre Law. - Measuring and Land Kadastré law*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Property Law,  
Land Register Law,  
Measuring and Immoveable Property Cadastre Law,  
Expropriations Law,  
Communal Installations Law,  
Agricultural Land Law,  
Building Land Law,  
Woods Law,  
Waters Law,  
Roads Law.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes, it does*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Ministry of Justice, - Director of Geodetic Administration*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Juridically State*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Geodesy Administration is a place for registration of rights facts*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, it does*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *\_ Yes, - Administration Issues Certificate to grant provisional title*

## Country: BOSNIA AND HERZEGOVINA

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *No*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Yes*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *The Rule of derivative and original way of acquisition rights*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *Document adjour and guaranteed title is considered*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *- Ownership Law,  
- Lease law,  
- More important buying Law,  
- Mortgage.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Absolute and shared freehold, - Leasehold, - Ownership,*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Five years*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Right on usage, Mortgages*

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *Depends on contract between partners*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *Litigation record and record of priority are considered in such case*

## Country: BOSNIA AND HERZEGOVINA

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).
- A. *Yes, by the State*
21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?
- A. *Right is protected by Court of Law*
22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?
- A. *No, there was no demand until now*
23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification
- A By application to the Registrar  
B By application to the Court  
C By other means (please specify)
- A. *A - By application to the Registrar,  
B - By application to the Court,  
C - Proposal of costume is considered*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. Is the register open to public inspection?
- A Wholly  
B Partly  
C In certain circumstances
- A. *A - Wholly,  
C - In certain circumstances*
25. Can an approved enquirer obtain a copy of any register or map of a registered property?
- A. *Yes*
26. Is the purchase price paid for a property recorded on the land register?
- A. *No*
27. Is information as to the price paid for a property available to the public?
- A. *Yes*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. Is registered land related to a map indicating the extent and the boundaries of the property?
- A. *Yes*
29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?
- A. *There are determined by cadastral register plans/maps*
30. What laws govern the recording of ownership boundaries?

## Country: BOSNIA AND HERZEGOVINA

A. *Measuring and Immovable Property Cadastre Law*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *Communal and Geodesy Administration*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *No*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Government Funding - 70%,  
Fees paid by customers - 30%*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

A. *Institution of Society Incomes*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *Citizen Taking Law*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Public Documents/Conclusions and Decisions of Legislative Authorities/Private Documents/Contracts*

37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *Yes, Regulation/Written and stamped by Judicial Tribunal*

38. **Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Beside application guaranteed by document for registration in immovable property cadastre there are no other forms stipulated by law*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. **Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *Legislative authorities, Managing Body in case of solving rights on immovables, Lawyers - private documents, Citizens - trading of immovables, Statistics, The Land Information System*



## Country: BOSNIA AND HERZEGOVINA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *Co-ordination of tax managing body and body in charged area of planning*

## Country: CANADA - ALBERTA

### Section A: CONSTITUTION AND LEGISLATION

**1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**

A. *Written constitution*

**2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**

A. *The land registration system used in Alberta is based on the Torrens system of land registration and operates under the legislative authority of the Land Titles Act (RSA 1980, C-L-5). The Provincial government is responsible for recording all ownership rights and other interests in the public register and has custody of all original titles and documents.*

**3. If there is, please list the main laws which govern land registration.**

A. *There are numerous provincial and federal statutes and regulations (over 100) which form the legislative framework and authorize registration of legal land related documents at the Land Titles Office. The main statute, of course, would be the Land Titles Act. Examples of the most commonly referred to statutes are: Condominium Property Act, Municipal Government Act, Dower Act, Builders Lien Act, Law of Property Act, Public Lands Act, Expropriation Act, and Surveys Act.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

**4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**

A. *Registrar of Titles - an Assistant Deputy Minister of the Ministry of Government Services.*

**5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**

A. *Registrar of Titles - an Assistant Deputy Minister of the Ministry of Government Services.*

**6. Who is authorised to independently supervise or audit the operation of the Land Registration?**

A. *Auditor General*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

**7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**

A. *Prior to registration, the Registration Office performs an examination on all documents submitted for registration to ensure they comply with all applicable legislation, policy and procedure and case law. Deficient documents are rejected. Once registered, the Registration Office cannot make any corrections to the record and changes must be dealt with through application to the courts. However, the Land Titles Act does allow for the Registrar to make minor corrections so far as practical without prejudicing rights conferred for value subsequent to registration*

**8. Does the act of registration confer legal status on the rights in land?**

A. *Yes, once registered, an indefeasible title or other interest is created in land according to the tenure of the document.*

## Country: CANADA - ALBERTA

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *No. If examination finds flaws or other errors with the documentation, the document is rejected. Alberta Land Titles system does not have provisional titles.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *N/A*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Yes. People are compelled by statute to entrust their legal rights in land to the Land Titles Office*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *The certificate of title is intended to be a complete and accurate reflection of the result of all transactions dealing with property. A purchaser can rely on the register's assurance that the vendor's title is marketable, and need not be concerned by competing persons who themselves claim ownership. As a result, if a purchaser gives good consideration to the vendor, his title becomes good against the world, subject only to the existing encumbrances noted on the register and the few statutory exceptions to indefensibility. All registered interests are lost.*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *There is a very comprehensive examination function applied to all documents presented for registration to the Alberta Land Titles Office. As a result, the Provincial Government guarantees the accuracy of the record and has an Assurance Fund established under the Land Titles Act to provide compensation for loss of right due to the operation of the system even through fraud or forgery.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Condominium Property Act R.S.A 1980, c. C-22 and Land Titles Act*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *3 types of ownership are recognized in Alberta: 1. Fee simple estate (joint tenancy or tenant in common), 2. Leasehold estate (as above), 3. Life estate (as above)*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Must be for a term of more than 3 years*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *All rights must be registered. If the right is not registered, the right may be extinguished. There are a few statutory exceptions to indefensibility contained in the Land Titles Act. Some examples are taxes, public highways or rights of way, leases of less than 3 years where there is actual occupation, a right of expropriation, or any subsisting reservations or exceptions contained in the original grant from the Crown.*

## Country: CANADA - ALBERTA

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No. Mortgages can be assumed or transferred. The purchaser may elect to take title subject to the existing mortgage if so desired*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *No. The principle of "first in" "first on" establishes priority in Alberta. However a caveat may be filed on title to establish a priority of a notice of an interest in the property. Persons dealing with this property would then acquire title subject to a potential prior claim.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *Yes. The Land Titles Act establishes an Assurance Fund through which the Alberta Government compensates persons for loss of rights in real property due to the operation of the Act or even through fraud or forgery*

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *N/A*

**22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *As per s.170 of the Land Titles Act, compensation is authorized to be paid by: 1. The Registrar for claims not exceeding \$1000, or 2. The Minister for claims exceeding \$1000 but not exceeding \$5000 or, 3. The Lieutenant Governor in Council for claims exceeding \$5000*

**23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *By application to the Registrar or by application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *Wholly*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes*

**26. Is the purchase price paid for a property recorded on the land register?**

A. *s.154 of the Land Titles Act provides that the Registrar shall not perform any duty (i.e.: register any document) until fees are paid. The value of the land is ascertained by an oath or affirmation of the transferee of the land which provides evidence of the value in the "opinion on the transferee". While this can generally be relied on to be market value in "bona fide purchaser for value" situations, this is not always the case. Regardless of this, the value as established by the affidavit of transferee is recorded in the register and reflected on the title*

**Country: CANADA - ALBERTA**

**27. Is information as to the price paid for a property available to the public?**

A. *The information on property values as defined in 26 above is available to the public as it is contained in the document and reflected on title.*

**SECTION H: SURVEY, MAPPING AND BOUNDARIES**

**28. Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes*

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *All boundaries are related to survey plans referenced to iron posts in the ground*

**30. What laws govern the recording of ownership boundaries?**

A. *Survey Act, Land Titles Act, and Condominium Act*

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *Department of Environmental Protection is responsible for maintaining the Survey Fabric. Mapping has been outsourced through partnerships*

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Land Titles Act - 85 (2) (b) (c) shall show the numbers/letters of the parcels. In addition, each parcel of land is assigned a unique LINC (Land Identification Numeric Code) number in the electronic title database as provided for in the Land Titles Act.*

**SECTION I: FEES AND FINANCING**

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

**Government funding** .....%  
**Fees paid by customers** .....%  
**Other means** ..... % **(please specify)**

A. *100% government funding. All fees collected as a result of registrations are transferred into the Governments General Revenue Fund. Operational costs are paid for through Departmental Budgets granted by Treasury. The fees collected far exceed the operations budget.*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Lieutenant Governor in Council has the authority to prescribe fees under the Land Titles Act*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *Currently, fees are established by the Lieutenant General in Council under the Land Titles Act, Tariff of Fees Regulation. All government fees which are prescribed by regulation are currently under review as a result of the Supreme Court of Canada's decision in the Eurig Case.*

## Country: CANADA - ALBERTA

### SECTION J: DOCUMENTS AND FORMS

- 36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**
- A. *There are approximately 150 different document types which are registerable at the Land Titles Office through the statutory provisions contained in the numerous (100+) articles of legislation that deal with real property. (The attached list\* itemizes the documents which are currently registerable) \*Note: Not set out in this Report.*
- 37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**
- A. *The Land Titles Act and the Condominium Property Act both legislate the form of the titles and the information to be contained in them. Samples\* are attached for reference. \*Note: Not attached to this Report*
- 38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**
- A. *See attached\* Land Titles Act, Forms Regulation (AR 480/81). Note that this regulation is also currently under review due to recent amendments to the Land Titles Act as well as to ensure that all forms are current. As you will note, the forms are very skeletal and contain only the clauses and information required by legislation. In most cases, these forms are modified by the user to include additional clauses required between the parties. The existing substance of the forms, however, must be left intact in the modified forms to ensure their compliance with the legislation. \*Note: Not attached in this Report*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

- 39. Does the Law stipulate which professions or agents are a uthorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *The features of the Torrens System, as implemented in Alberta, are: reliability, simplicity, cheapness, speed and suitability. As such, there are no limitations placed on who can prepare and submit for registration any documents to the Land Titles Office on their own behalf. However, as most circumstances surrounding conveyancing require some form of legal advise or trust conditions, it is very typical that most land transactions involve the legal community. The Legal Professions Act establishes that no one except an active member of the Law Society of Alberta may practice as a barrister and solicitor. The Land Titles Act also prohibits Land Titles staff from advising on titles or practicing as conveyancers. While the document examination staff are knowledgeable in the registration requirements for land documents, they do not have the official qualifications to give appropriate advice in the completion of documents that regulate rights of ownership of land. Because the manner in which documents are prepared can result in different legal consequences, and possible financial liability if improper claims are made, people are strongly urged to consider the appropriateness of reviewing their transactions with a qualified adviser prior to submitting them for registration.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

- 40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *The Land Titles Office is made up of both the document registration function as well as the survey section, who are responsible for the examination and registration of all plans of survey. The responsibility for provincial mapping lies with the Department of Environmental Protection who have partnered with an outside agency to perform this function on their behalf. Land Valuation and Land Use are both the responsibility of the Municipal Governments that the parcels of land fall within. Although there is no law which specifies any formal relationship or co-ordination, all of these entities work closely together to ensure an ordered development of the land and the continued efficient operatiuon of the land tenure system. Each has their own unique part to play in its success.*

## Country: CANADA - BRITISH COLUMBIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *Land Title Act, Condominium Act, Property Law Act, Land Act,*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. Yes
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Attorney General under the Ministry of the Attorney General appoints an officer known as the Director of Land Titles. The Director of Land Titles is responsible for regulating the practices of the Land Title Branch. The business of each Land Title Office is conducted by another Office known as the Registrar of Land Titles.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The Office of the Auditor General*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Registrar of Land Titles is required to examine the evidence and documentation provided and cannot complete the registration of the interest claimed unless he or she has confirmed that a good safe holding and marketable title has been established.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, registration gives notice of an interest in land. The registration of an indefeasible title is conclusive evidence at law and in equity against the Crown and all other persons , that the person named in the title is indefeasibly entitled to an estate in fee simple to the land described subject only to certain restrictions defined under Section 23 of the Land Title Act. These exceptions pertain to such things as requirements to pay taxes, the right of expropriation and subsisting conditions contained in the original Crown Grant. The registered owner of a charge is deemed to be entitled to the estate, interest or claim created or evidenced by the instrument in respect of which the charge is registered.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No, if the Registrar is not satisfied with the conclusiveness of the evidence presented to establish the right claimed he or she must reject the application. The Applicant must then satisfy the concerns of the Registrar or appeal the decision of the Registrar in the Supreme Court.*

## Country: CANADA - BRITISH COLUMBIA

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Not applicable*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *No*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *The Land Title Act states that: "Except as against the person making it, an instrument purporting to transfer, charge, deal with or affect land or an interest in land does not operate to pass an estate or interest, either at law or in equity, in the land unless the instrument is registered in compliance with this Act"*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The Province of British Columbia system of registration is structured under the Torrens system of land registration. This system of registration provides for an indefeasible title to land and an assurance fund.*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *The Condominium Act provides the mechanism for creation of a condominium development and establishes separate fee simple titles for each unit within the complex. The titles so created can devolve and be disposed of in the same manner and form as any land the title to which is registered in the land title office.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *In our registration system we issue a Fee-simple interest in land to the owner of the land. We then register, against that title, all interests deemed to be less than the fee simple. Some examples of these other interests are leases, life estates, determinable fee simples or conditional fee simples, mortgages, easements, restrictive covenants, statutory building schemes and covenants.*

*These interests may be held individually or by several persons. Where several persons only interest they may opt to be registered as joint tenants or tenants in common.*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Our laws do not restrict the registration of a leasehold interest based on its term. However a lease for less than three years, where there is actual occupation under the lease is protected under the Act without the need to register the lease agreement.*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *The Land Title Act states that: "Except as against the person making it , an instrument purporting to transfer, charge, deal with or affect land or an interest in land does not operate to pass an estate or interest, either at law or in equity, in the land unless the instrument is registered in compliance with this Act.*



## Country: CANADA - BRITISH COLUMBIA

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No. The new owner of the land takes title subject to the existing mortgages.*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *The Land Titles are guaranteed by the Province of British Columbia via the Provincial land title system, the assurance fund and the Provincial Court system.*

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Not applicable*

**22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *The Attorney General may admit or compromise a claim made against the assurance fund and may authorize payment of all or part of the claim. The Registrar of Land Titles, with the permission of the Director of Land Titles may also admit or compromise a claim but payment cannot exceed \$5000.*

*If the Attorney General or the Registrar are not prepared to compromise the claim a person may proceed in the Supreme Court against the Attorney General as nominal defendant for the purpose of recovering the amount of the loss or damages.*

**23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A By application to the Registrar**
- B By application to the Court**
- C By other means (please specify)**

A. *The recommended process is to first make application to the Registrar of land titles. The Registrar and the Director review any claim made and may provide a recommendation to the Attorney General. If the claimant is not satisfied with the response from the Registrar then the claimant must commence an action in Court to enforce the claim.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection?**

- A Wholly**
- B Partly**
- C In certain circumstances**

A. *Yes, all information filed at the Land Title Office is available for inspection*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes, copies of any record may be obtained*

**26. Is the purchase price paid for a property recorded on the land register?**

A. *Yes, it is necessary to declare the consideration paid when applying for registration*

## Country: CANADA - BRITISH COLUMBIA

27. **Is information as to the price paid for a property available to the public?**

A. *As the information is contained in public documents this information may be obtained by the public.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *The majority of parcels of land relate back to maps. When the Crown alienates a portion of land the new title is based on a Public Official map which is filed at the Surveyor Generals Office. Subsequent subdivision plans of land are filed in the Land Title Office.*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Subdivision plans are required to be based on legal surveys conducted by professional land surveyors. The boundaries of the parcels are defined by setting posts and monuments in the ground. The survey plans show these posts along with bearings and distances between them.*

30. **What laws govern the recording of ownership boundaries?**

A. *The most common statutory laws affecting boundaries are the : Land Act, Land Title Act, Land Survey Act, and the Surveyor Generals Regulations*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The Land Title Office is responsible for maintaining the survey plans filed in their offices. Other Government organisations create and maintain various composite and topographical maps.*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *No, however , the Registrar assigns a unique number to each document and a permanent parcel identifier number to each parcel of land which is used to facilitate parcel definition.*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Government Funding 0%,  
Fees paid by customers 100%,  
Other means 0%.*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Provincial Government*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The Land Title Act and Land Title Regulations*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Our laws permit registration of any interest that is determined to be a valid interest in land.*

## Country: CANADA - BRITISH COLUMBIA

37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**
- A. *The Land Title Act and Regulations establishes the requirements of the form for the title register. A copy of a sample state of title certificate is attached\* for your reference. \*Note: not attached to this Report*
38. **Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**
- A. *Yes the Land Title Act does provide prescribed forms that are to be used for land registration. The majority of land transactions are submitted on one of three forms. They are:  
Form A - Freehold transfer form,  
Form B - Mortgage,  
Form C - General Instrument. The Form C is used to apply for interests in land not covered by the Form A and B and to discharge an interest less than fee simple*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. **Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *No, however the execution of a document must be certified by an "Officer" as defined under the Evidence Act. The professionals identified under this statute are Notaries Public, Barristers and Solicitors.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. **Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *Statutes exist that require certain organisations to share information and to provide advice. The law does not, however, establish specific protocol agreements or provide for any specific formal relationship*

## Country: CANADA - MANITOBA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Property Rights do not form part of the Charter of Rights and Freedoms.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Real Property Act c.c.s.m.. Chapter R30 supports the system of land holding under the Torrens system. The Registry Act. c.c.s.m.. Chapter R50 supports the recording of interests under the Common law Registry System. The Condominium Act c.c.s.m. Chapter C170 supports interests in land that fall under the operation of that act dealing with Condominium Units.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *There is an official postholder charged with the responsibility. The Land Titles Office is a registry that forms part of The Property Registry, a special operating agency of the Department of Consumer and Corporate affairs.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Registrar General exercises general supervision over all land titles offices. Each District has District Registrar who is responsible for the land register within that district. An Examiner of surveys is also appointed to manage interests concerning survey examination and registration for the Province.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The Registry General. External audits of financial position done annually.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Under the Real Property Act, the District Registrar has the power to decide on evidence and questions of land ownership registration. This is appealable to both the Registrar General and to the Courts. Under the Registry Act, the District Registrar simply records interests in the correct abstract of title*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Under the Real Property Act, ownership of land or interests in land pass only on the acceptance of the District Registrar. Under the Registry Act, no legal status passes. Where property is brought from the Registry system to the Torrens system a District Registrar examines the chain of title to determine if the land is a safe holding, and if so will issue a guaranteed title under the Real Property Act*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No provisional or qualified title issues in Manitoba*

## Country: CANADA - MANITOBA

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Not applicable*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *None under the Registry system. Not required under the Real Property Act, but benefits and recognition of ownership only available under that Act.*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *No recognition of legal ownership, or interest in land priority of rights based on registration, third party interests will be able to rely on the register and perhaps defeat interests of unregistered parties.*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The Registry system merely retention and filing - The Real Property Act, Torrens system involves considered examination of documents*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *The Condominium Act. c.c.s.m. Chapter C170*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Freehold, leasehold, condominium, pipeline easement titles including fractional interests and recognition of residential interests*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *3 years to obtain title, otherwise, a lease can be protected by registration or filing of caveat, which does not issue title.*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *All interests in land under the Torrens System. The Courts may recognize unregistered interests (ie equitable mortgage) between the parties, but would not effect third parties who rely on the register without notice of the unregistered interest*

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No, the purchaser can make their registration subject to the existing mortgage, in which case title issues with the mortgage charging the land.*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *No. Applicants could register a caveat to give notice of an interest.*

## Country: CANADA - MANITOBA

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Under The Real Property Act, the State deems a title to be conclusive evidence at law and in equity. Subject to some overriding interests, a guaranteed title issues. There is no guarantee under The Registry Act.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *Under the Registry System a party may engage a lawyer, where in the event of professional liability, the lawyers liability Fund could cover. Some title insurance exists for refinancing of mortgages currently in the Province.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Where on the advice of the Minister, the Register General and the District Registrar, the Minister of Finance may make a payment out of the Assurance Fund*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar, and  
B. By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly; on an individual search by search basis, it is available to the public. Bulk sales are restricted by the Freedom of Information and Protection of Privacy Act.  
B. Partly: Some restricted names are excluded from the names list for searching through that Index*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The amount of the purchase is shown on the document which effects the transfer. This is available either online or by a search of the registered document.*
27. **Is information as to the price paid for a property available to the public?**
- A. *This is publicly available through the Land Titles Offices. Copy of Notice of Changes of Ownership is also forwarded to Assessment Offices for municipal taxation purposes which also discloses the price.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Boundaries of land are tied into either a plan reference or metes and bounds descriptions that form part of the Dominion Government Survey. Registration of plans and legal descriptions are compulsory under the Real Property Act, and in all cases where land is subdivided*

## Country: CANADA - MANITOBA

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Boundaries are not related to topographic maps or co-ordinates. Each new subdivision of land is surveyed. Dimensions of the lot are shown on a plan of survey which is registered at the Land Titles Office. Iron bars are placed in the ground at lot corners. The iron bars become the primary evidence of lot corners, dimensions and co-ordinates derived from the survey become secondary evidence.*

30. **What laws govern the recording of ownership boundaries?**

A. *The Registry Act and The Real Property Act*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *Surveying standards and registration of survey plans is the responsibility of The Property Registry. Mapping is the responsibility of the Department of Natural Resources, Land Information Centre, other than natural boundaries, no topographical data is shown on the plan of survey.*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *The Province has adopted a system of land holding based upon 2 grid systems; 1; River Lots; 2: 1 mile grid or the Township system. Each system has a unique number system that is used as a basis for issuing titles. This system is also used for mapping and land valuation indexing.*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding	.....%
Fees paid by customers	.....%
Other means	..... % (please specify)

A. *Fees paid by customers 100%*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Agency on the advice of its Advisory Board, may, on the approval of the Minister apply for an Order in Council to establish a Fee under Regulations to either the Real Property or Registry Act*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *By regulation. Real Property Act provides approval of its Lieutenant Governor in Council for the Registrar General to pass Regulations (s.195). Registry Act provides that Fees are prescribed by Order in Council (S.66(1)).*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Many Acts of Parliament and the Legislature provide for numerous documents to be registerable. Most registrations are comprised of transfers, mortgages, Request/Transmissions, Caveats and Discharges. (There are over 200 recognized document types).*

37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *Form of title is prescribed*

38. **Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *The documents specified in box (question) 36 are prescribed by regulation.*

## Country: CANADA - MANITOBA

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. **Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *The Law Society governs. A party may draft and register their own documents; however if someone else acts on their behalf, they would be deemed to be practising law in contravention of the Law Society Act. Only barristers and solicitors, entitled to practise, can act on behalf of someone else in the preparation and registration of land titles documents.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. **Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *There are no laws for a formal relationship; however, joint ventures with the Agencies responsible have taken place in selected areas of the Province for GIS mapping. The largest example is land mapping is within the City of Winnipeg. The registering of land rights and the registration of cadastral surveys falls under the same jurisdiction, The Property Registry.*



## Country: CANADA - ONTARIO

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Under our constitution there is a right to hold and dispose of rights in registered land*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Registered dealings with registered land are recorded in registers in Land Registry Offices and these records form a part of Public records*
3. **If there is, please list the main laws which govern land registration.**
  - A.
    1. *Registry Act,*
    2. *Land Titles Act,*
    3. *Land Registration Reform Act,*
    4. *Condominium Act,*
    5. *Planning Act,*
    6. *Certificate of Titles Act,*
    7. *Boundaries Act,*
    8. *Mortgage Act,*
    9. *Executions Act,*
    10. *Family Law Act,*
    11. *Construction Lien Act,*
    12. *Estates Administration Act,*
    13. *Conveyancing and Law of Property Act,*
    14. *Succession Law Reform Act .... among other Statutes*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The Ministry of Consumer and Commercial Relations (Provincial Government) is responsible for maintaining records of land through the Land Registry Offices.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Minister of Consumer and Commercial Relations - Overall control, Director of Land Registration - Administrative and Legal Control, Director of Titles - Administrative and Legal Control, Land Registrar - Operational Control*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Director of Land Registration for overall control, ie., records ie. fees, taxes etc.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Director of Titles, Examiners of Surveys and Land Registrars have limited statutory authority to decide from evidence and documentation provided, questions of land ownership etc.*

## Country: CANADA - ONTARIO

8. **Does the act of registration confer legal status on the rights in land?**
- A. *The act of registration is only a public notice of potential rights in the land*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *No. The Land Registrar does not have powers to grant a provisional title. However, a qualified title may be granted upon application.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *The Land Registrar does not have a power to convert a title to an absolute title. However, if a qualified title has been granted an application for absolute title may be made.*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Under the Land Titles System it is strongly recommended. Under the Registry Act, it is not mandatory.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The registered owner may create new rights and interests in the land The priority between rights is decided by the time of registration.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Under the Registry Act, the registration system is solely based on recording, retention and filing of registered documents. Under the Land Titles Act, the ownership of the Parcel is guaranteed by the Province and any party who suffers damages may file a claim against the Land Titles Assurance Fund.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Condominium Act governs the ownership and registration of dealings with the condominium Units and the Condominium Corporation.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Fee Simple, leasehold, shared ownership, Condominium Unit Ownership*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *There is no minimum term for a lease for registration purpose.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Any document which creates an interest and right in the land may be registered*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No proof is required of the discharge of a sellers mortgage*

## Country: CANADA - ONTARIO

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *The land reeregistration system under both the Land Titles Act and the Registry Act is based on a first served basis and the system does not give guaranteed priority*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *Both the Registry and Land Titles Acts guarantee the recording of all registered dealings on the land described in the document.*

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Accuracy in the recording of the information on the land described in a registered document is guaranteed by the Province*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *The Director of Land Registration has the power to indemnify a party who suffers loss by an omission or error in the land register*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *Parties can seek rectification under:  
A) an application to the registrar,  
B) by court order*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *All registers and registered documents are open to public inspection*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Any person can obtain a copy of any register and of any document or any registered or deposited plan of survey*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes. The purchase price is recorded on the land register.*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes. Information is available to the public.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Most of the current land deals are related to a map or plan; however, it is not a general rule.*

**Country: CANADA - ONTARIO**

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Extent of title is not guaranteed by either the Registry or the Land Titles Act*

**30. What laws govern the recording of ownership boundaries?**

A. *Boundaries are confirmed if an application to confirm the boundaries is made under Boundaries Act.*

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The Land Registry Office stores all the registered or deposited Survey Plans and Block maps of the properties in their jurisdiction.*

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Both the Registry and Land Titles Acts specifically provide a procedures as to how the land records are to be maintained.*

**SECTION I: FEES AND FINANCING**

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means ..... % (please specify)

A. *The land registration system is wholly financed by fees paid by customers.*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Ministry of Consumer and Commercial Relations, Real Property Registration Branch recommends the fees under the Registry Act and the Land Titles Act.*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *Fees are set by the regulations under the respective Acts. Both the Acts provide relevant sections to prescribe fees for services.*

**SECTION J: DOCUMENTS AND FORMS**

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Any document which creates an interest or right in the land may be registered.*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *Yes. The form is prescribed under regulations.*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Yes. The documents which are registered must be registered using a prescribed form under the Land Registration Reform Act.*

## Country: CANADA - ONTARIO

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).
- A. *There is no such stipulation in any Act. Anyone can prepare a document and present it for registration if it meets all the registration requirements. However, some documents require statements of law which only a solicitor can make. The only other exception to this is that all plans of survey must be prepared and signed by an Ontario Land surveyor with his seal and signature.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *Land Registry Office have formal relationship with:*
- A) Municipal Authorities - By laws, severance, Tax Sales.*
  - B) Assessment Offices - Purchase Price Information and registered owners.*
  - C) Ministry of Housing - Approval to Subdivision Plans.*
  - D) Ministry of Finance - Land Transfer Tax, Retail Sales Tax.*
  - E) Ministry of Transportation - Highway plans.*
  - F) Sheriff of the County - Writs of Executions*
  - G) Ministry of Attorney General - Court Orders*

## Country: CANADA - PRINCE EDWARD ISLAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes - we have a grantor-grantee 'Old Type' Registry system. The system has been automated to allow for the electronic registration, indexing and searching of title,
3. **If there is, please list the main laws which govern land registration.**
  - A. *Registry Act - Registration Indexing, storage.*  
*Real Property Act - Interests in Land.*  
*Investigation of Titles Act - title.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Department of the Provincial Treasury.*  
*Taxation and Property Records Division.*  
*Registrar of Deeds*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Provincial Treasurer - Day today administration - Registrar of Deeds*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Auditor General of Prince Edward Island*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *It is simply a depository of land related legal documents.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *No - The legal status is determined by Lawyers who investigate and provide an opinion of the quality of the title.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No. The register does not consider the quality of the title*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *N/A*

## Country: CANADA - PRINCE EDWARD ISLAND

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *There is no legal requirement to register documents. Title is however considered to be strongest for the first registered document. Mortgage companies therefore ensure registration.*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *N/A*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *Simply a registration/storage of documents*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Condominium Act*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *All land related documents are registered*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *No maximum. Most do not exceed 99 years*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgages, Mechanics liens, Easements. Rights of way. Leases etc.*

**18. Is proof required of the discharge of a seller's mortgage before registration of a new purchaser is made?**

A. *No*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration?**

A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *No. usually guaranteed by an "opinion of title" provided by a lawyer.*

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Lawyers providing opinions of title carry liability insurance. An error by Registry staff would be a claim under the Government Insurance Program*

## Country: CANADA - PRINCE EDWARD ISLAND

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No. Affidavits of consideration must accompany deeds but are removed by the Registrar and used in a confidential manner for property assessment.*
27. **Is information as to the price paid for a property available to the public?**
- A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Depending on the quality of legal description. These can vary from co-ordinated descriptions to metes and bounds descriptions.*
30. **What laws govern the recording of ownership boundaries?**
- A. *None. New properties being subdivided are governed by legislation such as the Planning Act*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Taxation and Property Records Division - same as Registry*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *The same unique parcel identifier is used for mapping and assessment purposes*



## Country: CANADA - PRINCE EDWARD ISLAND

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Registry fees on Prince Edward Island account for approx \$1,500,000 annually.  
Expenditures approx \$250,000*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *Provincial Management Board has authority to change fees regulations*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *Registry Act Fees Regulations*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *All land related documents*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Only to a certain degree*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Various legislation ie. Lands Protection Act - Family Law Reform Act specify forms under certain circumstances.  
This is the responsibility of the person, usually a lawyer who prepares the document.*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *Not specified. Out of necessity either by a requirement of a Lending Institution or simply the complexity of the conveyancing system, lawyers and surveyors are generally involved.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *No.*

## Country: CANADA - SASKATCHEWAN

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *No*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Land Titles Act and Regulations (The Land Titles (Miscellaneous) Regulations, Regulations for Land Titles Offices).  
The Land Surveys Act and Regulations.  
The Condominium Property Act, 1993 and Regulations.  
The Planning and Development Act, 1983 and Regulations*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Minister of Justice. Master of Titles. Registrars of Land Titles Offices. Chief Surveyor*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Under The Land Titles Act, the Master of Titles has a duty to inspect the books and records of the Land Titles Office; however, as the person in this position also guides and advises on the legal operation of the Land Titles program, her independence may be questionable.  
The Auditor-General of the Province may audit Land Titles as they may audit other departments. Similarly, the Ombudsman's office may investigate complaints and report on them as may be done for any other government department.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Master of Titles has the statutory power to decide questions of ownership but will only do so where: a) the parties agree on the resolution of the question or, b) the parties have voluntarily submitted to the jurisdiction of the Master of Titles. In the latter case, the dispute must be resolved by arbitration. If the matter is contentious and the parties do not submit to the arbitration jurisdiction of the Master of Titles, the matter will be directed to the courts.  
The reason for this approach is that under the Canadian Constitution the courts have exclusive jurisdiction to decide contentious matters*

## Country: CANADA - SASKATCHEWAN

8. **Does the act of registration confer legal status on the rights in land?**
- A. *Yes. Aside from a few named exceptions set out in s.196 of the Land Titles Act (e.g. fraud in which the owner has participated), the act of registration confers indefeasible title for fee simple estates in land (including surface, mines and minerals, and condominiums).*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *No*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *N/A*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *No. it is not compulsory for those obtaining new rights to register those rights but if they are unregistered, they are effective only as between the parties.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *N/A*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is a considered examination of documents and the granting of a "guaranteed title" to the degree described in Q.8.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Condominium Property Act, 1993 and the Condominium Property Regulations*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Freehold, Leasehold, Tenancy in common, Joint tenancy, Tenancy by entireties*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *A lease must have a term of 3 years in order to be registered as a lease. A lease with a term of less than 3 years may be registered by way of caveat. A leasehold title is available for a lease of 10 years or more.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *All rights in land must be registered to be effective against third parties.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*

## Country: CANADA - SASKATCHEWAN

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *No - however, an intending purchaser may register a caveat based on the agreement for sale. Caveats confer priority but the interest protected by the caveat may be challenged. Caveats are claims of interest only.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *Yes, fee simple estates are "guaranteed" by the state; that is, they are indefeasible. With respect to compensation, see Q. 21.*

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Anyone suffering loss or damage through an omission, mistake or misfeasance of the Registrar or an official in his or her office in the execution of his or her duties may have a claim against the State under the assurance provisions of the Act (s.197 The Land Titles Act). This is so regardless of whether the interest affected is indefeasible.*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *Yes (s. 205 The Land Titles Act)*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

**A By application to the Registrar**

**B By application to the Court**

**C By other means (please specify)**

A. *A. Yes. If there is an error, the Registrar has the power to correct the error so far as practicable without prejudicing rights obtained in good faith for value (s.77 The Land Titles Act).*

*B. Yes (s. 86, 87, 194 of the Land Titles Act)*

*C. Yes, by application to the Master of Titles (s.192, 193, 193.1 of The Land Titles Act).*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

**A Wholly**

**B Partly**

**C In certain circumstances**

A. *A. Wholly*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Anyone can obtain a copy of any register or plan of a registered property.*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *An affidavit swearing to the value of the land must accompany specified instruments e.g. transfer, vesting order. Where such an affidavit is provided, the value is shown on the title. Note that this is the value of the land, not the purchase price.*

27. **Is information as to the price paid for a property available to the public?**

A. *See Q 26. Note that more accurate information on the value of the land is available to the public from taxing authorities*

## Country: CANADA - SASKATCHEWAN

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Sometimes - land is either described in reference to a plan or to a metes and bounds description.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Boundaries are in general determined by monuments in the ground*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Land Surveys Act and Regulations.  
Improvements under the Mistake of Title Act.  
The Condominium Property Act, 1993.  
The Provincial Lands Act.*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Chief Surveyors Office  
Sask Geomatics*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *No*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**
- |                               |                          |
|-------------------------------|--------------------------|
| <b>Government funding</b>     | .....%                   |
| <b>Fees paid by customers</b> | .....%                   |
| <b>Other means</b>            | ..... % (please specify) |
- A. *The cost of maintaining the land registration system is financed 100% by fees paid by customers.*
34. **Who or what Institution has the authority to decide the level of any fees payable?**
- A. *The Lieutenant-Governor in Council (Cabinet)*
35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**
- A. *The Land Titles (Miscellaneous) Regulations*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**
- A. *Transfer, Mortgage, Lease, Easement, Restrictive Covenant, Party Wall Agreement, Profit a Prendre, Writs, Discharges and Withdrawals of Mortgage etc. Caveat, and numerous other documents authorized for registration under other Acts (e.g. builders liens, tax liens).*
37. **Does the law stipulate the form of the land register to be maintained for each individual registered property?**
- A. *Yes (see copy of titles attached\*). \*Note: Not attached in this report.*

## Country: CANADA - SASKATCHEWAN

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Yes, please see attached\* Act and Regulations. The prescribed forms are at the back of the Act and in the Regulations. \*Note: Not attached in this report*

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *No*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

A. *There is a formal relationship between the Land Titles Offices and The Chief Surveyors Office. Plans must be approved by the Chief Surveyor before they can be used as the basis of a description in a title.*

## Country: CROATIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes. The Law of Ownership and Other Rights on Real Property (Zakon o vlasnistvu i drugim stvarnim pravima NN 91/96)*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Land Register.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Land Register Law (Zakon o zemljsnim knjigama NN 91/96)  
The Law on Land Surveying and Real Estate Cadastre (Zakon o drzavnoj izmjeri i katastru nekretnina NN 128/99)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes. "Land Register is maintained by municipal courts. Land Register court is a court of the first instance competent for maintaining of land register."*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Ministry of Justice*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The head of the Land Register or the Land Register job holder named by the head of Land Register, leads the procedure and executes the work, under supervision of judge, unless Minister of Justice stipulates otherwise.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The head of the Registration office (Land Register) has statutory powers to decide questions of land ownership and other rights affecting land.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes. The way of gaining legal rights on land is registration in the Land Register.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *If there are some doubt as to the conclusiveness of the right, the Registrar has power to grant a provisional title (advance registration).*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *The Registrar is able to convert such a registration into absolute title only if it is based on appropriate documentation.*

## Country: CROATIA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. Yes
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The rights on land can be obtained just with registration in the Land Register*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The registration system considers examination of the documents and granting of a "guaranteed title" to the land*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Land Register Law (Zakon o zemljišnim knjigama NN 91/96) "Everything what is permanently connected with the earth surface or thereunder is juridically an integral part of land, so that all decrees of this law (The Land Register Law) according to the land pertain also to that"*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Real rights: - ownership (individual, shared, coproprietorship, flat freehold), - mortgage, - servitude - right of building.  
Right of usage: leasehold and tenancies.  
Right of buying off and buying up.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The minimum term (years) of a lease to qualify for registration is not specified.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages, real burden, right of building, right of servitude.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No. Mortgage, as a real right, can be transferred to a new purchaser.*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes, a provisional title of registration can be granted*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The land-registry rights registered in the Land Register are guaranteed by the State*



## Country: CROATIA

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. -
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *No*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No*
27. **Is information as to the price paid for a property available to the public?**
- A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes. There is a collection of cadastral maps copies for each Land Register in order to give only the orientation about location and form of parcels. The Land Register maps are not proof about the extent of the property.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *The boundaries are partly determined by co-ordinates and partly in relation to a map*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Law on Land Surveying and Real-Estate Cadastre (Zakon o drzavnoj izmjeri i katastru nekretnina NN 128/99)*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *State Geodetic Administration with cadastral offices*

## Country: CROATIA

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. Yes. *The Law on Land Surveying and Real Estate Cadastre (Zakon o drzavnoj izmjeri i katastru nekretnina NN 128/99)*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Land Register - Government funding 100%; Cadastre - Government funding 95%, Fees paid by customers 5%.*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *Land Register - Ministry of Justice ; Cadastre - State Geodetic Administration*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *The Law on Court Fees (Zakon o sudskim pristojbana NN 74/95)*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *Deed (contract) of gift, sale contract, court decree.*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *The main book of the Land Register consists of land-registry forms for each individual registered property which creates a land-registry unique body (one or more cadastral parcels in the same cadastral municipality). Each land-registry form contains: A - inventory page, B - ownership page, and C - burden page.*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Registration application can be presented to the Land Registry in written form or by word of mouth on diary of the land-registry court. It should contain: court sign, name and address of the applicant and other persons, who should be informed about decision, number of the land-registry form where the property (land) is recorded, parcels signs (numbers) and all deeds, which could be helpful and useful during the registration as original or as notarized copy. The application should give a clear suggestion of the right, which should become legal after registration*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *Notary public, authorised geodesist  
The Law on position of notary public (Zakon o javnom biljeznistvu NN 78/93, 28/94)*

## Country: CROATIA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

**A.** *The Land Register is based on the cadastral survey data. Cadastral office, as an organisation responsible for cadastral survey and mapping, has an obligation to inform the Land Register on all changes arisen on the land (extent, form, cadastral number of the parcel, building on land). The Land Register is obliged to inform competent cadastral office on registrations important for it.*

## Country: CYPRUS

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
- A. *This right is specified in article 23 of the Constitution which safeguards the rights of people to acquire, own, possess, enjoy or dispose of any immovable property and any other right attached thereon.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
- A. *Yes, there is*
3. **If there is, please list the main laws which govern land registration.**
- A. (a) *The Immovable Property (Tenure, Registration and Valuation) Law, Cap. 224.*  
(b) *The Immovable Property (Transfer and Mortgage) Law, No.9/1965*  
{c} *The Civil Procedure Law, Cap. 6.*  
(d) *Sale of Land (Specific Performance) Law, Cap. 232.*  
(e) *Agricultural Consolidation Law. No 24/69.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
- A. *Yes, on the Department of Lands and Surveys - Cyprus.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
- A. *The Director of the Department of Lands and Surveys*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
- A. *The Senior Land Registration Officer*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
- A. *The Director of the Department of Lands and Surveys has statutory powers to decide on matters relating to land ownership and other rights.*
8. **Does the act of registration confer legal status on the rights in land?**
- A. *Yes, it does.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *No, but in exceptional cases of agricultural consolidation the Director of Lands and Surveys may grant a provisional title, for the period between gaining possession of the property until the final land consolidation plan is completed and approved.*

## Country: CYPRUS

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Yes, after the final consolidation plan is completed and approved.*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *It is not compulsory by law but these rights have no legal status unless they are registered*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *The owners or mortgagors lose the benefit of being registered and their priority.*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The registration system is based on the "registration of title". Although there is considered examination of the documents the title is not guaranteed by the State and there is no indemnity fund. However the whole system is highly trusted by the public.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *The Immovable Property (Tenure Registration and Valuation Law, Cap.224).*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Absolute ownership (freehold), leasehold and shared ownerships.*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *15 years (unexpired)*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgages, Easements, Leases, Restrictive Covenants, Memorandum (Registration of Judgement), Contract of Sale, Trusts.*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *Yes, unless the mortgage is transferred as well.*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *Yes, it is, by depositing the contract of sale.*

## Country: CYPRUS

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *No, they are not.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *They may take legal actions.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *No, they do not.*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar (in cases of errors or omissions).  
B. By application to the Court (in other cases).*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *C. In certain circumstances*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes. A copy of the map may be obtained by everybody.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes, it is.*
27. **Is information as to the price paid for a property available to the public?**
- A. *This information is available to certain professionals in certain circumstances.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes, it is.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Mainly they are determined by specific boundaries in relation to a topographic map. In resurveyed areas they are determined by co-ordinates.*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Immovable Property (Tenure, Registration and Valuation) Law, Cap.224.*

## Country: CYPRUS

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?

A. *The Department of Lands and Surveys.*

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. *The Land Registration System requires that each registered property has a unique reference number.*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Government Funding 100%.*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The Council of Ministers proposes the level of fees payable and these are subject to the approval of the House of Representatives.*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *The Department of Lands and Surveys (Fees and Charges) Law. Cap.219.*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *Transfer, Mortgage, Lease, Easement, Contract of Sale, Encumbrance and Prohibitions*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Yes, it does.*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Yes, it does: N 251 (easements), N270 (transfer), N271 (mortgage), N304 (leases).*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *No, it does not. Even private individuals have the right to create documents. Usually such documents are created by estate agents or advocates clerks.*

## Country: CYPRUS

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *No, it does not. All the above are the responsibility of the Director of the Department of Lands and Surveys.*



## Country: CZECH REPUBLIC

### Section A: CONSTITUTION AND LEGISLATION

- 1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes. There is a written constitution in the Czech Republic. The constitution is completed with several constitutional laws. The part of the constitutional system is also the Deed of Essential Human Rights and Liberties which includes a right for people to hold and dispose of private rights in land?. The ownership and inheritance is guaranteed.*
- 2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes. The Cadastre of Real Estate of the Czech Republic has been established which comprises former Land Registry and Land Cadastre in one state administrative body. The cadastre is maintained by Cadastral Offices within their competences.*
- 3. If there is, please list the main laws which govern land registration.**
  - A. Main laws governing land registration are as follows: Amendments to the Civil Code (Law No 264/1992) - Land Registration Act No 265/1992 - Cadastral Law No 344/1992 - Survey and Cadastral Administration Act No 359/1992 - Cadastral Regulations No 190/1996 - Survey Act No 200/1994 - Survey Regulations No 31/1995 - Law on Ownership to Apartments No 72/1994*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

- 4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. Yes. The Czech Office for Surveying, Mapping and Cadastre (COSM) which is supreme state administration body (without minister in its head) is responsible for maintaining the Cadastre. The COSM is submitted directly to the Government. The Cadastre is maintained by Cadastral Offices (76 in districts) which are executive authorities submitted directly to COSM. In regional level there are 7 Survey and Cadastral Inspectorates which are controlling and inspecting bodies independent on Cadastral Offices.*
- 5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. The Czech Office for Surveying, Mapping and Cadastre*
- 6. Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. The system works as follows: Decisions about entry of rights into the cadastre are made by Cadastral Offices according to the Public Administration Code and stipulations in the Land Registration Act. The parties have the right to appeal against the negative decision to Court. In other cases than entry of rights into the cadastre it is possible to appeal against decision of the Cadastral Office to the Survey and Cadastral Inspectorate.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

- 7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. Cadastral Office has not the right to decide about existence or non-existence of ownership and other real rights (it belongs only to the Courts) but they decide only about registration of rights in the cadastre. The rights registered have to be justified by the content of deeds and other legal documents. Appeal to Court is possible.*

## Country: CZECH REPUBLIC

**8. Does the act of registration confer legal status on the rights in land?**

A. *There are principally two types of registration of rights in the Czech cadastre; a) registration by entry into cadastre, and b) registration by record. Within registration by entry the Cadastral Office decides about rights based on agreement, These rights are created, transferred or abolished by entry into cadastre. In registration by simple record the rights created, changed or extinct by decision of other competent body (Court, Land Office etc.) or from law (on the base of certain legal fact, eg. creating new building) are simply recorded according to the proper decision or deed which proves the legal fact and which is submitted to the Cadastral Office (within certain delay, of course). According to some stipulations of the Civil Code some rights rise, change or extinct by a certain legal fact, independently on registration or decision of any state body. The Cadastral office has not the right to decide in such cases about existence or non-existence of rights, but only records such rights on the base of a proper deed submitted for record. Usually a public deed is needed for the record. Thus, only in case of registration by entry the legal status is conferred on the right in land.*

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *No. A legal institution of any provisional title does not exist. The registrar has only the possibility to accept or to refuse the registration. An appeal to Court is possible.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *See 9.*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *In case of rights based on agreement (purchase, mortgage) the registration is compulsory. Such rights rise, change or extinct by the registration in the cadastre. In other cases the registration is an inevitable condition for any next transaction.*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *A failure in registration of rights has legal consequences. In all cases of registration (both by entry and by record) their results are legally considered as correct until the contrary is proved. The cadastre is open to the public and everybody who acts on the base of data from the cadastre acts in good will (bona fide) unless he knew the data are not correct. Since the base for all the records are decisions or other deeds issued by State bodies (decision made by Cadastral Offices, Court commissioned Notaries, other administrative state bodies like Land Offices etc.) it is possible for parties to ask indemnity for the damage from the state. The proper conditions are defined in the Law on Responsibility for Damage Caused by Unlawful Decision or by Incorrect Proceeding of State Body No 82/1998.*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The registration system is based on a certain examination of deeds and more on accepting than granting the title. The extent of examination of deeds is limited by law.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Laws governing ownership and registration of apartments are as follows: Civil Code, Land Registration Act No 265/1992, Cadastral Law No 344/1992, Law on Ownership to Apartments No 72/1994*

## Country: CZECH REPUBLIC

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *From all the possible forms of land holding the cadastre registers only ownership and shared ownership. An exception is made in case of land and buildings in ownership of the state where also right to use and right of administration for concrete state body is registered.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *No. Leases are not registered in the Cadastre*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Rights others than ownership which must be registered in the cadastre: mortgage, rights corresponding to easement, right of first refusal having effect of right in rem, other rights as far as they are created as rights in rem.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *The ownership to mortgaged real estate is possible to convey, even without any approval of the creditor. The mortgagor is still the debtor and the mortgagee as creditor has still the right to get the money back by means of purchase of the mortgaged real estate. But practically every purchaser want to solve the problem of mortgage in the moment of purchase in the proper agreement (discharge of mortgage beforehand or taking over the mortgage with a reduction of price).*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *No. It is in the own interest of purchaser to deliver signed agreement to the Cadastral Office as soon as possible. The law guarantees the priority of former delivered deeds in the registration. At the moment of delivery the notice of possible legal changes is marked out in the cadastre. The files of delivered deeds is open to the public. The agreement is binding only the parties but the ownership is conveyed by proper registration. The legal effect of the registration starts retroactively by the moment of delivery of deed to the Cadastral Office. The parties have possibility to pay for contract at the moment of signing the contract (and it is on purchaser to deliver agreement for registration), or after registration, or to deposit money at notary to be paid after registration.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *In a certain way yes. Principally, the state is responsible for damages caused by unlawful decision or incorrect proceeding in maintaining cadastre, not for fraudulent acts of contract or of third persons.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *See Question 20.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes. The supremem cadastral body, COSM, has the right and duty to decide about paying indemnity. But practically, a decision of Court is needed.*

## Country: CZECH REPUBLIC

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**  
**A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. Evident errors and omissions in cadastre (in comparison with the original decisions, deeds or other documents) may be corrected in dealing of the Cadastral Office according to the Public Administration Code, usually on the base of application of parties. Appeal against decision of Cadastral Office is possible.*  
*B. Other disputes about rights or boundaries are solely the matter of the Court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**  
**A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *The register is wholly open to the public. Everybody can inspect all cadastral documents.*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Everybody can obtain a standard extract from the register and a copy of part of cadastral map. It is possible to obtain even copies of deeds and other documents filed.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No. The purchase price is only in deeds filed in the collection of deeds. In the register itself data about price are not recorded.*
27. **Is information as to the price paid for a property available to the public?**
- A. *Information about price paid for a property is possible to find in deeds. The collection of deeds is also open to the public. But a certain technical help of staff is usually needed. This information is available to the public, but with some technical difficulties.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes. Every parcel in register has its representation in a large scale cadastral map.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *The boundaries are determined precisely and are legally defined, according to quality of the cadastral map, by one of the following way; 1. By co-ordinates in the digital cadastral map, 2. By measured data in field sketches, or 3. By representation in graphical map only.*
30. **What laws govern the recording of ownership boundaries?**
- A. *The laws governing the surveying of ownership boundaries: Cadastral law No 344/1992, Survey Act No 200/1944, Cadastral Regulations No 190/1996*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The Czech Office for Surveying, Mapping and Cadastre (COSM) is responsible for the cadastre, geodetic networks and state map series. The responsibility for subdivision plans and setting out boundaries for cadastre is on private licensed surveyors.*

## Country: CZECH REPUBLIC

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

- A. Yes. The Cadastral Law requires that every parcel shall be indicated by its parcel number which is in the connection with the name or number of proper cadastral unit (something like municipality) an unique number within the state. According to the law every property in deeds must be defined by the name of cadastral unit, parcel number, and house number (if any). The data kept in the cadastre are binding for all legal acts concerning real estate.

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. All income of COSM is an income of the State budget. On the contrary, the state budget covers all the costs. It is possible to estimate the relation as follows:  
Government funding . . . . 80%,  
Fees paid by customer . . . . 20% (above mentioned figures are heavily influenced by uncertainty of proper share of investments.)

**34. Who or what Institution has the authority to decide the level of any fees payable?**

- A. The Ministry of Finance has the authority to decide the level of this type of fees.

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

- A. The fees are set in the Law on Administrative Fees and the proper Regulations.

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

- A. Documents considered as registrable must meet requirements stipulated in:  
A) the Civil Code (written form, signatures of parties on one deed, agreed price, clear definition of property, definition of rights, manifestation of will to sell and to buy. . . . .  
B) the Commercial Code - if legal person (name of legal person corresponding with the Commercial Register, I D number, signature of representative person . . . )  
C) the Land Registration Act (correspondence with the status registered in the cadastre, certainty and intelligibility of legal act, authorised translation if in foreign language, . . . )  
D) the Cadastral Law (name of cadastral unit, parcel numbers, house number - if any, authorized signatures of parties. . . )  
E) the Law on Ownership to Apartments (parcel number of land, house number of building, number or designation of apartment, schematic plan of the all floors, description of apartment, description of shared parts of house, . . . ).

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. The standard form of output from the register is not stipulated in any law, but it is specified in the Cadastral Regulations and in internal instructions of COSM.

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. No. No forms for application to the Cadastral Office are stipulated in the law or in the regulations.

## Country: CZECH REPUBLIC

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *No. The law does not require that the documents must be created and submitted for registration only by any professionals or agents authorised to act on behalf of the public in this matter, There are, of course, services of private notaries and lawyers, but the use of their services is not compulsory. Anyone can prepare the documents, no special qualification or authorisation is needed. Only the content is relevant.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

A. *Yes. Since the most of subdivision plans and setting out boundaries is made by private licensed surveyors, the Cadastral Law and the Cadastral Regulations stipulated these works, relations and co-ordination. The legal status of private surveyors is solved in the Surveying Act. The profession of land valuers is not involved in the maintaining of the cadastre at all (land valuation is needed for land conveyance tax paid to Tax Office separately later, on the base of information of the Cadastral Office about transactions in land). The Cadastral law as well respects the laws concerning land use (the Building Code, agricultural laws, laws on preservation of the nature, . . . ) Some transactions in land are regulated or limited by this way.*

## Country: DENMARK

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, in our constitution.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, a Land Register placed at the District Courts.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Act of Land Registration*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Ministry of Justice.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Ministry of Justice.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Judge of the District Court has some power to decide rights affecting land.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *No*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *No*

## Country: DENMARK

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *No (but you may lose your right if you don't register).*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *You may lose your right.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Documents are examined and titles (rights) are guaranteed.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Act of Land Registration, The Act of Condominiums.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Absolute ownership, Also some leaseholds may be registered*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *No minimum term.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages, Easements, Burdens.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes (will be placed as a burden on the land concerned)*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Guaranteed by the State*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *See question 20*



## Country: DENMARK

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *Yes, the Ministry will pay indemnity.*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

**A By application to the Registrar**

**B By application to the Court**

**C By other means (please specify)**

A. *A. By application to the Registrar . . . B By application to the Court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

**A Wholly**

**B Partly**

**C In certain circumstances**

A. *A. Wholly.*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes.*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Precisely by co-ordinates.*

30. **What laws govern the recording of ownership boundaries?**

A. *The Cadastral Law.*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The National Survey and Cadastre - Denmark. (in Danish Kort - og Matrikelskyvelson)*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Yes, each parcel of land has a unique cadastral identification number.*

## Country: DENMARK

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Fees paid by customers 100%.*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The Parliament (in Danish Folketinget)*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *See question 34.*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *All new rights or rights transferred must be registered.*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Only as regards the main content*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Yes, special paper quality and some minimum requirements as the contents must be obeyed.*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *No, not any more. Private persons can create documents themselves and present them for registration.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *Yes, cooperation is formalised in several laws between the Cadastre, the Land Register and the Municipal Register of Real Properties (valuation etc.)*

## Country: FINLAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
- A. Yes  
*Constitution provides and guarantees the ownership*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
- A. Yes
3. **If there is, please list the main laws which govern land registration.**
- A. *Code of Real Estates, includes also the Land Register  
Statute on Register of Titles and Mortgages (Land Register)  
Law and Statute on Surveys  
Law and Statute on Register of Real Estates (Cadastral)  
Law on Population Information System (Buildings and Dwellings)  
Law on Condominiums*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
- A. *Land Registration, as referred in this questionnaire, is divided between several ministries and institutions. Please have a look at the following answer (Q 5)*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
- A. *Cadastral Ministry of Agriculture and Forestry, National Land Survey  
Land Register Ministry of Justice, local court  
Buildings and Dwellings Ministry of Interior Affairs, Population Register Centre  
Condominiums Ministry of Trade and Industry, National Board of Patents and Registration*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
- A. *Relevant ministries*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
- A. *When applied for a title, mortgage, easement, etc, the local court is obliged to make the decision.*
8. **Does the act of registration confer legal status on the rights in land?**
- A. *The title guarantees the ownership. Mortgages, easements, etc. provide the relevant right to the property.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *No.  
The register indicates only that there is an application (or may be several) for the title.*

## Country: FINLAND

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *If the conveyance is not clear but no other has applied for the title, the registrar gives an proclamation which is published in the Official Newspaper and given to them which can be seen as potential owners. If nobody gives a better evidence of his or her rights in 6 months time, the applicant gets the title.*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. Yes

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *The title itself does not give the ownership but a title and a mortgage and other data in the Land Register overrides unregistered rights.*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *Guaranteed title is the only practise*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Law on Condominiums (Asunto-osakeyhtiölaki (809/1991)).*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Absolute, provisional, shared ownerships registered to physical or juridical persons (incl. condominiums) Tenancies.*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Only leases which permit to build on land must be registered, no time limit. Other leases cannot be registered.*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgages Rights to use a real estate (road, facility etc. owed to a person and for a determined period of time. Rights can not be registered for another real estate in the Land Register, those are objects of the Cadastre)) Bankrupt, restrictions to sell the property, right to expropriate, etc. Lien by law Right to pre-empt the property*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No. The real estate is responsible for the mortgages even when purchased. When the purchase is made, there must be available an extract of the Land Register, which shows all the encumbrances.*

## Country: FINLAND

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *After the contract has been made, the purchaser can apply for a title. The application is registered immediately. That application gives the priority to all later applications.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *The State guarantees the rights registered in the Land Register for a client in good faith*

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *N/A*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *Yes*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *A By application to the Registrar This is also the local Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *A Wholly, yes.*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Anybody can obtain such copies.*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes*

## Country: FINLAND

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Boundaries are demarcated by boundary monuments and co-ordinates are determined. The accuracy of position determination is carried out using different accuracy standards depending on the land value on the area.*

**30. What laws govern the recording of ownership boundaries?**

A. *Law on Surveys*

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The National Land Survey excluding city planned areas (2 % of total area). Cities are responsible for their city planned areas.*

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Reference numbering system is provided by the statute on Register of Real Estate (Cadastré).*

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Government funding 75..%  
Fees paid by customers 25..%*

*These are very rough numbers. In the field of the Cadastre the government fund is about 50 %. The Land Register can not provide very exact figures because local courts have no avanced book keeping system and registration of titles and mortgages is only a part of their activities.*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

A. *Ministry of Agriculture and Forestry decides the fees of the Cadastre.  
Ministry of Justice decides the fees of the Land Register.*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The level of fees are determined by the law on Principles of State's Fees.*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Transfer of land, building or dwelling  
Tenancy of land if it can mortgaged (i.e. constructions can be made on the land)  
Mortgages*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *The Land Code and the Statute on Titles and Mortgages defines in detail the contents of the register. The law and statute on Real Estate Register (Cadastré) define the contents of the register. Forms of extracts of these registers are not defined.*

## Country: FINLAND

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. *The transfer document (minimum data contents provided by law (Land Code)) and an application, no forms are required.*  
*Application for a mortgage or easement, no forms*  
*All other data, e.g. extracts from cadastre, person register, taxation, etc. are not required. The law obliges the authorities in question to acquire that data. It is an easy task because all that data can be obtained from registers via the network*

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. *No authorisation. The public can use lawyers, agents or whoever powered by a letter of attorney to act on behalf of him/herself. Typically banks apply for mortgages and titles powered by a letter of attorney from their customers.*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

- A. *A long list of laws determine the co-ordination between organisations. Here are some examples of the most important ones:*  
*\* All data in the Land Register must refer to units found in the Cadastre (in fact there is a centralised LIS, where both Land Register and Cadastre are in one data base)*  
*\* Notaries public are obliged to send all data about purchases of real estates to several organisations. One organisation is the NLS who is responsible for the Purchase Price Register.*  
*\* The NLS and cities are responsible for giving and updating of building identifiers.*  
*\* The NLS and Ministry of Justice are obliged to deliver updated cadastral and ownership data to several organisations.*  
*\* Organisations which make decisions on land use rights and restrictions are obliged to send that data to the Cadastre*

## Country: FRANCE

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**

A. *The French revolution implied the principles of the present law relating to property rights: Property Rights, "the absolute right to hold and dispose in an absolute manner" (The Civil Code) is "inviolable and sacred" (Declaration of Human Rights)*

2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**

A. *In France there is an existing system of registration where the objective is to guarantee registered rights in immovable property whether there is a transfer of property or the creating of rights over, or of charges on, those properties (easements, mortgages).*

*The mission of the registry, carried out in the form of services called the registration of charges, comprises the registration of documents relating to of legal interests in properties, analysing their contents and completing the property files and giving information about charges to any member of the public who requests it.*

*In that respect, the access to documents retained by the Land Registry is of a public character, since registered information is given in writing in official documents on request.*

3. **If there is, please list the main laws which govern land registration.**

A. *The Land Registration system was created by a royal edict of 1771. The present regime of the Registry is based on the civil code relating to the state registered guarantee and to the upkeep of the register. The statutory order No 55-22 of 4th January 1955 bringing about the reconstruction of the registry was replaced by the statutory No 55-1350 of the 14th October 1955.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**

A. *The mission of the registry which guarantees the retention of charges (amounting to 354) depends on the general management of taxes (DGI) of the Ministry of Economic Affairs, of Finance and of Industry, with the exception of the 3 Departments Bas-Rhin, Haut Rhin and Moselle, where the management of the mission (administration) for historical reasons is passed to some magistrates with juridical power, les juges du Livre foncier, who are responsible to the Ministry of Justice. The Land Registrar, working for the state, is responsible for the registration services and is charged with a double mission, civil and fiscal:*

- to carry out the registration formalities (civil role)
- to pursue rights and taxes due for payment on the completion of registration formalities

*Land Registrars have a double responsibility: one of the public accounts, and one that comes from their public role. On that basis they are responsible personally and financially, without prejudice to third parties.*

5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**

A. *The Minister of Economic Affairs, of Finance and of Industry and the Land Registrar are responsible.*

6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**

A. *The completion of formalities of registration is the responsibility of the Land Registrar in this respect. There is no state responsibility in that area.*



## Country: FRANCE

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

**7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**

**A.** *The registry secures the registered rights on buildings. It is not a necessary condition to perfection of agreements and of transfer of property between parties. However, it allows contracting parties and third parties that question this public service to have reliable information where the origins of property and rights are concerned where problems arise, which contribute to the security of juridical operations related to buildings. Except for fraudulent cases, all purchasers of a public right are legally protected against all other acts of disposition that would subsequently become public. If two tenures were competing as to a right, tenure would be given to the one who requested registration first, in other words the speedier one.*

**8. Does the act of registration confer legal status on the rights in land?**

**A.** *The registry is not constitutive nor is it a confirmation of right. Effectively, and in accordance with the general principles of French law, the non-registered rights retain all their effects between the parties.*

*The fact that a right has been registered does not guarantee the presumption of its existence (or of its non-existence).*

*In the case of litigation, it is up to the proprietor to bring proof of his right, and for the repossession judge of the case to give a verdict on the given proofs.*

*Therefore the state doesn't give full or unchallenged proprietorship and does not give any guarantee at the time of registration.*

*The registry's formalities are mainly concerned with its effect on third parties.*

*The transfer of a right cannot be challenged by third parties until the time it has been agreed and registered at the Land Registry, and also the type of charge by the date it was registered.*

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

**A.** *The Land Registrar does not have to justify himself on the validity or the effectiveness of rights where the publication or registration are necessary, any possible conflict being referred to the civil tribunal whose duty it is to give a verdict on rights. Under these circumstances, the formalities are verified by the Land Registrar who should check that the document deposited agrees with the text retained by the registry, notably:*

*- the genuine title which establishes the right that the registry requires;*

*- the identification of any person interested and the designation of the building concerned in the matter;*

*- the previous first registration of the right of the vendor or the last titular (holder) in the principal application on the related matter.*

*In the case where the deposited documents do not satisfy the legislation or regulations, the Land Registrar has two sanctions, relating to the litigation document, i.e. refusing registration and rejecting the formalities. These sanctions apply in respect of the seriousness of the omission of certainty or proof.*

*However, in the task of charge registration and striking off, the Land Registrar has an active role, and besides the verification of conditional form, he makes sure that the conditions implied by the disposition of the civil code (validation of the action by solemn declaration) has been followed.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

**A.** *The Registrar does not give provisional or absolute title.*

## Country: FRANCE

### SECTION D: PROCEDURES FOR REGISTRATION

#### 11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?

A. *The formalities submitted to the registry fall in principle into two categories:*

- *The "Registration" of an action or of a judicial decision related to rights on buildings other than privileges and charges;*
- *The "registration" of privileges and charges.*

##### **a) The Registrations (Publications)**

*All the actions are compulsorily published in the real estate catalogue which:*

- *Even accompanied by a suspending condition, which carry or certify between quick transformations or prepresentation of a real property right (sale, exchange, donation, introduction into society, constitution of usufruct, of constraint, right of area, of long lease).*
- *Which certify some temporary inalienability clauses of any other restriction on the right of ownership of a real property right, including the administrative limitations on the ownership right.*
- *Which must be raised to check the transmission or the termination by death of a real estate right*
- *Which have, or could have, as object or as effect to consolidate, to modify or to destroy a published right (confirming acts, certification of a compliance to a condition, breaks in stipulation, requests in progress, revocation, rescission, cancellation)*
- *Which have a simple declaring effect, which means checking a judicial situation before it comes into effect, (e.g. shares, act of verification, an acquisition by way of Transfer, right of access).*
- *Which, without establishing itself as a real right, has the consequence of challenging such right (leases for more than 12 years, quittances et cession of more than 3 years rent or determination without loss, repossession of real estate.).*

*Some actions are optionally entered in the register of real estate catalogue.*

- *Certain limited actions, such as contracts of sales;*
- *All actions before the 1st January 1956, which were registered or not under the old method and fall into one of the previous categories.*

##### **b) The Registrations (Inscriptions)**

*Are compulsorily registered and guaranteed, other than two general rights of Court costs and of salaries, meaning:*

- *special privileges*
- *Charges, legal, judicial or conventional.*

#### 12. If it is, what is the effect of a failure to register new or transferred rights?

A. *The failure to register rights has the following consequences: a third party cannot oppose the action, which means that the purchaser runs the risk in the procedure of sales, for example, of a second transfer which, if it had been registered first, could have been opposed by him, also no title can be registered if the right of the vendor, or of the last title holder, had not been previously registered or is not pending (subject to formalities), which eliminates all gaps in the chain of registered rights and makes it, in principle, impossible to register an act of disposition by anyone to whom the right would not be transferable.*

## Country: FRANCE

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The system of the registry is founded on the maintenance by the Land Registrar, on one part, of a register of deeds, kept day by day and in the order of their remittance, and on another part of the real estate index including recorded details of persons and buildings comprised in the registered documents. By other means, the mortgages are recorded, and on completion by users, a copy of all acts are transmitted for registration (on file in the register of formalities).*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *The status of the joint-ownership of buildings built and fixed by law no 65-557 of 10 July 1965 modified, and the decree no 67-223 of 17 March 1976 modified and taken for application of the aforesaid law.*

*On the registered plan, the patterns of registrations are mainly fixed by articles 7 of decree no 55-22 of 4 January 1955 and 71 of decree no 55-1350 from 14 October 1955.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *All actions are compulsorily registerable, even those taken from a provisional condition, holding or making a note of transfer or constitution of real property rights i.e. rights of property, usufruct, or of no property, emphytéose, servitude, antichrèse*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Only leases for more than 12 years must be registered*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Rights on buildings and legal charges, judicial and conventional (article 2146 of the civil code) must be registered.*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No.*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *The Registry does not guarantee rights nor a claim of rights (see answer to question No 8).*

## Country: FRANCE

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *See answer to questions 7 and 8.*

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *The Land Registrar is personally and financially responsible in respect of third parties, for errors or omissions made during registration (publication of acts and judicial decisions, registration of privileges and charges, information given).*

*Therefore, the civil responsibility of the Land Registrar can be placed before the tribunal under the judicial order (action in damages-interests) by whomsoever the Registrar has caused damage to.*

**22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *See answer to question 21.*

**23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *The Land Registrar, not being the judge of the validity and of the effectiveness of the documents given to the registry, cannot rectify the said document.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *The registered documents have a public character. Anyone can have access without having to justify an interest or any qualification. Direct inspection is not authorised. Information provided is given in writing on official paper to any demands made by users.*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *The Land Registrar has to give information to those that require copies or extracts of registered documents or extracts of the real estate index. In return, the Land Registry does not give out the cadastral plans representing the registered property. Copies or extracts of those plans are accessible from the tax registration centre (CDI F) - or Cadastre Office, which are also services of the DGI but separate from the Land Registry. These services have several purposes: fiscal (determination of a cadastral evaluation for each property built or unbuilt in the light of its imposition to the registry's tax), registration (identification of building and of anyone disposing their rights on those buildings) and technical (preparing and keeping up to date the cadastral plan [only the fragmented plan has a wider priority] covering the whole of the territory and kept continuously up to date).*

**26. Is the purchase price paid for a property recorded on the land register?**

A. *For each entry on the real estate index, the Land Registry shows the price paid, or the estimated value of the building concerned.*

## Country: FRANCE

**27. Is information as to the price paid for a property available to the public?**

- A. *The information related to a price paid for a property is accessible to the public. (See answer to questions 24 to 26).*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

**28. Is registered land related to a map indicating the extent and the boundaries of the property?**

- A. *The cadastral plan indicates the apparent limit of the property, as well as a number of other items of information (building, hydrography, communications, main topographic details...). On the other hand, the area of the property does not appear on the plan: it appears as an unbuilt parcel of land on the cadastral matrix. This is a copy (brief) document which, by commune and by proprietorship, contains a list of holdings together with their principal details. This document is accessible to all users subject to conditions, either in Land Tax Centre, or in the town hall (a copy of the cadastral plan is also deposited at the town hall for user information).*

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

- A. *The property boundaries are represented with variable precision on the cadastral plan. They are identified either by buildings erected on the land by cadastral survey, or by a process of photogrammetry (Using aerial photography). The work is carried out by expert surveyors (i.e. see answer to question 39). The majority of cadastral plans are reattached to the Lambert co-ordinated system.*

**30. What laws govern the recording of ownership boundaries?**

- A. *The present cadastre find its origin from the law of 15 September 1807, which decided the general design for showing plots of land on a whole territory. This cadastre has been revised following the law of 16 April 1930. The ways of renovation and of the upkeep of the cadastre have been made by a decree of 30 April 1955. The law of 18 July 1974 prescribed the procedure for a new renovation of the cadastre, name remaining cadastral, in some respects. Finally, the law decree of the 4 January 1955 concerning the reorganisation of the Registry contains dispositions on liaison between the Land Registry and the Land Tax Centre in the manner of updating the cadastral map.*

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

- A. *The Land Tax Centre - or the cadastre - (e.g. see answer to question 25) is responsible for the making and maintaining up to date the cadastral map of the whole territory.*

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

- A. *The Land Tax Centre is responsible for the identification of buildings, and as to which one should compulsorily be used by the person responsible for identifying the buildings likely to be registered at the Land Registry. Each building is attributed a unique identification, which permits management of both the cadastre and the registry.*

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding	.....%
Fees paid by customers	.....%
Other means	.....% (please specify)

- A. *The cost of maintaining the land registration system is financed partly by the state budget and partly by the contribution of customer's fees.*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

- A. *The legislative authorities*

## Country: FRANCE

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The finance law voted yearly by Parliament sets the detailed fees.*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *See question 15.*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *The law (article 2200 and followed by the civil code) set the conditions and mode of the maintained register on deposit. This register which creates the quality of formations between them can be held manually or by computer.*

*The registered formalities, and the operation, of the real estate index, and where the information is in the course of development, is made by way of regulation (decrees of 4 January and 14 October 1955 precisely).*

*Eg. enclosed\* is an annex; copies of extracts of a register of deposit and a receipt from index no 3280 concerning rural buildings and of an index card no 3281 concerning the urban buildings. \*Note not included in this Report.*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *The production of documents presented to the Land Registry is regulated by text required by the Registry (decrees of 4 January and 14 October 1955 summary) as well as by the requirements of the law governing the general tax code. Therefore, for the execution of the registered formalities, the Purchaser must bring with him:*

- *two examples, extracts (or copies of the action or of the decision) to be registered;*
- *a schedule setting out the deposited actions;*
- *an analysis extract (or action extract) of the action (two copies);*
- *a cadastral extract (and in the appropriate document of the survey);*
- *eventually, necessary matters of the financial regime of the operation (declaration of TVA, interests of "non-residents").*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *The actions deposited at the Land Registry must be completed on an official form, which means signed by a notary (public officer to whom the state gives charge to note all actions to which the parties want, or must, give an authentic character on a certain date), a lawyer, a judge, a bailiff for the repossession, or the administrative authority (minister, prefect, Mayor, .....). In the case of the subdivision of parcels, a professional surveyor (member of a profession with recognised qualification and controlled by the state) produces a modified document of the cadastral parcel. This would be deposited, at the time of registration, at the land registry when the transaction relates to the subdivision of the parcel.*

## Country: FRANCE

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

**A.** *The law decree of 4 January 1955, setting out the reformation of the land registry (and its decree of application of 14 October 1955) and the decree of the 30 April 1955, related to the renovation of the cadastral registration specifying the relations that should exist between the principal of the aaction , the land registry, the land tax centre and, in the case of parcel division , a professional surveyor. Certain dispositions of the general code of taxes set out these relationships equally; therefore, no modification to the juridical situation of a building can be the object of modification at the land tax centre if the act or the juridical decision approving this modification has not been first registered at the real estate index of the Land Registry.*

## Country: GERMANY

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *Bürgerliches Gesetzbuch (BGB) - Civil Code,  
Grundbuchordnung (GBO) - Land Registration Act  
Vermessungs- und Katastergesetze der Länder - Land Surveying and Property Cadastre Acts of the States*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *a) Federal Ministry of Justice (Land Registration Legislation) States Ministries of Justice (Land Register at the local courts)  
(b) Different in the States - Most: Ministry of the Interior, Others: Ministry of Finance, of Economic Affairs, of Housing and Building for Real Estate Cadastre*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *A) Federal Ministry of Justice - Land Registration Office ("Grundbuchamt") as a part of the local courts.  
B) Ministry of the Interior - Cadastre Office ("Katasteramt") at the local level (municipalities) or district level*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *A) Land Registrars at the Land Registration Office  
B) Higher surveying and cadastral authorities supervise the local/district cadastre offices.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The main task of the Registry is to record all legal facts of properties, such as ownership, encumbrances and rights in rem. Land Registration is characterised by two principles:  
  
1) Land Register status is deemed to be correct and complete until otherwise proven.  
  
2) Land Register enjoys "official good faith" for the "bona fide" purchaser.  
  
There are formal proceedings to disprove the actual content of the land register. But first of all the content of the land register is decisive.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes



## Country: GERMANY

9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *No, the registrar will refuse registration*

10. **If such a power exists, is the Registrar able to convert such a registration into a absolute title after a specified time has elapsed?**

A. *See answer to question 9.*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Yes, registration in the Land Register is a constitutive act ("What is not in the "files" (Land Register) is legally not in the world")*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *See answer to question NR 7.*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The notarial documents are the basis for the registration of the legal rights with defined content and in a standardized form. The notarial documents are not components of the Register itself but are permanently kept in the Registry.*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Wohnungseigentumsgesetz - Condominium Law  
Wohnungseigentumsgrundbuch - Condominium Register  
All flat owners are co-owners of the land whereas exists at the same time a separate absolute ownership of a self contained unit in a building.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Absolute ownership - condominium ownership (see answer NR 14) - leasehold (heritable building right) in a special part of the land register*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Leaseholds (heritable building rights) must be fixed, mainly they are fixed for 75 or 99 years.*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *A) Encumbrances and limitations, easements (e.g. right of way, passage rights), usufructs B) Rights in rem (mortgages, land charges, annuity land charge)*

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *A sellers mortgage remains on the property unless it is payed before selling*

## Country: GERMANY

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *Yes. Seller and purchaser agree to a priority notice of conveyance. This priority notice is immediately recorded in the land register to protect a claim for transferring the ownership.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *See answers to Nr 7 In this way land rights are guaranteed by the land register and at last by the State.*

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *–*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *As the error of a registration is in the responsibility of the Land Registry, the State will have to pay indemnity.*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A **By application to the Registrar**
- B **By application to the Court**
- C **By other means (please specify)**

A. *First by application to the Land Registry and finally to the court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *Yes, wholly*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *No*

27. **Is information as to the price paid for a property available to the public?**

A. *No.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes.*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

## Country: GERMANY

- A. *Boundaries are mainly precisely determined by coordinates and shown in the cadastral map.*
- 30. What laws govern the recording of ownership boundaries?**
- A. *Land Surveying and property cadastre Acts (see answer to Nr 3)*
- 31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Surveying and cadastre offices, Cadastre Surveying also by licensed surveyors*
- 32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *Each parcel has a unique reference number in a special numbering system which includes in digital form state, district, community.*

### SECTION I: FEES AND FINANCING

- 33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**
- |                        |                         |
|------------------------|-------------------------|
| Government funding     | .....%                  |
| Fees paid by customers | .....%                  |
| Other means            | .....% (please specify) |
- A. *Government Funding . . . .10%  
Fees paid by customers . . . .90% (for the cadastre the financing varies from State to State, no general information can be given).*
- 34. Who or what Institution has the authority to decide the level of any fees payable?**
- A. *Land Registration: - Federal Ministry of Justice,  
Cadastre: - Responsible Ministry of each State.*
- 35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**
- A. *The fees are fixed by Court Fee Rules (Land Register) and by the States Cadastre Fee Rules (ordinance having the force of law, issued by the States Governments).*

### SECTION J: DOCUMENTS AND FORMS

- 36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**
- A. *There is a finalized catalogue of rights and transfer of rights which can be registered, all based on notarial documents. - See answer Nr 17.*
- 37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**
- A. *Yes*
- 38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**
- A. *Not in details. All applications for registration must have the legal stipulated form and content as an official document, such as*  
A) *contracts, conveyance and rights to be registered, recorded by a notary (notarial attestation).*  
B) *informations on the de facto status of the parcels given by the cadastre (Nr., location, size and use, copy of the cadastral map if required)*

## Country: GERMANY

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).
- A. A) *Notaries (see answer to Nr 38.)  
Beurkundungsgesetz - Legal Attestation Law,  
Bundesnotarordnung - Federal Notary Law*  
B) *Cadastral Offices (see answer to Nr 38 and Nr 3)*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A.
  1. *Purchase contracts have to be sent to - tax office (purchase tax) - independent valuation authorities (valuation),*
  2. *Land Registry gives all informations on land ownership changes to the cadastre and the tax office,*
  3. *Cadastral gives all information on the de facto status of the parcels to the land registry (See Nr. 38),*
  4. *Cadastral information (Cadastral data, cadastral maps) is used in a multipurpose, valuation, statistics, environment protection.*

## Country: GREECE

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes. Our country is at the moment in a transition period. We are moving from the "Mortgage Bureaux" system to a fully digital Cadastral System which will contain a descriptive part (cadastral registration) and a cartographic part (maps).*
3. **If there is, please list the main laws which govern land registration.**
  - A. *\* Decree of 23.04.1836, \* Law rykb'/1909, \* Regulatory Decree 19/1941, \* Law 724/1977, \* Cadastral Regulation for the Dodecanese, \* Law 2308/95, \* Law 2664/98.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes. The "Hellenic Mapping and Cadastre Organisation (HEMCO), which is governmental organisation under the Ministry of Environment Planning and Public Works, has the responsibility for operating the new cadastre. Until the establishment of the new Cadastral Offices, the Mortgage Bureaux, which are private offices under the Ministry of Justice, will continue to keep this information,*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *\* The existing Mortgage Bureaux: Ministry of Justice (Mortgage Bureaux).  
\* The new Cadastre; Ministry of Environment, Planning and Public Works*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Today, the Ministry of Justice, For the new Cadastre, HEMCO.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *At the existing system, the Registry has not any power and the Office is a place of record of legal acts. The new system, the Registry will have a power.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, for both systems.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No*

## Country: GREECE

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Not today. Yes for the new system.*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Yes*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *The transaction has not actually completed and there is a danger for hostile transactions.*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *The existing system is: register of deeds. The new system: registration of titles.*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Law 3741/1929*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *There are eighteen different land holdings that have to be registered at the Mortgage Bureau or the cadastre.*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *Nine (9) years*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgage easements*

18. **Is proof required of the discharge of a seller's mortgage before registration of a new purchaser is made?**

A. *Yes*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration?**

A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *Mortgage system: NO, New system: YES,*

## Country: GREECE

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Only the Court*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *No*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

**A By application to the Registrar**

**B By application to the Court**

**C By other means (please specify)**

A. *By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

**A Wholly**

**B Partly**

**C In certain circumstances**

A. *C. Not for the public. Only for lawyers.*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *No*

27. **Is information as to the price paid for a property available to the public?**

A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Not, for the Mortgage System. Yes, for the New Cadastre*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Yes, by co-ordinates for the new system*

30. **What laws govern the recording of ownership boundaries?**

A. *For the new system exist Technical Specifications, issued according to Law 2308/95*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *HEMCO*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Yes. The Law 2308/95 has introduced a general administrative unique codification for all parcels of country*

## Country: GREECE

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?
- Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)
- A. *Fees paid by customers 100% for the existing system. We plan the same for the new system.*
34. Who or what Institution has the authority to decide the level of any fees payable?
- A. *For the existing system: Ministry of Justice, For the new system: Ministry of Justice, Ministry of Planning, Ministry of Economics.*
35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).
- A. *Fees are decided by the above Ministers after a proposal of HEMCO*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).
- A. *The Law 2664/98 specifies 18 different legal acts that must be registered including transfer, mortgage, easements, legal disputes, long term leasing, mining permissions etc.*
37. Does the law stipulate the form of the land register to be maintained for each individual registered property?
- A. *Yes*
38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).
- A. *Yes*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).
- A. *Notaries are authorised to create documents with the help of the lawyers of the interested parties*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *Registering and cadastral surveys are performed by two sister agencies under the supervision of the Ministry of Planning. Land Valuation is performed at present by the Ministry of Economics. There is a provision by the Law that urban regulation changes are communicated to cadastre.*



## Country: HUNGARY

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Hungary has a written Constitution, it is the several times modified Act XX of 1949.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *The competent Acts are the Act CXLI of 1997 on Land Registration (LR Act) amended by Act CXIX of 1999, the Regulation No. 109/1999. (XII.29.) on the implementation of the former (IR) as well as Act IV of 1957 on the general rules of the state administration's procedures. Act IV of 1959 on the Civil Code as well as the several times modified Act III on the Civil Procedure of 1952. , and the several times modified Act LV of 1994 on Agricultural Land, also play important role in the process of land registration. Of course, in special cases special relevant rules have to be taken into account, too.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *See answer to question 2*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Direction of land registration activity is stipulated by the legal measures on land registration (LR Act and IR). Land Registration is run by a two-tier land office system (district and county land offices). Legal supervision is performed by the Ministry of Agriculture and Regional Development, as the superior authority of the county land offices (Address: H-1055 Budapest, Kossuth Lajos ter 11). The name of the Minister is Dr. Jozsef Torgyan. Torgyan.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *See answer to question 4*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *In the management of land registration the district land office intervenes in first instance and the county land office has competence in the second instance. In the organisation of the Ministry of Agriculture and Regional Development the direct supervisor of the land offices is the Department of Lands and Mapping.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *See answer to question 6*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *see at point 20.*

## Country: HUNGARY

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

**A.** *An example for such case is the sale of proprietary rights with reservation, which means, that the seller can reserve the proprietary right for himself at the concluding of the contract of sale until the total settlement of the purchase price. The fact of the sale of proprietary right with reservation can be recorded on the third page of the property sheet of the sold real property with the simultaneous display of the customer's name. The proprietary right of the customer can be registered on the second page of the property sheet only after full payment of the purchase price, presuming, that full payment of the purchase price will be confirmed in writing by the seller. In certain civil actions specified by law the parties have the possibility to ask the court for registering the fact of the civil action into the land register. There is a possibility to get further rights for the related property, and to record them on the property sheet, but only with validation depending on the result of the civil action.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

**A.** *See answer to question 9*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

**A.** *The land register authentically certifies the existence of the presented data, the registered rights and facts. Until proven otherwise it has to presume the good faith of that person who gets rights for countervalue trusting the land register  
Replacement of data of the real property as well as the name and address of the authorised person will be transferred in the land register by the land office either based on the interested person's report or officially. But the origin, modification and discontinuance of the right or fact relating to the real property can only be transferred at request.  
In case the title does not get recorded in the land register, the new owner will be a proprietor without recorded title in the land register and he has to reckon with its legal consequences.*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

**A.** *See answer to question 11*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

**A.** *To ensure legality and legal security of land registration entering of data, registration of rights or recording of facts can only be made on the basis of deed. Acceptance of a document as a deed suitable for transferring or registering changes is defined by the law on the Land Register. The public authenticity of the land register is based on the force of document derived from the documentary principle meaning that the citizen can have all confidence in the content of land registry.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

**A.** *A new Act on condominiums, the CLVII Act of 1997, that came into force on 1 March 1998, brought about important changes.*

## Country: HUNGARY

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

**A.** *Leasehold, tenancies are not registered forms of land holding. Hungarian law does not know the concept of the provisional, freehold forms of land holding, either. The forms of ownership are declared in the Constitution which is the base of all legal measures relating to the definition of and stipulations on the different forms of ownership of land. For example the LV. Act on agricultural land of 1994, or the civil code. Based on those above, the subject of proprietary right can either be a natural person, legal entity, economic association, government, co-operative, municipality.*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

**A.** *Lease is not included among the rights to be registered according to the current laws on land registration, therefore it can not be recorded into the Land Register. However the Act on agricultural land defines the size and period relating to the lease in case of both the native and foreign natural and legal entities.*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

**A.** *Besides the right of ownership such rights as defined by the LR Act or other acts may be recorded in the Land Register, including, among others: trustee's right, permanent utilisation right of members of housing co-operatives, land use right based on agreement and court decision, usufruct right and usage right, servitude, usage right for placing land surveying marks and electrical equipment, rights for mains, right for water conduit, right for mine-servitude, right of pre-emption and redemption, right of purchase, right for support and life-annuity, mortgage and execution.*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

**A.** *If the new owner (the customer) consents to the "taking over" of the mortgage, then the mortgage will burden the new owner. In case besides a recorded mortgage a restraint on alienation and encumbrance also exists, then there is a need for consent of the person who has the authority of the restraint for alienation and encumbrance for changing the right of ownership. If the person with this authority does not consent, then the title acquired through purchase can not be registered by the land office.*

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

**A.** *In the frame of state administration procedure (like the procedure of land registry) there is no such possibility, but it is possible to turn to court requesting the statement of validity of the given contract. If the court states the validity of the contract, the land office has to be insisted upon this sentence.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

**A.** *(8.) The registered data, as well as the existence of rights and facts are authentically certified by the Land Register. But it does not mean that the opposite of it can not be proved. The public authenticity of registered rights, facts is two-sided. On the one hand the right recorded in the Land Register really entitles the person for the benefit of whom the right is registered, while on the other hand one need not reckon with the existence of a right which is not recorded in the Land Register. Different legal effects are connected to the authentic content of the land register and this fact distinguishes the Land Register from other special registers related to real property.*

## Country: HUNGARY

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *If the insufficiency or mistake produced in the administrative procedure of the land office cannot be solved, the decision of the office may be brought to court.*

**22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *If a loss caused by a land office in its administrative procedure is stated by court sentence, the land office has to reimburse the loss stated by the court..*

**23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A By application to the Registrar
- B By application to the Court
- C By other means (please specify)

A. *Against the decision of the land office of first instance (district land office) there is the possibility to appeal, whose judgement falls in the competence of the county land office, while the decision of the county land office may be challenged by a request of revision at court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection**

- A Wholly
- B Partly
- C In certain circumstances

A. *The Land Register is open to public inspection, anyone may look into the property sheet of a real property, may make notes and request authentic copies of it. But publicity can have different restrictions. The content of deeds forming the basis of registration is open - with the exception of authorities - only to those holding written permissions of the entitled or obliged persons.*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Authentic copies of property sheets may be obtained for a fee defined by law.*

**26. Is the purchase price paid for a property recorded on the land register?**

A. *The purchase price paid for a property can not be recorded in the Land Register. Therefore the land office does not have information on purchase prices.*

**27. Is information as to the price paid for a property available to the public?**

A. *See answer to question 26*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

**28. Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *According to the Act LXXVI of 1996 on surveying and mapping activities the state surveying base map is a large scale map produced in the unified national mapping system and it contains as state basic data the administrative boundaries, the parcels, their boundaries, unique reference numbers, other identifications, branches of cultivation, lands taken out from agricultural cultivation, the buildings on the parcels, the names. It also contains the different structures and establishments the way they are defined by special rules. Part of the base map is the area register, which contains the area data of the parcels.*

*Act LXXVI also rules that any change affecting maps has to be recorded on a special copy of the base map, which serves the purpose of the constantly updated cadastral map.*

## Country: HUNGARY

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *According to the Act LXXVI of 1996 on surveying and mapping activities new cadastral maps may only be produced by numerical (digital) survey for computerized use (digital maps). At present digital maps cover about 8% of the territory of Hungary. Previously maps had been produced by graphical means (90%) and precise traditional numerical surveying (10%).*

**30. What laws govern the recording of ownership boundaries?**

A. *Act LXXVI of 1996 on surveying and mapping activities and its enacting clauses: Order Nos. 16/1997 (I I I .5) FM and 21/1997 (I I I .12.) FM-HM.*

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *see answers to questions 6-7.*

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *It is the Act LXXVI of 1996 on surveying and mapping activities that defines the use of unique reference numbers. They are the primary identifiers of the parcels in the Land Register.*

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding	.....%
Fees paid by customers	.....%
Other means	.....% (please specify)

A. *Government funding: 70%.  
Fees paid by customers: 30%.*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

A. *The level and conditions of fees has to be defined by law. The relevant legal measure is the several times modified Act LXXXV of 1996 on fees. The fee of an authentic copy of a property sheet is at present 2000 HUF. There is no payment for persons with total personal exemption from payment of fees or when the required property sheet is set in a case which is "exempt from payment by its object".  
All other fees to be paid for surveying and mapping data are set by the enacting clause of Act LXXVI of 1996 on surveying and mapping activities, which is the Joint Order No. 63/1997. (VI I .21.) FVM-HM-PM on the managing and supply of state basic surveying and mapping data.*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *See answer to question 34*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *Documents can be either private or official. A document will be regarded as official if completed by court, notary public or other authority in their scope of authority in the prescribed form. All other documents qualify as private documents, that must also conform to regulations of form and content. The deed as accepted basis for the origin, change, termination of proprietary right, usufruct right, usage right, servitude, right of purchase, mortgage right can either be notarial document or private document countersigned by lawyer.*

## Country: HUNGARY

- 37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**
- A. *The Land Register has to be kept according to the state administration's territorial division by settlements, towns, county towns, and districts of the capital city. The property sheet serves the purpose of legal functions of land registration. The property sheet consists of three parts. The first part contains the data of the property, the second page contains the proprietary right (title) and data of the owners (in chronology), the third page contains various other important rights and facts (mortgages, restrictions, easements). The register by properties follows the system of "realfolio", meaning that all properties are recorded by property sheets.*
- 38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**
- A. *Administration procedures in the land registry are initiated by customers with applications. An application can either take the form of announcement or request. In an announcement the customer reports the changes of the data of the property, changes in the name and address of the entitled person to the land office. In a request the registration of origin, modifying, and termination of rights and facts concerning the property are asked from the land office. Appeals and requests for juridical revision are also to be considered as applications.*

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

- 39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *Authorisation in general to act on behalf of the public is defined by the Civil Code. Based on the procedure of state administration the procedure of title registration may be started by a legal representative (parent, person in charge, guardian, lawyer) instead of the client himself. It will be judged from the application (announcement, request), whether a formal authorization certifying representation is to be required or not. If the application is presented with a lawyer's countersignature or with evidence of the capacity of the authorised person on behalf of somebody, but without a written authorization, it has to be regarded as if submitted personally by the client himself.*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

- 40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *No, because the direction of these professions is managed by one organisation, by the Ministry of Agriculture and Regional Development.*

## Country: ICELAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes, the law of Public registration nr. 39/1978. People are not obliged to record their rights in land, but can lose their rights partly or wholly by not doing so
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Law for legal public registration nr39/1978  
The Law of boundaries for Rural properties nr.41/1919  
The Law of Planning of Communities nr. 73/1997  
The Law of registration and valuation of Real properties nr. 94/1976  
The Law of condominiums nr. 26/1994*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *1. The Law of Planning of Communities nr. 37/1997 places the responsibility for land properties on the respective community. The law is so new that it has hardly become active.  
2. The Law of Registration and Valuation of Real properties nr. 94/1976 places responsibility on the communities to notify the Registration and the Valuation Office of Iceland of all Real properties and changes them. The Office keeps now a central computerized register of almost all Real properties in Iceland*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *As the situation is now the responsible institutions are the legal Public Registrars belonging to the Ministry of Justice and the Registration and Valuation Office (Fasteignamat ríkisins) an Institution belonging to the Ministry of Finance*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *At the moment no one, but a Bill has been submitted to the Althing, the Icelandic National Assembly, which places the authorisation jointly on the Registration and Valuation Office and the Legal Registrars*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Legal Public register is mainly a place of record of legal facts and documents, but the Registrar can refuse to record a document which is in conflict with the law and an already recorded document*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes

## Country: ICELAND

9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *No*

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *No*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *No, but most people do*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *(see Question 2)*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *In the legal public register the documents to be registered are examined by a lawyer before retention and filing. The communities are responsible for the titles of Real properties (land), farms excepted.*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *The Law of condominiums nr.26/1994*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *All the above mentioned land holdings are registered.*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *No minimum*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *An unregistered right has a very limited legal standing*

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *Yes, if the land is sold without debt, but most common is that the buyer obligates himself to pay the mortgages*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *This is only possible with sellers written consent which has to be registered*



## Country: ICELAND

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *No*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *If the Registrar has made a mistake the State is obliged to pay compensation*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *The Ministry can pay indemnity in case of mistakes of the Registrars*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A) By application to the Registrar,  
B) By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Only if the price is mentioned in a registered document*
27. **Is information as to the price paid for a property available to the public?**
- A. *Information to the price paid for a property is only available to the public if the price is mentioned in a registered document*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *No, but most of the towns in Iceland keep maps showing the extent and boundaries of the properties in each town*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *In towns boundaries are in many cases determined by local co-ordinates, but in rural areas written description of the boundaries are most common*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Law of Boundaries for Rural properties nr.41/1919 (under revision)  
The Law for Planning of Communities nr. 73/1997*

## Country: ICELAND

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?
- A. *In towns the communities are responsible for survey and mapping of registered properties, but in rural areas no organisation is responsible.  
A new coordinate system for whole Iceland is under establishment and an experimental project for the survey and mapping of registered properties is being made now in a part of southern Iceland*
32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).
- A. *Not at the moment. But a Bill deciding unique reference numbers for all Real properties is under discussion in the Althing (the Icelandic Legislative Assembly)*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?
- |                        |                         |
|------------------------|-------------------------|
| Government funding     | .....%                  |
| Fees paid by customers | .....%                  |
| Other means            | .....% (please specify) |
- A. *Government funding . . . 100%  
(For a transfer of ownership a tax of 0.4% of the official valuation of the land in question must be paid - approx. £7 (11 US\$) for each registered document).*
34. Who or what Institution has the authority to decide the level of any fees payable?
- A. *For the time being only the Althing, the Icelandic Legislative Assembly can decide*
35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).
- A. *All fees are now set under the provisions of Law nr. 88/1991, named the State's special income Law.*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).
- A. *All documents that are considered legal and affect a Real property are registerable. These documents are mostly transfers, mortgages and duties.*
37. Does the law stipulate the form of the land register to be maintained for each individual registered property?
- A. *Each Real property shall have a special page in the Registrar's book. Each document regarding a Real property shall be mentioned in the property's page with a number referring to the box it is kept in. The Registers are now being computerized using the existing computerized register of the Registration and Valuation Office of Iceland as basic register.*
38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).
- A. *The Law specifies certain quality of the paper and the size of the paper shall be A4. The Bill named in question 32 specifies certain forms for each new property to be registered*

## Country: ICELAND

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

- 39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *The Law stipulates these professions for transfer of land and Real properties.*
1. *State authorized real estate agents*
  2. *Solicitors and barristers.*
  3. *Only special State authorized persons can make Real properties in houses (condominiums)*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

- 40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *No, but the Bill mentioned in question 32 does*

## Country: IRELAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes. A written Constitution of 1937*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Registration of Title Act 1964, Land Registration Rules 1972-1986.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *1. Minister of Justice,  
2. Registrar of Titles.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *1. The operation of the Land Registry is not independently supervised by any person or authority  
2. It is subject to audit by the Comptroller and Auditor General*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Yes. The Registrar has power to decide questions of land ownership and the benefit and burden of other rights affecting land.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *Yes. Possessory Title or Qualified Title.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *Yes*

## Country: IRELAND

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. Yes
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The Act provides that "until the transferee is registered as owner of the land transferred the instrument of transfer shall not operate to transfer the land " A similar provision applies to mortgages.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is a considered examination of the documents and the granting of a state guarantee to the land by the Registrar*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Act of 1964 governs the registration of condominiums (Apartments). There is no specific provision governing same.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Mainly Freehold and leasehold ownerships, including shared ownership leaseholds. The ownership registered can be absolute, possessory or qualified in the case of freehold and absolute, good leasehold, possessory or qualified in the case of leasehold.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *Where the term remaining at the time of registration exceeds 21 years.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages, easements, judgements of court.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes, by means of a "priority search"*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes. Subject to certain specified limitations, the registered title is conclusive.*

## Country: IRELAND

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *See 20*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**  
**A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar - Yes*  
*B. By application to the Court - Yes*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**  
**A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes - any member of the public may do so on payment of the prescribed fee.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No*
27. **Is information as to the price paid for a property available to the public?**
- A. *No. But the transfer deed containing the price paid, may in limited circumstances set out in Rule 188 of the Land Registration Rules 1992 be made available for inspection. (copy rule provided)*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *By general boundaries in relation to a topographic map.*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Act of 1964 provides that the recording of ownership boundaries on the registry map is not conclusive as to the boundaries or extent of the land. It also provides for the entry of a note of the conclusiveness of the boundaries in certain circumstances, on application*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Applicants are responsible for the survey and mapping of the application maps, based on the O.S. maps. The Registry is responsible for marking the Registry maps, which are also O.S. maps, to conform with the application map.*

## Country: IRELAND

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. Yes Rule 175 of the 1972 Rules provides that registered properties be identified by individual plans drawn on the Land Registry map with each plan having a unique plan/reference number thereon.

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. Fees paid by customers 100%

34. Who or what Institution has the authority to decide the level of any fees payable?

A. The Minister of Justice, with the consent of the Minister of Finance

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. Section 14(1) of the Act of 1964 provides that the Minister for Justice, with the consent of the Minister of Finance, may by Order fix the fees. Sub-section (2) provides that the fees shall, so far as possible, be so fixed as to produce an annual amount sufficient to discharge the salaries, remuneration and other expenses payable under and incidental to the working of the Act.

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. Under the system of land registration any document which deals with the ownership of land or the charges, rights or burdens affecting land is registrable by entries in the registers maintained under the Registration of Title Act 1964 to give effect to the documents in question.

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. Yes, by the Rules of 1972 (sample provided)

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. Yes, Prescribed forms set out in the schedule to the Rules.

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. The 1964 Act does not authorise or stipulate any professions or agent. However the drawing or preparation of a document relating to real property done either directly or indirectly for or in expectation of any fee, gain or reward is reserved to solicitors by virtue of section 58 of the Solicitors Act 1954

## Country: IRELAND

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *No formal relationship or co-ordination is specified. However section 84 of the Act provides that "there shall be kept in the central office the latest available Ordnance Survey map for the state". The Rules provide that application maps for first registration and subdivision of registered folios be on "the current largest scale map published by the Ordnance Survey"*



## Country: ITALY

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. - CIVIL LAW (Code VI) - LAW 27/21985 number 52

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister , a Government Department, Institution or official postholder?**
  - A. *The Ministry of Finance is responsible for organization and managing both of the Cadastre and Land Registers. Land Registers and cadastral deeds are kept by peripheral Offices of the Land Department of Ministry of Finance. The Registers are submitted under supervision of the Ministry of Justice as far as interpretation of deeds is concerned.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Ministry of Finance, Ministry of Justice (see item 4)*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The Registrar for the transcription of deeds*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Registrar has not statutory powers to decide on the rights regarding immovables but can operate formal controls about the transcription of deeds and formal controls about the title.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes. The registration confers legal status on the deed transcribed*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *In case it is not sure if a deed can be transcribed the Registrar could be requested of a transcription with reservation. Reservation is dissolved by the Judge at the party's petition.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *If the appeal is not made in 30 days the transcription is not more avail.*

## Country: ITALY

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes for mortgage. For purchase, the transcription is made to render public form to the deed itself in it's own account legally perfect and productive of effects between parties.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *Any mortgage can't exist without inscription in the Land Register. The purchasing contract even without transcription is valid but productive of effects between the parties only and not towards outside parties.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is an examination concerning the form but not the substance of a deed.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Civil Law (cod. VI articles 2643 and subsequent) Law 27/2/1985, n. 52.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Any real right, and share of it, can be transcribed: absolute, freehold, land surface, tenancies, shared ownerships, usufruct, emphyteusis. Ownership, bare ownership, emphyteusis, land surface, usufruct are enterable (mortgageable) rights.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The lease must have a term of more than 9 years.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *(see item 11. and 15.)*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No. It is possible make a new purchaser of encumbered estate.*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *No. But it is possible to transcribe a preliminary contract if drawn up in due public form.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes they are guaranteed by the State within limits defined at previous sections.*

## Country: ITALY

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. ---

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *No.*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

**A By application to the Registrar**

**B By application to the Court**

**C By other means (please specify)**

A. *A. By application to the Registrar, supported by sound titles (deed or judgement)*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

**A Wholly**

**B Partly**

**C In certain circumstances**

A. *A. Wholly*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes; but some limitations exist due to the form of title (e.g. copy of a contract, drawn up in public form, can be issued only by the public officer that drew up the contract.)*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *No.*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes, by a consultation of the deed*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Yes*

30. **What laws govern the recording of ownership boundaries?**

A. *Law 1/3/1886, number 3682*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *The Organization responsible is the Land Department of Ministry of Finance*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Yes. The use is established in an appropriate regulation of 1970*

## Country: ITALY

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. Government funding 30% Fees paid by customers 70%

34. Who or what Institution has the authority to decide the level of any fees payable?

- A. The Law.

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

- A. Yes. The law that dictates the rules in this connection is the law by decree 20/5/1996 n. 323, turned into the law 8/8/1996 n. 425 (article n.10 items 12-13).

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

- A. Deeds drawn up in due public form, administrative deeds and judgements concerning the establishment or the transfer of rights or the establishment of mortgages.

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

- A. Yes; by means of a precise specification of fields to fill out, in computerized process, of forms of transcription, inscription, application for note.

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

- A. Yes. The forms specified in the Item 37.

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

- A. Yes. Notaries, for the most part of cases, other public officials drawing up public deeds and jurisdictional bodies delivering judgements. The most relevant regulation is established by the notary act (law 16/2/1913) number 89 and subsequent rules.)

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

- A. Yes. Relationship between the organisations are specified by: - Civil Law (article 2659 n. 4 and article 2826), - Law by decree 23/1/1993, n. 16 turned into the law with some modifications, by the law 24/3/1993 n. 75 (article n. 2 items 1, quinquies and 1, septies). In consequence of the reform of the Ministry of Finance (law 29/10/1991 n. 358), the Cadastre and the Land Register are joined in one Department (Land Department of Ministry of Finance).

## Country: KYRGYZSTAN

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes. Private rights in land are provided for by Articles 4.1. And 4.4. of the Constitution approved by the 21st October 1998 Referendum. The disposal issues are set out in the Draft land Code adopted by the Republic of Kyrgyzstan Zhogorku Kenesha (the Kyrgyz Parliament).*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Land Code and the Law on State Registration of Property adopted on 22 December 1998. It contains provisions governing the state registration of property rights (including land). There are also a number of Government's resolutions specifying mechanisms of the rights in land registration*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The State Registration Office is such a controlling body.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Director of the Republic of Kyrgyzstan Government's Registration Agency of Property Rights.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The issue is under consideration*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The State Registration Office is a place of record of legal facts and documents.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *Yes, by provisional registration*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *No*

## Country: KYRGYZSTAN

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The rights are then viewed as invalid*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The issue is under consideration*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *The Land Code and the Law on State Registration of Property*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *The rights of ownership, the economic management rights, the operational control rights, the lifelong inherited ownership rights, the absolute (permanent) use rights, the provisional use rights, the servitudes (all of them in relation to property) and the limitations concerning planning, construction and use of a property units based on court decisions and environmental considerations as well as other rights provided by the Civil Code*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *At least 3 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *All rights listed in the answer to question 15*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *It is not necessary provided the new purchaser agrees*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *The issue is under consideration*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes*

## Country: KYRGYZSTAN

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. ---
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. Yes
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *Through A and B*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes, except in the case of state secrets*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The issue is under consideration*
27. **Is information as to the price paid for a property available to the public?**
- A. *The issue is under consideration*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes, it is indicated on the *ayyl okmotu* (local authority) maps and in the right granting documents*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *In relation to a topographic map*
30. **What laws govern the recording of ownership boundaries?**
- A. *The Land Code and the Law on State Registration of Property*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The Republic of Kyrgyzstan Government's Registration Agency of Property Rights*

## Country: KYRGYZSTAN

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. *The Law on State Registration of Property and one of Governments's resolutions require reference numbers such as for example 2-6-4-123 which is a reference containing figure 2 relating to the oblast, 6 to the district within the oblast, 4 to the sector within the district and 123 to the parcel number*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *The government funding currently amounts to 100% of the cost and a gradual transition to self financing will begin in 2001*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *Those which are mentioned in the Republic of Kyrgyzstan laws and regulations*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *By the Government Resolution No.172 of 2nd April 1997*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *All the land deal documents which grant and certify rights*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Yes, in general terms*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Yes*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *No*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *All this is within the competence of the Republic of Kyrgyzstan Government's registration Agency of Property Rights.*



**Country: KYRGYZSTAN**

## Country: LATVIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Constitution. Rights on Things Section in the Civil Code. Laws "On Land Privatisation in Rural Regions" and "On Land Reform in the Cities of the Republic of Latvia".*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *"Regulations on Real Estate Cadastre" issued by the Cabinet of Ministers*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Laws "On the Registration of Real Estate in the Land Book", "On State and Local Government Land Ownership and Its Registration in the Land Book", "On Resumption of the Validity of and on the Procedure by which the December 22 1937 Land Book Law Takes Effect", "On Land Book".*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *"Regulations on Real Estate Cadastre" issued by the Cabinet of Ministers place the responsibility for maintaining the land register on the institutions mentioned in point 5.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *State Land Service of the Republic of Latvia (Director General) Land Book Offices at Regional Courts (Head of the Office and Judge)*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Ministry of Justice*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *On the issues of the restitution of land ownership or acquisition of land ownership for payment in accordance with the Law "On Land Privatisation in Rural Regions" and Law "On Land Reform in the Cities of the Republic of Latvia" the decision is taken by the Rural Land Commissions or Cities' Land Commissions and local government's Council whose decisions can be appealed against in the Central Land Commission or Court. The Registrars check the correspondence of the documents to the demands of the laws and pass a decision either to "refuse" or "register".*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Upon the registration of the property in the Land Cadastre the owner has incomplete action rights to his property i.e. the owner cannot sell, mortgage or grant the property. Complete title to the real estate is acquired after its registration in the Land Book.*

## Country: LATVIA

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *The property is registered in the Land Cadastre after the Land Commission has passed the decision to register it. There is no provisional title.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Title can be acquired only on the basis of the adequate decision passed by Land Commission, Council of the local government or Court ruling*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *All changes concerning the owner must be registered in the Land Cadastre and Land Book. This is not a compulsory demand although there is a note in the transaction contracts that the contract takes effect upon its registration in the Land Book*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

A. *If new rights have not been registered: firstly, real estate tax payer does not change. Secondly, it is not possible to carry out the transactions enumerated in point 8 if the real estate is not registered in the Land Book*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *Land Cadastre registers the data on the basis of the decision passed by the institutions of local government or on the basis of other documents specified in the law which were used for the acquisition of use rights or ownership*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *Law "On the Privatisation of State and Local Governments Apartment Houses" and law "On Housing Property"*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *The following units are registered in the Land Cadastre; land properties, buildings, constructions, apartments, land use. Land lease will be registered in the nearest future. The title to these properties is registered in the Land Book.*

**16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *The regulations on the registration of lease are being prepared. Any lease can be registered, because the registration of the contract in the Land Book ensures protection against the third person*

**17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Title to real estate is registered in the Land Book as well as encumbrances of these rights, mortgages and pledges*

**18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *Real Estate can be bought also together with the mortgage*

## Country: LATVIA

**19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

**A.** *The buyer before the purchase has been registered can obtain information from the Land Book on legally formed and registered debt encumbrances of the real estate. If the purchaser has informed the Land Book about the contract he can be protected against a hostile transaction*

### SECTION F: GUARANTEE – INDEMNITY – RECTIFICATION

**20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

**A.** *The protection of real estate rights is provided for in the Civil Code and in some cases also in the Penal Law*

**21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

**A.** *Natural person and legal entity have right to make a complaint and have the error corrected*

**22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

**A.** *In case a loss has been suffered a person has right to claim the recovery of loss from the guilty party by submitting a claim to the court*

**23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

- A** By application to the Registrar
- B** By application to the Court
- C** By other means (please specify)

**A.** *The person or legal entity has to appeal to the Regional Office of the State Land Service or Central Cadastral Data Base or Land Book Office. If the rectification is not achieved, the person or legal entity has right to go to court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection?**

- A** Wholly
- B** Partly
- C** In certain circumstances

**A.** *The data of Land Cadastre are public, an enquirer can obtain the necessary information on the basis of his request. The person can receive complete information about his property and partial information about the property of other person*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

**A.** *Yes, an approved enquirer can obtain a copy of any register or map of a registered property*

**26. Is the purchase price paid for a property recorded on the land register?**

**A.** *The law doesnot have strict provisions as regards this issue.*

**27. Is information as to the price paid for a property available to the public?**

**A.** *No. The information about the price paid for a property is not available to the public. According to the law "On Real Estate Tax" such information is passed over to the State Land Service which adjusts the cadastral values on the basis of market information*

## Country: LATVIA

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes. The registered land is related to a map indicating the extent and boundaries of the property. Real Estate Cadastre Register comprises both textual and graphical information*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Boundaries of land plots situated in the countryside are shown in nature (the boundaries are marked with temporary boundary marks and a deed on the surveying of boundaries is compiled). Boundaries of land plots situated in the cities are surveyed using the instrumental (precise) surveying.*
30. **What laws govern the recording of ownership boundaries?**
- A. *Law "On the Registration of Real Estate in Land Book", Law on "Land Book", Law "On State and Local Government Land Ownership and Its Registration in Land Book".*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *State Land Service*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *"Real Estate State Cadastre Regulations" issued by the Cabinet of Ministers state that the cadastre number is a unique reference number for land registration*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**
- |                               |                         |
|-------------------------------|-------------------------|
| <b>Government funding</b>     | .....%                  |
| <b>Fees paid by customers</b> | .....%                  |
| <b>Other means</b>            | .....% (please specify) |
- A. *Government Funding . . . 40%*  
*Fees paid by customers. . . 60%*
34. **Who or what Institution has the authority to decide the level of any fees payable?**
- A. *The State Land Service has the authority to decide the amount of fees.*
35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**
- A. *"Real Estate State Cadastre Regulations" and "Regulations on the Financing Order of Land Reform and Land Privatisation" issued by the Cabinet of Ministers" authorise the State Land Service to determine the fees and to coordinate them at the Ministry of Finance*

### SECTION J: DOCUMENTS AND FORMS

36. **What documents does the law stipulate as registrable? (for example, transfer, mortgage).**
- A. *Prior the registration of land in the Land Book it is registered in Real Estate State Cadastre Register. To register the title in the Land Book the following documents certifying the title must be presented and registered: Decision on the restitution of land title; Decision on the transfer of land to ownership for payment; Decision on the transfer of land to ownership with or without compensation; Court rulings or decisions, Decisions of administrative institutions; Purchasing or Granting Contracts. Mortgages (issued by bank) are registered in Land Book*

## Country: LATVIA

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *According to the Law "On Land Books" Land Book Deeds are issued which confirm the registration of real estate title. The contents of data of Real Estate State Cadastre is determined by the "Real Estate State Cadastre Regulations"*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Law "On Land Books" states that the claimant has to hand in registration request*

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *Those land owners who want to receive a mortgage credit apply to the law offices or sworn solicitors and authorise the representative of the law office or solicitor to conclude the mortgage contract with the Bank. Latvia Mortgage and Land Bank is the only state bank representing the interests of the state with which the contracts on the buying out of land (using certificates or money) and contracts on the granting of credit for pledged land are concluded. The Bank is authorised to operate and represents the capital of the state,*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

A. *Law "On Land Books" provides for the mutual information exchange among the Land Book Offices, State Land Service and local governments. Relationship among the State Land Service and those natural persons and legal entities to whom the State Land Service has granted licences for surveying and land valuation is determined by the "Regulations On the Licensing of Particular Forms of Entrepreneurship" issued by the Cabinet of Ministers.*

## Country: LITHUANIA

### Section A: CONSTITUTION AND LEGISLATION

- 1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A.** Yes.  
*Article 47 of the Constitution of the Republic of Lithuania.*  
*"Land, internal waters, forests, and parks may only belong to the citizens and the State of the Republic of Lithuania by the right of ownership. Municipalities, other national subjects, also those Foreign subjects that perform agricultural activities in Lithuania and are set by the constitutional Law in accordance with the selected European and Transatlantic integration criteria of the Republic of Lithuania, may be allowed to acquire land parcels as ownership that are used for non-agricultural purposes and are necessary for building and exploitation of various constructions and equipment used directly for their activities. The procedures, conditions and restrictions on the acquisition of such a parcel are determined by the Constitutional Law. Plots of land may belong to a foreign state by the right of ownership for the establishment of its diplomatic and consular missions in accordance with the procedure and conditions established by law. The entrails of the earth as well as inland waters, forests, parks, roads, historical, architectural and cultural objects that are of state value belong to the Republic of Lithuania by the exclusive right. The Republic of Lithuania has the exclusive right to the air space above its territory, continental shelf and economic zone in the Baltic Sea."*  
*The Constitution of the Republic of Lithuania declares "Ownership is inviolable, ownership rights are protected by laws".*
- 2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A.** Yes.  
*Registration of real property and rights to it (including ownership) is regulated by laws. Real property means land, buildings, flats, engineering facilities. The main law is the Law on Real Property Register.*
- 3. If there is, please list the main laws which govern land registration.**
  - A.** *Main laws are:*
    - *Law on Real Property Register*
    - *Law on Land*
    - *Civil Code*
    - *Law on Mortgage*
    - *Law on State Registers*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

- 4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A.** *According to the Law on Real Property Register a state enterprise for this purpose was established by the Government. The Government has established the State Land Cadastre and Register Enterprise (SLCR).*
- 5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A.** *According to the existing legislation the State Land Cadastre and Register is assigned as a managing keeper of the Real Property Register. The Government of the Republic of Lithuania delegated the functions of a founder of the State Land Cadastre and Register to the Ministry of Agriculture and the Ministry of Environment. These ministries supervise the activity of the SLCR.*
- 6. Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A.** *Usually every year under the order of the founders the audit is made by a company holding the licence to make audits.*

## Country: LITHUANIA

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

- 7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
- A. *The registration office registers real property and rights to it, updates it, makes decisions on changes on the basis of the legal documents (transactions, contracts, court decisions, and other similar documents).*
- 8. Does the act of registration confer legal status on the rights in land?**
- A. *Law on Real Property Register. Article 12. Procedure of Registration of Newly Created Property and Rights to Which it is Subject*  
*"2. Ownership rights and other real rights to real property, restrictions on those rights, obligations of the owner, and rights of other persons to real property shall be registered together with the real property and these rights to which it is subject shall arise following their recording in the Real Property Register."*
- 9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *Law on Real Property Register. Article 23. Granting of the Application to Register Real Property and the Rights to Which It Is Subject.*  
*"2. If the contract of conveyance of the real property the registration whereof is requested provides that the right of ownership to the property has been postponed until a certain subsequent date or if the right is contingent on the condition of postponement, the keeper of the Real Property Register shall inform in writing the parties to the conveyance contract that the real property and the rights to which it is subject shall be registered in the Real Property Register only after the expiry of the postponement period or after compliance with the conditions of the contract, and shall make a note to this effect in the application and the application record book."*
- 10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *Law on Real Property Register. Article 34. The Right of the Real Property Register Keeper to Refuse to Register Real Property and the Rights to Which It Is Subject.*
1. *"The keeper of the Real Property Register shall have the right to refuse to register real property and the rights to which it is subject if circumstances specified in article 22 of this Law are established upon the examination of the application for the registration of the real property and the rights to which it is subject. Moreover, real property and the rights to which it is subject may not be registered in the event of violation of the requirements set for the formation (creation) of said property, or if the rights to said property, restrictions on the rights and real property acquisition conditions that are laid down in the agreements on the disposal of the property are contrary to the law.*
2. *The keeper of the Real Property Register shall not later than within 10 working days notify the person who filed the application (to the address given in the application) of the refusal to register real property and the rights to which it is subject, stating the motives for the refusal.*
3. *In case of refusal to register real property and the rights to which it is subject because of the circumstances that may be eliminated, the keeper of the Real Property Register shall set a time period not exceeding 10 calendar days for eliminating the circumstances which preclude registration of the real property and the rights to which it is subject and shall notify the person who filed the application thereof in writing (to the given address).*
4. *If circumstances precluding registration of real property and the rights to which it is subject are not eliminated within the time period set by the keeper of the Real Property Register, on the first working day following the expiry of the time period the keeper of the Real Property Register shall notify in writing the person who filed the application of the refusal to register the real property and the rights to which it is subject, specifying the reasons for the refusal."*



## Country: LITHUANIA

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

- A. *Law on Real Property Register. Article 3. Legal Status of the Real Property Register Data.*  
"2. Ownership and other real rights to real property, restrictions on these rights, obligations of property owners and the rights of other persons to real property shall arise subject to their registration in the Real Property Register."

**12. If it is, what is the effect of a failure to register new or transferred rights?**

- A. *If the rights are not registered it is not possible to make transactions, to mortgage.*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

- A. *Law on Real Property Register. Article 22. Examination of Applications to Register Real Property and the Rights to Which It Is Subject*

*Within 3 working days from filing an application to register real property and the rights to which it is subject, the keeper of the Real Property Register shall ascertain:*

*1) whether or not the person who has filed an application to register real property and the rights to which it is subject is eligible to file such an application;*

*2) whether or not the document on the basis of which registration of real property and the rights to which it is subject is requested complies with statutory provisions;*

*3) whether or not the data about real property in the document on the basis of which registration of real property and the rights to which it is subject is requested coincides with the data about the real property in the State Cadastre and at the National Inventorying, Design and Services Bureau;*

*4) whether or not the rights to real property the registration whereof is requested conform in their contents to the document which constitutes the basis of the request, whether or not they contravene the law and whether or not they are eligible for registration;*

*5) whether or not the real property and the rights to which it is subject which has already been registered in the Real Property Register precludes the registration of the real property and the rights to which it is subject the registration whereof is requested.*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

- A. *Law on Real Property Register. Article 5. Real Property Registered in the Real Property Register.*  
*Apartments in multi-flat houses are registered in the Real Property Register.*  
*Real rights (including ownership) to real property (real property covers apartments also) are registered in the Real Property Register. Article 7.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

- A. *Law on Real Property Register. Article 7. Real Rights to Real Property Recorded in the Register.*

*"The following real rights to real property shall be recorded in the Register:*

*1) ownership rights;*

*2) real rights to the property of other persons: long-term (for more than 3 years) leasehold or enjoyment, servitudes (with the exception of those prescribed by law) and others."*

## Country: LITHUANIA

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *As prescribed by the Law long-term leasehold for more than three years and buildings for more than one year is registered. Under the wish of the owner the leasehold of 3 or less years may be registered.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *All rights registered in the Register have legal standing. Mortgages must be registered in the Mortgage Register.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *The mortgaged property can be sold, but the mortgage always follows the property.*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *Law on Real Property Register. Article 26. Damages for the Injury Caused by the Keeper of the Real Property Register.  
"1. If persons suffer injury caused by the keeper of the Real Property Register in the performance of his duties, the damages shall be fully paid by the State."*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes.  
The State Land Cadastre and register has established a special fund for covering losses.*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar. If the Registrar makes the decision and a person is not satisfied he can address court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Provisions of Real Property Register states: The RP Register shall be public, with the exception of such real property objects and indicators which are specified by the Law on Legal Protection of Personal Data of the Republic of Lithuania and the Decisions of the Government of the Republic of Lithuania about which the information can be provided publicly only with the consent of an owner or a user of this property.*

## Country: LITHUANIA

25. Can an approved enquirer obtain a copy of any register or map of a registered property?

A. Yes, the register is open to public inspection

26. Is the purchase price paid for a property recorded on the land register?

A. Yes

27. Is information as to the price paid for a property available to the public?

A. Yes

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. Is registered land related to a map indicating the extent and the boundaries of the property?

A. Yes

29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?

A. Boundaries are determined both ways by using precise geodetic surveying and setting boundaries using the most recent maps (orthophoto).

30. What laws govern the recording of ownership boundaries?

A. Law on Land.

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?

A. State Land Cadastre and Register Enterprise.

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. The Regulations on the Real Property Register require a unique number for a registered land.

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. In 1998, Government funding - approximately 16%  
Fees paid by customers - 84%

34. Who or what Institution has the authority to decide the level of any fees payable?

A. Government and the founders of the State Land Cadastre and Register

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. They are set following the Regulations of Real Property Register.

## Country: LITHUANIA

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

- A. *Legal basis of Registration of Real Property in the Real Property Register*  
*"Registration in the Real Property Register of real property and the rights to which it is subject shall be made on the following legal basis:*
- 1) an application to register real property and the rights to which it is subject;*
  - 2) a decision of a State or a Government institution;*
  - 3) a court decision on instituting a bankruptcy action;*
  - 4) a judicial ruling on the seizure of property to enforce a civil action or a forfeiture;*
  - 5) an investigating officer's decision on the attachment of property to enforce a civil action or a possible forfeiture of property in a criminal case;*
  - 6) a bailiff's request to register the seizure of property;*
  - 7) a court decision on the recognition of incapacity or limited capacity of the owner;*
  - 8) a decision of the creditors' meeting on the use of an out-of-court bankruptcy procedure;*
  - 9) a contract on real property and property rights to be registered in the Real Property Register ."*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. *Yes. Special forms for each individual registered property are approved by the Government and they are computerised.*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. *Yes*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. *Real property, rights to it, restrictions are registered by the State Land Cadastre and Register which has 11 Branch Offices and 37 Client Services Bureaux. Surveying and valuation of land parcels is carried out by state institutions and private companies. Private notaries in Lithuania prepare and approve the transactions on real property. Mortgage is registered by the Mortgage Offices (13). These activities are regulated by laws and Government decrees:*
- Civil Code*
  - Law on Land*
  - Law on Real Property Register*
  - Law on Mortgage*
  - Notaries Law*
  - Law on Land Reform*
  - Law on Lease*
  - Law on Land Taxes*
  - Law on State Registers*
  - The Decision No 85 concerning the Approval of the Provisions on Real Property Register issued on 22 January 1998 by the Government of the Republic of Lithuania*
  - The Decision No 231 concerning the Approval of the State Land (with Real Property Elements) Cadastre Regulations issued on 24 February 1998 by the Government of the Republic of Lithuania*

## Country: LITHUANIA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

- A.** *The co-operation is regulated by:*
- *Law on Real Property Register*
  - *Law on Land*
  - *Law on Mortgage*
  - *Law on Land Reform*
  - *Notaries Law*
  - *Law on State Registers*

## Country: MALTA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *Land Registration Act, 1981 (chapter 296 of the Laws of Malta) Note - Outside registration areas, the Public Registry Act (chapter 56 of the Laws of Malta) applies (enrolment of transfers and hypothecs is against the individual not the site)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Government Dept - The Land Registry*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *A) Presently - Minister for Home Affairs, before it was Ministry of Justice  
B) Land Registrar*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Normal checks apply - e.g. Courts, Ombudsman*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Yes, subject to appeal directly to the Court of Appeal. By way of policy if parties opt to go to court (instead of asking Registrar to decide on a caution), Registrar stays proceedings*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes - but the "absolute" (here referred to as "guaranteed") is given only 10 years from application. Normal Civil Code norms apply in most (not all) instances of land rights.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *Except for Govt property or transfers therefrom, land is 'simply' registered but the LR can add qualifications which may essentially suspend the 10-yr. Prescribed period (see 8)*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *Yes - after the condition/doubt is crystallised - again subject to appeal*

## Country: MALTA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes - in a registration area (we are still trying not to impose a pro-registration culture). We're becoming successful in this.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *There is no effect with regards to third parties so essentially land may be retransferred and/or ranking lost.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *See 8. System changed thus - prima facie registration giving right to guaranteed title, 10 years from registration unless this period is interrupted or "lost"*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *"Condominium Act" 1997 - not yet in force. Presently there is a movement to amend certain provisions. The Law as is obliges the administrator to register the Condominium rules at the L.R. We are thinking of making all condominiums as "registration" areas*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *All forms of ownership except tenancy*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *In Malta, a 17 - year plus lease is regarded as emphytheusis - this is registerable*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Hypothecs/Privileges affecting a particular immovable (charges)*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No - if someone buys "burdened" property it is registered*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *---*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *State*

## Country: MALTA

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. ---
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. Yes
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *By application to the Registrar and by application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. Yes
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Results indirectly since the registered deed contains the price. Deed is public (obtainable from Notary or Notarial archives)*
27. **Is information as to the price paid for a property available to the public?**
- A. Yes

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes - both site plan and detailed plans*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Site plans - distances from nearest corner plus perimeter lengths are given by applicant*
30. **What laws govern the recording of ownership boundaries?**
- A. *Land Registration Act*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The Land Registry maps applicant's registrations. If overlaps result, these have to be settled or adjudicated.*



## Country: MALTA

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. *The Land Registry assigns application numbers and eventually unique title numbers. Technically you can have two or more titles on the same "land" - e.g. My half and your half*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Govt. maintains the LR, Fees are charged. These go into Govt's revenue*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The Land Registrar in consultation with Ministry of Finance*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *As regulations issue in virtue of a particular section of the Land Registration Act*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *The deed transferring the property of making a declaration thereof (e.g. "causa mortis") and deeds of hypothecs/privileges*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *No - the "Form" is developed by regulations . The Registrar can make such regulations including I T forms*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *\*Presently - Form A - application - first, - dealing - part, Form B - charge (hypothec/privilege), Form C - charge (cancellation or variation), Form D - Caution, Form E - Search, (\*being changed so as to incorporate one land/public registry form) (Registrar is empowered to change format including plans format)*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *The LR Act only recognises the Notary Public in the presentation of dealings. In Malta only a Notary Public is empowered to publish deeds (of transfer, hypothecation, causa mortis, wills - the latter are not registerable at the Land Registry). First Registrations and Cautions can be submitted by any individual or his legal representative. Plans accompanying all applications have to be drawn up by architects. In caution proceedings applicants may be (advised) accompanied by lawyers. The basic map is supplied by the LR I T system - "Land Registry Certification System" No other registration map base can be used. This is "neutral" and the applicant's architect marks out the site which is accompanied by more detailed plans.*

## Country: MALTA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

**A.** *The Planning Authority provides the Malta map base. The LR has its own software (LRCS - see above) for a GIS Index/Retrieval of information. The LR ensures, as far as possible, that data structure is compatible to other GIS users - e.g. Govt owned land, notaries' official index number, local council numbers etc. Land Valuation/Land Use is not within our terms of reference. Onto the GIS we maintain "ownership/rights" data only.*

## Country: NETHERLANDS

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *The Dutch constitution says in article 14 that it isn't possible to expropriate man's properties unless there is a public interest to do so. Additionally a compensation is required in these cases. This indicates the importance and power of private ownership. In the Civil Code (book 5, article 1) is mentioned that ownership is the most extensive right on an object a person may have.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, in the Civil Code (book 3, article 16) is mentioned that there are public registers in which are recorded all facts which are important for legal security. The Cadastre Act contains more in detail rules about the content and form of the public registers.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *- Constitution - Civil Code (book 3 and 5) - Cadastre Act - Organisation Act Cadastre - Implementing Orders/Decrees - Land Consolidation Act*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes, Cadastre and Public Registers Agency*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Minister of Housing, Physical (Spatial) Planning and Environment*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *As an Independent Administrative Organ, the Cadastre no longer (privatised since May 1994) forms part of the personal and financial organisation of the state service: but the Minister of Housing Physical Planning and Environment has appointed a Supervisory Board. This Board advises and supervises the Executive Board, partly on basis on multi-year policy plans. In case of complaints, judicial processes for persons who are registered in our public registers are prescribed by (administrative law) Annual accounts must be approved by independent financial auditors. Open and constructive discussions take place with the Council of Users on tariffs, quality and efficiency of services provided and on other matters of mutual interest*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *In the Netherlands the Registry is simply passive, which means the Registrar only checks whether the recording meets the requirements prescribed by law or not*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, without a notarial deed a conveyance of rights in land is not possible*

## Country: NETHERLANDS

9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *No, see answer 7*

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *Not applicable*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Yes, conveyance of rights in land by notarial deed is the one and only manner to generate juridical consequences. Recording of this deed is compulsory*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *See answer 11; juridical consequences will not be realised; only personal obligations as agreed in the deed remain valid.*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *Dutch registration system is solely based on the retention and filing of indexed documents*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *See answer 3 (Civil Code, book 5)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Absolute ownership, long lease, servitude, usufruct, shared ownership, building and planting rights*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *The question is, does lease concern a real right or not. If yes, then it's registered. There is no minimum term of a lease. Long lease is a real right, short lease is a personal right*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *Mortgages and attachments*

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *No, The moment of the deed's arrival is decisive. In case two deed arrive, concerning the same parcel, the moment of signing each deed is decisive*

## Country: NETHERLANDS

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *No, in the Netherlands there is a negative system, which means that if someone is not registered in the Public Registers, he never can be a real entitled person, although he possesses property. Inquiring persons being in good faith are nevertheless protected.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *It is the notary's task to check whether the seller is the real entitled person. He always uses the cadastral network to do so. The notary is liable in case of a wrong deed (content); the Cadastre is liable in case of an error or omission in the register (processing)*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes, but not the Registrar himself, but the Executive Board of Cadastre*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A **By application to the Registrar**  
B **By application to the Court**  
C **By other means (please specify)**
- A. *A + B*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A **Wholly**  
B **Partly**  
C **In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes, he can*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes, it is*
27. **Is information as to the price paid for a property available to the public?**
- A. *Yes, it is (see answer 24)*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Nowadays they are precisely determined by co-ordinates (by way of using tachymeters), in former days not (it was an analogue process)*

## Country: NETHERLANDS

30. What laws govern the recording of ownership boundaries?

A. *Cadastre Act*

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?

A. *Cadastre and Public Registers Agency*

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. *Yes, it is mentioned in the implementing Orders/Decrees belonging to the Cadastre Act*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *The Agency for Cadastre and Public Registers has to be a self supporting organisation, so all the costs are paid by customers fees.*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *Minister of Housing, Physical (Spatial) Planning and Environment on the proposal of the Cadastre*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *Yes, there is a special Decree (based on Cadastre Act) containing all Cadastral Tariffs.*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *- Notarial deeds of conveyance - notarial certificates/prescriptions - notarial deeds of mortgage/discharge - attachments - legal claims (Court) - judgements - public encumbrances*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Yes, Cadastre Act and the Implementing Orders/Decrees*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *No*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *Only the notaries are authorised (Civil Code; Notary Act)*

## Country: NETHERLANDS

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *In the Netherlands Public Registers and Cadastre are unified in one organisation, so there need not to be a formal relationship or co-ordination between organisations*

## Country: NORWAY

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *There is no specific clause in any law. The Constitution (from 1814) has an indirect reference (that land shall be fully compensated if expropriated by the state)*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, a land book parallel to the German type of "Grundbuch"*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Law on land registration. (In addition the Law on collateral, has important references to land registration)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes, to be maintained by the local courts (in all 87 offices)*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Ministry of Justice*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Ministry of Justice. Claims concerning the registration are handled by the regional courts (Second level court)*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *No. The Registry is simply a place of record of legal facts and documents*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *No the related documents do. Registration does however protect the rights against conflicting rights, i.e. a buyer will in any case have to respect rights that are registered, see exception under 9.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *Yes, in case of adverse possession, or if the current owner has no deed to prove title.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *No*



## Country: NORWAY

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *No*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *See 11*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The title (name of owner) and extract of deeds and other documents are entered into the main register, providing a title registration system*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Law on Condominiums*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Freehold and leasehold. Both types can include several names as for shared ownership or shared leasehold. Rental contracts, which are not leases, can also be registered, but not providing a regular legal title.*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *10 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *None, see 7. Registration of rights are not mandatory. All mortgages will however be registered. Registration is not required to make the right legal. Registration only protects the rights versus third person.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes, if the contract on intended purchase is registered*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The State is liable for losses "in good faith", that are the result of incorrect information in the land book.*

## Country: NORWAY

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *See 20*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes, the Ministry of Justice has*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *Through actions under A and/or B*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes, everybody can without providing a reason*
27. **Is information as to the price paid for a property available to the public?**
- A. *Yes*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Precisely (but with various requirements for geodetic precision) by co-ordinates*
30. **What laws govern the recording of ownership boundaries?**
- A. *Law on subdivision*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The local municipality*

## Country: NORWAY

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

**A.** *Yes, the municipality is divided in cadastral zones. A new property is assigned the first free number within the zone.*

*Leasehold parcels are given a sub-number under the related freehold property. Flats, as established under the law on condominiums, are given sub-numbers under the relevant freehold parcel of leasehold parcel.*

*A freehold property number will typically look like 32/8, and a leased parcel on that property will have the following number 32/8/1. The number is unique on country level if the number of the municipality is added*

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

**Government funding** .....%  
**Fees paid by customers** .....%  
**Other means** .....% (please specify)

**A.** *300% of the running costs for the land registry (but not for the cadastre) are covered by customers fees. In addition the land registry has considerable income from selling of data. Concerning the cadastre the customers are paying (to the municipality) for the surveys and the updating of the register, whilst the operation of the central database is covered by the state budget through the allocation of funds to the National Mapping Agency (NMA). The NMA recovers 50% of their costs from selling of information*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

**A.** *The Parliament decides on fees for registration in the Land Book (included in the yearly budget proposal from the Ministry of Justice). The local municipality decides the fees for surveys and registration in the cadastre, however not above cost recovery (set by the law of subdivision).*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

**A.** *The fixing of fees are governed by the Law on the Land Book and the Law on the Cadastre respectively*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

**A.** *Documents which constitute a right in land. The most typical documents are transfer deeds, mortgage documents, documents on easements and encumbrances.*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

**A.** *Yes, the law specifies that there should be two pages for every property: Page 1 for name of owner and registration of transfer deeds. Page 2 for registration of extracts of documents concerning mortgages, easements, etc. Page 2 is divided in two parts, one for mortgages and one for other documents. The register is fully computerised.*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

**A.** *Yes, for deeds and mortgages, not for other types of rights*

## Country: NORWAY

### **SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

- 39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**
- A. *No. Private persons may make the relevant documents themselves without professional assistance. Then 2 persons should co-sign the document as witnesses. Lawyers and some other groups of professionals may write deeds and other documents without having witnesses to co-sign. Deeds are most typically made by real-estate brokers. Notaries do not exist in Norway*

### **SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

- 40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**
- A. *Yes, the law on the Land Book requires that no new property can be entered unless it is surveyed according to the law on cadastre. The Law on the cadastre specifies that relevant documents for the creation of new properties, and for the change of boundaries, shall be reported to the LandBook. The Ministry of Justice and the Ministry of Environment (responsible for the cadastre) have agreed to integrate the two registers technically but not legally, to provide an integrated on-line service to the users*

## Country: POLAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, and that is the Constitution of the Republic of Poland, being the fundamental and supreme written normative act which establishes the basic laws of the state. In accordance with Article 21 of the Constitution, the Republic of Poland protects property and the right of inheritance, and expropriation is only admissible for public purposes and against appropriate compensation. Besides, the Constitution in Article 64 stipulates that every person has the right to own property, to enjoy other proprietary rights, including the right of inheritance. Such rights are protected by the law equally with respect to all citizens. Apart from that, property may only be restricted by virtue of an act of law and only insofar as it does not violate the essence of the right to property.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes. In Poland there exists a system of land and mortgage registers. This is a full registration system of the legal status of a real property, whose credibility is guaranteed by the state. This system registers property rights and the perpetual usufruct right, as well as limited rights in the real property. The fundamental purpose and the main function of the land and mortgage register is the establishment of the legal status of a real property as the basis for the security of trading in real property and of mortgage-secured loans. The land and mortgage registers are the records of rights in real property, which disclose its legal status and are accessible to the general public.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Act of 6 July 1982 on Land and Mortgage Register  
Civil Code  
Regulation by the Minister of Justice of 18 March 1992 on the execution of the provisions of the Act on Land and Mortgage Register.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The liability for damages with respect to the proper maintaining of the land and mortgage registers rests with the State Treasury. Whereas the Minister of Justice exercises administrative supervision over the courts, where the land and mortgage registers are maintained by judges or court administrative officials.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Minister of Justice exercises administrative supervision over the courts. The land and mortgage registers are kept in courts by judges or court administrative officials. According to Article 23 of the Act on Land and Mortgage Registers, the maintaining of land and mortgage registers falls within the scope of responsibility of competent district courts. Court actions with respect to maintaining land and mortgage registers may be executed by court administrative officials.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The administrative supervision over the courts maintaining land and mortgage registers is exercised by the president of the Court and the Minister of Justice. Whereas the passing of judgments on registration is subject to instance control through the possibility of lodging an appeal to the court of appeal against the judgment passed in first instance, and in the case of some registration entries - it is possible to lodge a cessation with the Supreme Court.*

## Country: POLAND

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

- 7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
- A.** *A judge or a court administrative official, after examining the matter, passes a judgment in the form of an entry into the land and mortgage register or, by force of an order, refuses to make an entry if there is no basis thereto. The examination covers the contents of the application, the contents and the form of the documents enclosed thereto, as well as the contents of the land and mortgage register*
- 8. Does the act of registration confer legal status on the rights in land?**
- A.** *The legal status of a real property results from the contents of the entries. Entries made in the land and mortgage register which relate to the legal status of a property are presumed to be credible. The principle of formal and substantive openness binding within the system of land and mortgage registers results in the fact that there is no need to seek the legal status of a property outside the land and mortgage register, since those registers are maintained in order to establish the legal status of a real property and, unless the presumptions arising out of them are refuted, they constitute the sole evidence of the legal status of the real property disclosed in the land and mortgage register. This is guaranteed by the principle of public reliability of land and mortgage registers which, under the conditions specified in the statute, justifies the validity of purchase of a right entered into the register from a person who is not entitled to dispose of it. In the Polish system of the land and mortgage registers the entries are of constitutive (law-making) and declarative character. In case of entries of constitutive character, no law is made without an entry (e.g. perpetual usufruct, mortgage, separate ownership of an apartment).*
- 9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A.** *Once the application for an entry into the land and mortgage register has been filed, a mention on the application is being made in the register, which is then deleted after the matter has been examined, i.e. after making an entry, or after the decision on the refusal to make an entry has become final. During the examination of the application, the court, in the person of a judge or a court administrative official, may only conduct proceedings aimed at the obtaining of such documents as are needed to make an entry. The court may also suspend the proceedings in a case until the documents removing the doubts have been obtained. In case it is noticed that the legal status disclosed in the land and mortgage register is not compatible with the actual legal status, an entry warning of such incompatibility may be made in the register. There is also a possibility to disclose in the land and mortgage register, upon request, claims for a transfer of ownership or perpetual usufruct, or for the establishment of a limited right in a real property. A disclosure in the land and mortgage register of a right instead of the claim securing it - results in ex officio deletion of the claim.*
- 10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A.** *The court has no right to grant a provisional title with respect to a property right which, after a specified time has elapsed, could be then converted into the absolute right to property.*

### SECTION D: PROCEDURES FOR REGISTRATION

- 11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A.** *Yes. The owner of the real property is obligated to disclose his right in the existing land and mortgage register. If he does not submit an application therefor, or there is an obstacle to disclose such right, the court which maintains the land and mortgage register will urge the sluggish owner, by means of fines, to disclose his right.*

## Country: POLAND

- 12. If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The right which has not been entered into the land and mortgage register is not covered by the presumption of credibility, which inures only to the benefit of the rights that have been registered. Besides, it is not covered by the principle of public reliability of land and mortgage registers. A limited right in property disclosed in the land and mortgage register has precedence over any such right which has not been disclosed in the land and mortgage register.*
- 13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The court examines the documents and on their basis establishes the legal status, and then discloses it in the land and mortgage register. Therefore, as a result of the examination of the matter, the court passes a judgment in the form of an entry. The legal status of a real property registered in such manner is credible, being guaranteed by the state.*
- 14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Civil Code,  
Act on Land and Mortgage Register,  
Act of 24 June 1994 on the ownership of apartments (concerns apartments constituting separate property which involve a share in a joint real property, as a right related to the ownership of apartments),  
Act of 21 August 1997 on real property management,  
Act on surveying and cartography,  
Act of 4 September 1997 on converting perpetual usufruct vested in natural persons into the property right.*
- The catalogue of provisions concerning the right to property is much wider and within this questionnaire it is only possible to specify the normative acts of major importance.  
In addition, apart from the Act on Land and Mortgage Register, with respect to the registration of the cooperative property right to living quarters, business premises and a detached house, which rights constitute limited rights in property - the provisions of the Act of 16 September 1982 on cooperative law are in force*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

- 15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Land and mortgage registers are established and maintained to record rights in property, i.e. ownership rights (co-ownership in fractional parts, joint co-ownership), perpetual usufruct as well as restricted property rights, i.e. cooperative members' right to their own apartment or to business premises, as well as the right to a detached house in a housing cooperative. The land and mortgage register covers the usufruct, easements as well as mortgages which constitute restricted property rights in a specific real property described in the land and mortgage register*
- 16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The Act on Land and Mortgage Register provides the possibility to disclose, apart from rights in property and restricted property rights - personal rights and claims such as: lease, hire, right to redeem, right of preemption, right to a life annuity, claims for the transfer of ownership of real property or of perpetual usufruct, or for the establishment of a limited right in property, claims resulting from the designation of the management of the real property, or the manner of using the real property by its owners or perpetual usufructuaries, claims by co-owners that exclude the rights to dissolve co-ownership, notice of the institution of enforcement proceedings in respect of the real property, notice of expropriation proceedings, notice of entry into the register of historic monuments, as well as other rights and claims specified by specific regulations. This takes place upon request and the disclosure of such right is not conditional upon its duration. Due to the fact that a lease of a real property lasting for more than 10 years gives the lessee the right of preemption in the case of sale of the real property - such rights are often disclosed in the land and mortgage register, but there is no such obligation.*

## Country: POLAND

- 17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Entry into the land and mortgage register is obligatory with respect to land easements, usufruct and mortgage. Mortgage is a limited right in property which takes effect upon making an entry into the land and mortgage register. In the Polish system of land and mortgage registers, there are several types of mortgages: contractual mortgage, statutory mortgage (i.e. arising by force of law), compulsory mortgage, mortgage securing an existing or a future claim, and joint mortgage.*
- 18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No, as long as the purchaser consents to the purchase of a mortgaged property. In addition, it is inadmissible to make a stipulation by force of which the owner of the real property commits himself in favour of the mortgagee not to sell or encumber the real property before the expiration of the mortgage.*
- 19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *The action of submitting the contract to the Court which keeps the land and mortgage register for the real property covered by the contract - constitutes a security. Upon filing the contract and an application for an entry - the Court promptly makes a mention of the application in the land and mortgage register, which excludes warranty. In addition, the entry into the land and mortgage register has retroactive force as of the date of submitting the application for an entry.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

- 20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The rights disclosed in the land and mortgage register, which is a register of public character, are guaranteed by the State as to their credibility.*
- 21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *In case of an omission or an error made by the organ maintaining the land and mortgage register, the responsibility for the damage lies with the State Treasury. The prerequisites of such responsibility have been specified in the Civil Code.*
- 22. Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Indemnity may be claimed by a natural or legal person. The payment of indemnity may be effected as a result of the acknowledgement of the claim or by virtue of a judgement of a common court of law.*
- 23. Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *B.*  
*As regards the description of a real property, a natural or legal person, having noticed irregularities, may, on the basis of documents presented, request that the entry be rectified - by lodging a motion to the court. If such person claims that the entry in the land and mortgage register with respect to the legal status does not conform to the actual legal status - then they may request that an appropriate entry be made if such discrepancy is shown by a judgement of a court or other relevant documents.*  
*C.*  
*If the person concerned does not possess such documents - the remaining available means is a lawsuit for the reconciliation of the content of the register with the actual legal status, before a common court of law.*



## Country: POLAND

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

**24. Is the register open to public inspection?**

- A Wholly**
- B Partly**
- C In certain circumstances**

**A.** *The land and mortgage register is open to everyone. However, the files of the register may only be inspected by a person who has legal interest in it and by a notary public.*

**25. Can an approved enquirer obtain a copy of any register or map of a registered property?**

**A.** *Certified copies of entries into the land and mortgage register are issued upon request to:*

- interested persons,
- the court,
- public prosecutor,
- notary public,
- territorial self-government units,

*Certified copies of entries cancelled from the land and mortgage register are issued upon request to:*

- the court,
- public prosecutor,
- territorial self-government units,
- upon the request of the person to whom the deleted entry referred.

*Certified copies of documents kept in the files of the land and mortgage register are issued upon request to:*

- interested persons,
- the court,
- public prosecutor,
- territorial self-government units,
- notary public.

*(The documents which constitute the basis for an entry may not be issued.)*

**26. Is the purchase price paid for a property recorded on the land register?**

**A.** *No. However, a certified copy of the notarial deed which records the purchase price is kept in the files of the land and mortgage register.*

**27. Is information as to the price paid for a property available to the public?**

**A.** *No, it is available only to the persons who have legal interest in inspecting the files of the land and mortgage register and to the notary public.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

**28. Is registered land related to a map indicating the extent and the boundaries of the property?**

**A.** *Real properties are designated in the land and mortgage register on the basis of the data from the buildings and land registration. The designation of a real property includes the data on its location, its purpose and area, as well as on the buildings and facilities located on this land. A certified copy of the entry into the land register, a copy of the registration map and the specification of land changes, accompanied by a clause stating that their purpose is to make entries in the land and mortgage register - all constitute the basis for entries in the land and mortgage register on the actual status of real properties. If changes involving the designation of the real property are to be made in the land and mortgage register - then, before providing the data from the registration, the boundaries of the real property should be established, and such data should be accompanied by an extract from the specification of land changes.*

**29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

**A.** *When determining the boundaries - the boundary signs and traces, maps and other documents, as well as other points of surveying matrix are taken into consideration. The boundaries are determined on the basis of measurements taken on the land precisely according to the coordinates.*

## Country: POLAND

### 30. What laws govern the recording of ownership boundaries?

- A. *Act on Land and Mortgage Register  
Act of 17 May 1989 - Surveying and Cartographic Law  
Civil Code  
Ordinance of the Ministers of Construction and Development and of Agriculture and Food Economy of 5 August 1996 on setting demarcation lines between real estates.*

*Valid judgements and final decisions determining the boundaries of real properties are sent ex officio by the court or by the determining authority within 30 days to the district courts competent to maintain land and mortgage registers - to be disclosed in the land and mortgage registers.*

### 31. Which organisation is responsible for maintaining the survey and mapping of registered properties?

- A. *The central organ of government administration which is competent in the matters of surveying and mapping is the Chief Country Surveyor, who is supervised by the minister competent in the matters of public administration. The responsibility for maintaining the county surveying and mapping resources, including the buildings and land registration - rests with the county governor.*

### 32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

- A. *The land and mortgage register discloses the identification numbers of plots which are the basic surveying units constituting the real property, according to the designation on the map.*

## SECTION I: FEES AND FINANCING

### 33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

**Government funding** .....%  
**Fees paid by customers** .....%  
**Other means** .....% (please specify)

- A. *100% government funding.*

### 34. Who or what Institution has the authority to decide the level of any fees payable?

- A. *The court.*

### 35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

- A. *The Act of 13 June 1967 on court costs in civil matters,  
Regulation by the Minister of Justice of 17 December 1996 on determining the amount of court fees in civil matters.*

## SECTION J: DOCUMENTS AND FORMS

### 36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

- A. *The following documents constitute the basis for an entry in the land and mortgage register:*
- *notarial deeds, which - as stipulated by the law - are official documents drawn up by a notary public, acting as a person of public credibility, where the parties execute a specific legal transaction and make a declaration, with their signatures being authenticated by the notary public,*
  - *administrative decisions which directly cause changes in the legal status of the real property and limited property rights covered by the land and mortgage register ,*
  - *final or immediately enforceable court judgements, both of constitutive as well as declarative character. .*
  - *other documents e.g. certificates issued by authorities and offices within the scope of their competence, documents issued by banks certifying the repayment of a loan, court settlements and legally equivalent settlements in administrative proceedings, birth, marriage and death register documents, surveying documents, private documents including declarations of will resulting in legal consequences in the legal status of the real property. Such*

## Country: POLAND

public (official) documents must meet specific requirements, namely they must be drawn up in a prescribed form, come from the authority designated to issue them and fall within its competence, be duly signed and bear official stamps and, if required, enforcement clauses or mentions on their validity.

As a matter of principle, the land and mortgage procedure is conducted upon a petition. Only in exceptional cases entries concerning property rights may be made ex officio if the court has been notified that there has been a change in the property right and there are documents constituting property title. The court ex officio makes entries notifying of a discrepancy between the legal status disclosed in the land and mortgage register and the actual legal status if it obtains information that the legal status disclosed in the land and mortgage register has become inconsistent with the actual legal status. Besides, if a part of the real estate covered by the land and mortgage register is being detached and a new land and mortgage register is being established for it, then the disclosed encumbrances in the form of easements and mortgages encumber also the detached part of the real property in the new land and mortgage register. This is a joint mortgage, whose entry is made ex officio.

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. Yes. It is an official form consisting of four sections:  
Section I - 0 concerns the designation of the real property,  
Section I - Sp concerns the entry of the rights related to ownership,  
Section II includes entries concerning the property right and perpetual usufruct,  
Section III is for entries concerning limited property rights with the exception of mortgages, entries of restrictions in the disposal of the real property or perpetual usufruct, as well as for entries of other rights and claims, with the exception of those concerning mortgages,  
Section IV is for entries concerning mortgages.  
Each section consists of individual columns where entries are being made. In addition, apart from the land and mortgage register, files are opened where documents constituting the basis for entries are collected, as well as other documents relating to the real property and to the person whose name has been entered into the register.

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. There are no prescribed forms in which applications are to be made. However, the provisions of the regulation specify the substantive content of an application for an entry and establishment of a land and mortgage register.

## SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. Contracts involving trading in real property and cooperative members' right to apartments should be drawn up in the form of a notarial deed, otherwise being null and void. Also applications for the establishment of easement and mortgage should be made in the form of a notarial deed. In consequence, a notarial deed whose content is related to the establishment, change or renouncement of a right disclosed in the land and mortgage register should include an application for making a relevant entry. Within 7 days of drawing up the deed, the notary public is obligated to send a certified copy of such notarial deed to the district court competent to maintain the land and mortgage register for the real property in question.  
In addition, the courts and organs of state administration are obliged to notify the district court competent to maintain the land and mortgage register of each change of the owner of the real property and to supplement such notification with certified copies of final judgements, decisions and settlements, confirming their validity, finality and enforceability.  
Applications for entries into the land and mortgage register may be made by representatives who are either legal counsels or advocates by virtue of a power of attorney granted in the case.  
The manager of a real property conducting professional activity has the right to make applications within the framework of land and mortgage proceedings if it is stipulated by the management contract. It is because his task is to make all decisions and undertake all steps aimed at maintaining the real property in no worse condition, in accordance with its purpose, and to make justified investments in the real property. Such rights are not vested in the real property dealer, who may only execute actions aimed at the conclusion of a contract.  
Act on Land and Mortgage Register, articles 3, 39, 40,  
Civil Code, article 87  
Act of 21 August 1997 on real property management, articles 184 - 190.

## Country: POLAND

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

**A.** *Yes. The organ maintaining the buildings and land registration is obliged to notify the district court competent to maintain the land and mortgage register for the real property in question on changes in the designation of that property. In turn, the court maintaining the land and mortgage register is obliged to notify the buildings and land registration organ of changes within the scope covered by section 11 in order to introduce such changes into the register.*

*Besides, if a land and mortgage register is established for cooperative members' right to their own apartment, to business premises or the right to a detached house, then the court maintaining such register is obliged to notify the relevant housing cooperative of the establishment of the land and mortgage register, as well as of the entry of a mortgage. The housing cooperative in turn is obliged to maintain the register of such apartments and the mortgages established on them.*

## Country: REPUBLIC OF MOLDOVA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, The Constitution of Moldova, adopted on 29 July 1994*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Law on Real Cadastre*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The Territorial Cadastre Offices (TCOs)*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Territorial Cadastre Office, subordinated to the National Agency of Cadastre, Land Resources and Geodesy*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The National Agency of Cadastre, Land Resources and Geodesy*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Territorial Cadastre Office is the place where acts and legal documents get registered*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *The Registrar is not authorised to issue provisional title*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *The Registrar is not authorised to issue provisional title*

## Country: REPUBLIC OF MOLDOVA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Registration of rights in land is obligatory*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *In the event when the mortgage or sale contract is not registered it becomes null and void in three months time*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There exists a system whereby the Registrar issues a "guaranteed title" in land*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Civil Code; Law on Property; Land Code; the Law on Condominium is currently under development*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Absolute, rights of lease, tenancy, common shared property (when co-owners hold interest shares in the indivisible property), mortgage, concession, common divided property (when co-owners hold divisible shares in common property)*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *Three years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgage, Leasehold, Concession*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The registered rights in Land are guaranteed by the state, through registration procedures provided for in the Law on Real Estate Cadastre. Indemnity is paid out of the Warranty Fund*

## Country: REPUBLIC OF MOLDOVA

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *Includes indemnity for material damages with proceeds of the Warranty Fund*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Payment of indemnity shall be made out of the Warranty Fund, retroactively recouping the damages from the Registrar*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By filing an application to the Registrar, B. By appealing to the court.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Fully*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Extract from the Register may be issued to the property owner concerned, whereas the cadastral information may be issued to any person*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The Register currently does not include sale/purchase price. This price is available in the cadastral file*
27. **Is information as to the price paid for a property available to the public?**
- A. *Currently not*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Determined based on general boundaries and upon request are fixed.*
30. **What laws govern the recording of ownership boundaries?**
- A. *Law on Real Cadastre*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The Territorial Cadastre Office, duly licensed companies*

## Country: REPUBLIC OF MOLDOVA

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. *Law on Real Estate Cadastre, Regulation on Primary Mass Registration*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Fees paid by Clients 100%*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The Government of Moldova*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *Tariffs for Services provided by Territorial Cadastre Offices approved by Government Decision No. 978 dated 18 September 1998*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *Contract of Sale; Contract of Donation; Mortgage of Agreement*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Articles 22, 23, 24 in the Law on Real Estate Cadastre stipulates the form and content of real estate Registers*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *The Law does not provide for the presentation of any forms, To the application shall be annexed the rights confirming document and the cadastral or geometric plan for the land plot*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *The conveyance or mortgaging of land is effected by contract executed by the parties involved, certified at the notary office and registered at the Territorial Cadastre Office*



## Country: REPUBLIC OF MOLDOVA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *The Territorial Cadastre Offices are independent state institutions the scope of their operation is being determined by the National Agency of Cadastre, Land Resources and Geodesy, Land surveying and mapping, and valuation may be performed by both the cadastre offices and by private companies which are duly licensed by the National Agency of Cadastre, Land Resources and Geodesy (NACLRG). The Agency is empowered to provide supervision of the above operations*

## Country: ROMANIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *The State protects the property. The property rights are guaranteed. The private property is protected for all holders in equal way by the law. (Art.135, art.141)*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, there is the Land Book.  
The real estate publicity shall have as object the inscription in the Land Book of the property right and the other real rights that are transferred, pursuant to the juridical acts and deeds concerning to a real estate.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *The rules concerning the organisation and the activity of the Land Book offices of the Court of Justice;  
The law no.7/1996 (the law on cadastre and real estate publicity);  
The law no.18/1991 (the land law);  
The law no.219/1998 (the leasing law);  
The law no.114/1996 (the housing law);  
The law no.36/1995 (the law on the notaries activity and public notaries);  
The law no.16/1994 (the law on land tenancy);  
Until the completeness of the cadastral works and of real estate publicity register in the whole country, shall be applied the following procedural instructions for registration:  
A. In the localities with Land Book registration system:  
- The Decree-Law No. 115/1938 on the unification of provisions regarding Land Books  
- The Law 242/1947 for the conversion of provisional Land Books from the Old Kingdom (Vechiul Regat) in real estate publicity book.  
- The decree law 2142/1930 on the operation of the central Land Books for railways and canals.  
B. In localities with transcription - inscription system  
- The Civil Code  
- The Civil procedure code  
C. The law LX/1881 on the real estate distraint, with subsequent modification.b*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The Ministry of Justice shall organise, coordinate and control the publicity activity of the Land Book Offices by a specialised department. The National Office for Cadastre, Geodesy and Cartography shall organise, manage, direct and control the execution of general cadastre.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Land Book Office under the Ministry of Justice*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The Ministry of Justice by the Department for the real estate publicity shall organise, co-ordinate and control the real estate publicity.*

## Country: ROMANIA

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).
- A. *This just records the legal deeds and documents and the burden affecting the property right.*
8. Does the act of registration confer legal status on the rights in land?
- A. *Yes, together with the property certificate (the property title).*
9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?
- A. *The provisional inscription in the Land Book shall be made in case of acquiring certain rights affected by a suspensive condition, or if the court judgement on which it rests is not final and irrevocable.*
10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?
- A. *No, the Judge from the Land Book puts into effect the registration of the property certificate in the basis of a final and irrevocable judicial judgement.*

### SECTION D: PROCEDURES FOR REGISTRATION

11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?
- A. *Yes.*
12. If it is, what is the effect of a failure to register new or transferred rights?
- A. *The registration and the obliteration from the Land Book shall be made both for opposability of the real estate right and for information of the interested third parties.*
13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?
- A. *The head of the Land Book examines, fill in the registry and communicate the interlocutory judgement of the Land Book.*
14. Please specify any laws which govern the ownership and registration of condominiums (apartments).
- A. *The Civil Code, The Law no.114/1996 (the housing law), Decree-Law No. 115/1938 on the unification of provisions regarding Land Books, The Regulation concerning to the organisation and the activity of the Land Book Offices of the Court of Justice.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).
- A. *Private property, public property, superficies (trust), usufruct, utilisation, use, habitation right, servitude, mortgage, real estate privilege (prerogative), as well as the tenancy (leasing) for a period of more than 3 years.*

## Country: ROMANIA

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *3 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Tenancy, superficies (trust), the usufruct, utilisation, use, servitude, the mortgage, real estate privilege (prerogative), habitation right and the leasing for a period of more than 3 years.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes.*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *The owner of a real estate may request that his/her intention to alienate or to mortgage be inscribed, in the latter case showing the amount that is to be guaranteed by mortgage.  
If the alienation or mortgage is achieved, the right inscribed shall have the rank of the inscription of intention.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *The juridical deeds and facts with regard the personal rights maybe inscribed on request with and informative effect for third parties. The inscription of the intention to alienate or to mortgage shall lose its effect by the passage of a term of two months after the date when the registration of application has been effected.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *It is no case.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *No (when a error occurs the registrar is disciplinary and contravention liable for.)*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *Material errors committed on the occasion of the inscriptions or erasures may be rectified by a motivated interlocutory judgement, by the judge from the land-book bureau, on request or ex officio, with or without summoning the parties.  
Rectification of a substance affecting error is rectified by the instance through a judicial judgement.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Any interested person shall be permitted to examine the Land Book and other records forming the cadastral real-estate publicity register, except records concerning national security.*

## Country: ROMANIA

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes, when this proves a legitimate interest.*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *On the inscription in the Land Book it shall be shown the demonstrative document and if is needful the price paid for a property could be recorded in the register*

27. **Is information as to the price paid for a property available to the public?**

A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Boundaries precisely determinate by co-ordinates.*

30. **What laws govern the recording of ownership boundaries?**

A. *The Land Law no.18/1991, the Law on Cadastre and real estate publicity, other norms draws up by the National Office for Cadastre Geodesy and Cartography, HG No.834/1991*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *National Office for Cadastre Geodesy and Cartography.*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *When in the documents on the basis of is requested the inscription, the provisional inscription or writing down the real estate is indicated by its new cadastral number. Shall be asked at the territorial office to identify with topographical number of the parcel from the Land Book, for the admitting the inscription request.*

### SECTION I: FEES AND FINANCING

33. **To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Cost recover - analysed by the program of the World Bank.*

34. **Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Central and Local Administration, the Ministry of Justice (the tax for the service provided by the Ministry of Justice, called "The stamp tax").*

35. **Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The fees are set under the provisions of law, under Govern decisions, other public local administration decisions.*

## Country: ROMANIA

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

- A. *The original document or authorised copies on it.  
The final and irrevocable judicial judgement.  
The administrative document of the competent administrative body.*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. *Yes.  
A. Part I, referring to the description of buildings, which shall include:  
a) running number and cadastral one of each building;  
b) area of land, the utilisation class, and, if such be the case, the constructions;  
c) location and vicinities;  
d) taxable value.  
B. Part II, referring to inscriptions on the property right.  
C. Part III, referring to inscriptions on divisions of the property right and charges.*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. *Yes, for approval of the request are necessary:  
The identification documents in cadastral plan, if those exist;  
The demonstrative document of the juridical acts or deeds that proof the constitution of the real right or the property certificate.  
The sketch plan of the land or/and construction to which the inscription refers, draw up by a technical specialist authorised by the County Office for Cadastre Geodesy and Cartography.*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. *The notary public, the judicial instance, geodetic engineers, technicians authorised by the law on cadastre and real estate publicity.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

- A. *Yes. Relationship between National Office for Cadastre Geodesy and Cartography, the Ministry of Justice and the Ministry of Finance.*

## Country: RUSSIAN FEDERATION

### Section A: CONSTITUTION AND LEGISLATION

**1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**

**A.** *The Constitution of the Russian Federation adopted by the nation-wide vote on the 12th of December, 1993 says:*

*Ownership to land and other natural resources could be private, state or municipal one or could have some other forms. (Article 9, Point 2).*

*Possession of land, use of land and disposal of land and other natural resources is carried out by their owners freely if these do not cause damage to environment and do not disturb legal rights and interests of other persons. (Article 36, Point 2).*

**2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**

**A.** *In the Russian Federation there is a statutory system of land registration, which provides the recording of rights in land, including ownership, in a public register?. The Federal Law "Regarding the State Registration of Rights to Real Property and Transactions with It" (further: the Federal Law "Regarding the State Registration"), which was adopted by the Russian Federation State Duma on the 17th of June, 1997 and approved by the Russian Federation Federal Assembly on the 3rd of July, 1997, says:*

*'The registration of rights is carried out throughout the territory of the Russian Federation in the Unified State Register of Rights to Real Property and Transactions with it (further: the Unified State Register of Rights) within the framework of the system of registering all the rights to each property unit established by this Law.'* (Article 2, Point 2).

**3. If there is, please list the main laws which govern land registration.**

**A.** *The legislation of the Russian Federation regarding the State registration of rights to real property and transaction of them consists of:*

- \* the Civil Code of the Russian Federation;*
- \* the Federal Law "Regarding the State Registration of Rights to Real Property and Transactions with It";*
- \* the Federal Law "Regarding the State Land Cadastre of the 2<sup>nd</sup> January 2000";*
- \* the Resolution of the Russian Federation Government of the 18th of February, 1998 - 219 "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights to Real Property and Transactions with It"*
- \* other federal laws and other relevant regulations of the Russian Federation.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

**4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**

**A.** *In accordance with the Federal Law "Regarding the State Registration of Rights" responsibility for maintaining the Unified State Register of Rights is placed on Institutions of Justice for the State Registration of Rights to Real Property and Transactions with It (further: institutions of justice for registration of rights), which are now in the process of being established in the Russian Federation. This institution is responsible for registration of rights to real property units located within the territory of the registration district, which has fallen within the jurisdiction of this institution.*

*Before the Federal Law "Regarding the State Registration of Rights" came into force on February 1, 1998 registration of rights to land was carried out by the State Committee of the Russian Federation for Land Resources and Land Management.*

## Country: RUSSIAN FEDERATION

**5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**

**A.** *According to the Article 10 of the Federal Law "Regarding the State Registration of Rights" the federal agency responsible for registration of rights to land and transactions with it should be appointed by the Russian Federation Government.*

*At present the responsibility for creating the institutions of justice for registration of rights and general governing their activity is placed on the Ministry of Justice of the Russian Federation. (The Resolution of the Russian Federation Government of the 18th of February, 1998 # 219 "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights to Real Property and Transactions with It". Further: the Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights").*

**6. Who is authorised to independently supervise or audit the operation of the Land Registration?**

**A.** *In accordance with the Federal Law "Regarding the State Registration of Rights" (Article 10) the federal agency responsible for establishment of the institutions of justice for registration of rights and general administration of their activity should carry out:*

*\* legal control over the activities of institutions of justice for registration of rights;*

*\* control over the implementation of the Federal Programme for Development of the System of State Registration of Rights in the Entities of the Russian Federation.*

*In accordance with the Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights" the Ministry of Justice is authorised to carry out this responsibility.*

*An Entity of the Russian Federation is one of 89 regions (oblasts, republics or territories) that make up the Russian Federation*

### **SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND**

**7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**

**A.** *The head of an institution of justice for registration of rights has statutory powers to decide, from evidence and documentation provided questions of land ownership, and the benefit and the burden of other rights affecting land.*

*Entering records in the Unified State Register of Rights is the act evidencing the legal acknowledgment and state approval of a real property right. (The Federal Law "Regarding the State Registration of Rights", Article 2, Point 1).*

**8. Does the act of registration confer legal status on the rights in land?**

**A.** *In Russia the act of registration confers legal status of the rights in land.*

*"State registration of rights to land is a unique evidence of the existence of a registered right." (The Federal Law "Regarding the State Registration of Rights", Article 2, Point 1).*

**9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

**A.** *The legislation of the Russian Federation does not provide the Registrar with a power to grant a provisional (or qualified) title.*

*According to the Federal Law "Regarding the State Registration of Rights" (Article 19, Point 1) where at the time of registration, there are some doubts as the conclusiveness of the right the Registrar has to take every measure for receiving complementary data within one month. The Registrar has to notify the applicant immediately about it. The applicant has a right to develop evidences that he/she has legal grounds to register his/her right.*



## Country: RUSSIAN FEDERATION

*If by chance the reasons, which impede the state registration of the right, have not been removed within one month, the Registrar has powers to refuse registration to the applicant and make the relevant entrance in the book of documents recording.*

**10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

- A. *The legislation of the Russian Federation does not provide the Registrar with a power to grant a provisional (or qualified) title.*

### SECTION D: PROCEDURES FOR REGISTRATION

**11. Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

- A. *For those obtaining new rights in land it is compulsory to register those rights.*

*Rights to real property acquired after the enactment of the Federal Law "Regarding the State Registration of Rights" are liable to compulsory state registration. (The Federal Law "Regarding the State Registration of Rights", Article 4, Point 2).*

**12. If it is, what is the effect of a failure to register new or transferred rights?**

- A. *In case of a failure to register a new or transferred right the written notification is sent to the applicant within five days since the termination of a period fixed for the examination of an application. In the notification a cause for refuse should be indicated. A copy of the said notification is placed in the relevant file. An applicant can lodge an appeal against the refuse in court. (The Federal Law "Regarding the State Registration of Rights", Article 20, Point 3).*

**13. Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

- A. *The state registration system adopted in Russia provides an examination of documents and the granting of a "guaranteed title" to the land by the act of registration. Entering records in the Unified State Register of Rights is the act evidencing the legal acknowledgement and state approval of a real property right. (The Federal Law "Regarding the State Registration of Rights", Article 2, Point 1).*

**14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**

- A. *The Federal Law "Regarding the State Registration of Rights" and the Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights" govern the ownership and registration of rights to all kinds of real property including condominiums (apartments). The special Federal Law "Regarding the Partnership of Residential Unit Owners" governs the ownership and state registration of rights to real property in condominiums.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

**15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

- A. *"In accordance with the Articles 130, 131, 132 b, 164 of the Civil Code of the Russian Federation the ownership and other property rights to real property as well as transactions with it are liable to state registration ... Besides property rights, restrictions of the rights and encumbrances of them including easements, mortgages, trusts, lease are liable to state registration". (The Federal Law "Regarding the State Registration of Rights", Article 4, Point 1).*

*"The ownership right and other property rights to real property, restrictions of the rights, their assignment, transferring and termination are liable to state registration in the Unified State Register... Registrable rights and interests are the following: ownership right, right of economic management (for enterprises), right of operational management (for enterprises), right of life-long inheritable tenure, right of permanent (term-less) use, mortgage, easements, as well as other rights, provided by this Code and other laws."(The Civic Code, Article 131, Point 1).*

## Country: RUSSIAN FEDERATION

*In accordance with the Civic Code of the Russian Federation ownership can be of the following forms: ownership of a physical person, ownership of a legal entity, state ownership (ownership of the Russian Federation and ownership of the Russian Federation Entity), ownership of a municipality), common ownership (shared or joint).*

- 16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The Federal Law "Regarding the State Registration of Rights" does not stipulate minimum term (years) of a lease to be registered.*
- 17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *"Besides property rights, restrictions of rights and encumbrances of them including easements, mortgages, trusts, lease are liable to state registration" (The Federal Law "Regarding the State Registration of Rights", Article 4, Point 1).*
- 18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *In the Federal Law "Regarding the State Registration of Rights" there is not a special position concerning the requirement of a proof of the discharge of a seller mortgage before registration of a new purchase is made.*
- 19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *In the Federal Law "Regarding the State Registration of Rights" there is not a special position concerning the possibility for an intending purchaser to secure, from the Unified State Register of Rights, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration. This Law was adopted recently and in the regulations that are to be developed in the closest future such guarantees should be provided.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

- 20. Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *In Russia the act of registration confers legal status of the rights in land.  
"State registration of rights to land is a unique evidence of the existence of a registered right." (The Federal Law "Regarding the State Registration of Rights", Article 2, Point 1).*
- 21. If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *In the Federal Law "Regarding the State Registration of Rights" there are special provisions concerning the responsibility of institutions of justice for registration of rights and those officials that are engaged in registration of rights to real property.*
- "The institution of justice for registration of rights is responsible for timeliness and accuracy of recording in the Unified State Register of Rights data on rights to real property and transactions with it as well as for completeness and genuineness of information delivered on rights to real property and transactions with it."(The Federal Law "Regarding the State Registration of Rights", Article 31, Point 1).*
- "The persons who are guilty of fraudulent or innocent misrepresentation or loss of information on rights to real property and transactions with it registered under the established procedure are liable for material damage caused to any party in accordance with the Legislation of the Russian Federation."(The Federal Law "Regarding the State Registration of Rights", Article 31, Point 1).*

## Country: RUSSIAN FEDERATION

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *In the Federal Law "Regarding the State Registration of Rights" there is no special provision concerning the power of the Registrar to pay indemnity to someone who suffers loss by an omission or error in the Register.*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By an application to the Registrar (the Federal Law "Regarding the State Registration of Rights", Article 21, Point 1) if the correction will not inflict damage to the interests of the third parties, otherwise:  
B. By an application to the Court or Arbitration (the Federal Law "Regarding the State Registration of Rights", Article 21, Point 2)*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *B. Partly  
The registration of rights to real property is open. Institution, carrying out registration of rights is liable to submit information on any property unit kept in the Unified State Register of Rights to any person that presents identification card and a written application. (The Federal Law "Regarding the State Registration of Rights", Article 7, Point 1).*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *An inquirer can obtain a copy of a property unit description, rights to it registered, as well as restrictions and encumbrances of them. (The Federal Law "Regarding the State Registration of Rights", Article 7, Point 1).*
- According to law other data kept in the Register can be submitted only to:*
- \* a right holder him/her/itself;*
  - \* physical persons or legal entities that received a letter of attorney*
  - \* heads of local authorities and heads of the government of the Russian Federation entities*
  - \* taxation authorities within their jurisdiction;*
  - \* courts or law-enforcement agencies which deal with the cases related with concrete real property units and/or persons who hold rights to them;*
  - \* persons who have the right to inherit real property units according to law or testament.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The purchase price paid for a property unit is recorded in the sheets of the Unified State Register of Rights, which is titled "Records on Transactions".*
27. **Is information as to the price paid for a property available to the public?**
- A. *(See above - Section G, Point 1).*

## Country: RUSSIAN FEDERATION

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

- 28. Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *A registered land is related to a map indicating the extent and the boundaries of the property.  
"The compulsory supplements to the documents, which are necessary for state registration of rights, are a map of a land plot ... and/or sketch-map of a property unit identified by proper cadastral number (identifier). (The Federal Law "Regarding the State Registration of Rights", Article 17).*
- A map of a land parcel has to be registered in the local office of the Russian Federation State Committee for Land Policy.*
- 29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *In case of the adjudication, privatization and primary registration boundaries are determined by general boundaries based on topographic maps, orthophotos and other materials available in local offices of the Russian Federation State Committee for Land Policy.*
- In cases when land parcels are transferred (excluding cases of inheritance and gift) and settling land disputes the boundaries are determined precisely with the reference to the national system of coordinates. In some cases it is allowed to use a local system of coordinates. Dimensions are carried out on the base of field geodetic works, photogrammetry, GPS-technology.*
- 30. What laws govern the recording of ownership boundaries?**
- A. *Main laws and regulations governing the recording of ownership boundaries in Russia are as follows:*
- "Regarding Geodesy and Cartography" the Federal Law of December 26, 1996 . # 209-##.  
Instruction on putting boundaries of land plots. Approved by the State Committee of the Russian Federation for Land Management and Land Resources of April 2, 1996.*
- "Regarding the structure of cadastral maps and land sketch-maps". Explanations of the State Committee of the Russian Federation for Land Management and Land Resources of January 16, 1995 # 2-12/77.*
- "Regulations on the licensing of topographical and geodetic activities in the Russian Federation". Approved by the State Committee of the Russian Federation for Land Management and Land Resources of August 26, 1995 # 847.*
- "Temporary regulations on the procedure of issuing licenses for the fulfilment of research and development works related to land use." . Approved by the Statement of the State Committee of the Russian Federation for Land Management and Land Resources of March 15, 1993 # 13.*
- "Technical requirements to a sketch-map of a land plot". Explanations of the State Committee of the Russian Federation for Land Management and Land Resources" of November 9, 1994, # 2-12/1749.*
- 31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The responsibility for maintaining the survey and mapping registered property units (production of sketch-maps, cadastre maps and index maps) is imposed on the Russian Federation State Committee for Land Policy and its local offices.*
- 32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *The Russian Federation legislation requires that unique reference numbers (cadastre numbers) be used for registered land.  
(The Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights", The Federal Law "Regarding the State Registration of Rights").*
- The cadastre numbers (identifiers) are assigned to land parcels by local offices of the Russian Federation State Committee for Land Policy.*

## Country: RUSSIAN FEDERATION

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *"The system of state registration of rights to real property is being created at the expense of payments for registration of rights and submission of information on registered rights, budgetary provisions and other lawful sources." (The Federal Law "Regarding the State Registration of Rights", Article 11, Point 1).*

**34. Who or what Institution has the authority to decide the level of any fees payable?**

A. *The Government of the Russian Federation and Governments of the Russian Federation Entities. (The Federal Law "Regarding the State Registration of Rights", Article 11, point 2).*

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *"The payments for registration and delivering information on registered rights to real property and transactions with it are fixed by the Entities of the Russian Federation. Maximum size of the payments within the territory of the Russian Federation is set by the Government of the Russian Federation." (The Federal Law "Regarding the State Registration of Rights", Article 11, point 2).*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *The Law does not directly stipulate any documents as registrable ones. But according to the Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights" information on documents providing registration is entered in the sheets of the Unified State Register of Rights. These documents are called "bases for registration" and they include:*

- \* statements issued by governmental bodies or local authorities;*
- \* agreements and other transactions related to real property;*
- \* certificates of privatization of housing and apartments;*
- \* certificates of right to succession;*
- \* court decisions come into force;*
- \* statements (certificates) of rights to real property issued by authorized governmental bodies according to the procedure stipulated by law;*
- \* other documents certifying the transfer of rights to real property units and transactions with them;*
- \* map of property units with cadastral number (unique identifier).*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *According to the Resolution of the Russian Federation Government "Regarding the Approval of the Procedure of Maintaining the Unified State Register of Rights" the institutions of justice for registration of rights have to keep special records for each individual registered property, which are entered in the file that includes the following sheets:*

- \* Land plot (separate sheets for condominiums) recording*
- \* Building, construction (separate sheets for condominiums) recording*
- \* Dwelling, non-dwelling accommodation, other component parts of buildings, constructions recording*
- \* Right of ownership and other property rights recording*
- \* Lease recording*
- \* Mortgage records*
- \* Easement recording*
- \* Transaction recording*
- \* Sequestration recording (interdiction of the transaction of property rights)*
- \* Other restrictions (encumbrances) recording*
- \* Alteration recording*
- \* Property right, restriction (encumbrance), liquidation (transformation) of a property unit.*

## Country: RUSSIAN FEDERATION

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. Applicants have to present a set of documents including:
- \* a written application
  - \* documents certifying the origin of a right (these could be a settlement of state or local authorities, assignment deed, deed of real estate, deed of gift, deed of trust, lease contract, sale contract, any other deeds of conveyance of any property right)
  - \* certificate of identity of a physical person, a certificate of identity of a representative of a legal entity and a document confirming his/her power to apply for and on behalf of this legal entity; it could be a plenipotentiary of the persons who has a letter of attorney
  - \* map of a property unit with the cadastral number (unique identifier) (maps of land plots are produced by local offices of the Russian Federation State Committee for Land Policy or surveying agencies attached to them, the local offices examine the maps and certify them).

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. According to the Federal Law "Regarding the State Registration" the Registrar has to be higher educated in science of law. Or he/she must have an experience of work in the institutions carrying out registration of rights to real property (not less than two years), or he/she has to be trained in special courses and pass relevant tests. (Article 15, Point 2).

*In accordance with the Federal Law "Regarding the State Registration" some documents submitted for state registration should be authenticated by a public notary. That means notaries are engaged in the process of registration. A notary in Russia has to have a university education in law.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

- A. "Governmental bodies of the Russian Federation Entities and local authorities, agencies, which are responsible for real property records keeping as well as other organizations, which keeps data needed for state registration are obliged within ten days since the date of applying to submit information to rights holders and institutions of justice for registration of rights" the (Federal Law "Regarding the State Registration", Article 8, Point 3).

*While registration of rights to land is the responsibility of the institutions of justice for registration of rights, cadastral survey and mapping, land valuation and land use administration are within the jurisdiction of the Russian Federation State Committee for Land Policy.*

*The institutions of justice for registration of rights are not motivated to provide data on registered rights in land to local offices of the Russian Federation State Committee for Land Policy.*

*The Russian Federation State Committee for Land Policy fully understanding the importance of such co-ordination between agencies is launching a number of pilot projects to work out operational procedure for this activity. It is likely that local offices of the Russian Federation State Committee for Land Policy will enter co-operation agreements with the local institutions of justice for registration of rights. In some areas this relationship is already established.*

## Country: SLOVAKIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *It is a written Constitution with mentioned specifications*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes it is*
3. **If there is, please list the main laws which govern land registration.**
  - A. *(1) Act NR Sr No 162/1995 corpus iuris on the cadastre of real estates and on the entries of the ownership and other rights to the real estates (the cadastre act) in the wording of amendment  
(2) Act No. 71/1967 corpus iuris on administrative proceedings (Administrative order);  
(3) Act No 40/1964 copus iuris civil code in the wordings of amendments;  
(4) Act NR SR No 215/1995 corpus iuris on geodesy and cartography;  
(5) Act No 229/1991 corpus iuris on the consolidation of ownership relations to the land and other agricultural property in the wording of later provisions; .  
(6) Act SNR No 306/1991 corpus iuris on land consolidation, arrangement of land property, land offices, land fund and land cooperatives in the wording of later provisions (complete wording stated by Act No 12/1994 corpus iuris.;  
(7) Act NR SR No 182/1993 corpus iuris on the ownership of residential and non-residential space in the wording of act NR SR 151/1995 corpus iuris; \_  
(8) Act NR SR No 180/1995 corpus iuris on some measures for the arrangement of the ownership to the lots;*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Yes, it places such responsibility to Authority of Geodesy Cartography and Cadastre of the Slovak Republic (President of Authority is directly subordinated to the Prime Minister).*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *President of Authority of Geodesy Cartography and Cadastre of the Slovak Republic*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Court is authorised for such supervising or auditing*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *A Registration office (District Cadastre Authority) has a statutory power (based on the law) to decide about origin, change and extinction of ownership and other rights to real estates. It is not the head of the District Cadastre Authority responsible for making mentioned decisions. There is only the employee of the Cadastre Authority, having a special qualification, who independently decides about the proposal of contribution of the data into the cadastre of real estates (as independent judiciary)*

## Country: SLOVAKIA

8. **Does the act of registration confer legal status on the rights in land?**
- A. *Yes, it does*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *The term "provisional title" is unknown. There is only one kind of title (ownership): normal one (absolute one)*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *See No 9*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes it is compulsory for ownership right, for pawn right, for onus, for right resulting from the administration of state property, for the right resulting from the administration of municipality property (not for lease rights and not for pre-emptive right)*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The effect is non-transferring of ownership rights or non-origin of new ownership rights to real estates*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Registration system is based on examination of the documents and on the granting of a guaranteed title to the land and buildings (real estates) by the Registrar (District Cadastre Authority)*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *(1) Act NR SR No 162/1995 corpus iuris on the cadastre of real estates and on the entries of the ownership and other rights to the real estates (the cadastre act) in the wording of amendment  
(2) Act No 40/1964 copus iuris civil code in the wordings of amendments;  
(3) Act No 229/1991 corpus iuris on the consolidation of ownership relations to the land and other agricultural property in the wording of later provisions;  
(4) Act SNR No 306/1991 corpus iuris on land consolidation, arrangement of land property, land offices, land fund and land cooperatives in the wording of later provisions (complete wording stated by Act No 12/1994 corpus iuris);  
(5) Act NR SR No 182/1993 corpus iuris on the ownership of residential and non-residential space in the wording of act NR SR 151/1995 corpus iuris;  
(6) Act NR SR No 180/1995 corpus iuris on some measures for the arrangement of the ownership to the lots;*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *There are following rights to real estates registered: ownership right inclusive shared ownership, leasehold (tenancy) provided leasehold lasts or shall last 5 years at least, pawn right, onus, right corresponding to onus, pre-emptive right provided it shall have the effects of tenure, right resulting from the administration of state ownership, right resulting from administration of municipality ownership and some other matters related to those rights*



## Country: SLOVAKIA

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *5 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages, pawn rights, onus, right corresponding to onus, pre-emptive right provided it shall have the effects of tenure, right resulting from the administration of state ownership, right resulting from administration of municipality ownership and some other matters related to those rights*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes, it is required. A deed is necessary to discharge of a mortgage*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *It is a matter of a seller or a purchaser which time will be the proposal of contribution in written form delivered to cadastre authority in. The cadastre authority marks out the date and the hour of its delivery on a written form of the contribution proposal. By the next working day at the latest after the day of the delivery of the document, the one determined for the entry, the cadastre authority marks out a seal about the change of the rights to the real estate in the owners folio. The seal means that the right to the real estate recorded in the cadastre is touched by a change. The seal is cancelled after making an entry by a valid decision of a cadastre authority, or it is cancelled by a valid decision about stopping the dealings on the contribution*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *They are guaranteed by the State*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *---*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes, he has such power (he has such obligation)*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar,  
B. By application to the Court. They can seek rectification by application on both, at the Cadastre authority or at the court depending on the origin of the recorded facts.*

## Country: SLOVAKIA

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

- A **Wholly**
- B **Partly**
- C **In certain circumstances**

A. *Cadastré of real estates is public - generally opened. Everyone has the right to make extracts, copies or outlines of it. The publicity of the set of documents (set of origin deeds) is limited and is public only for the owners or other entitled persons or for the persons who make geodetic work concerning land consolidation, or for the person who makes geometrical (division) plans or lay out the plot bounds or for the person who performs the expert activities in the field of geodesy cartography and cadastre*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes, each enquirer can obtain such information (a term "approved" or "non-approved" is unknown)*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes, it is recorded indirectly in the set of documents (it is not a part of administered information of cadastre of real estates). Price paid for a property is basically a consensus matter*

27. **Is information as to the price paid for a property available to the public?**

A. *It is not available (see also the answer NR 24. and 26) because it is recorded only in the non-public set of documents. Price paid for a property is basically a consensus matter.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**

A. *Yes, it is*

29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**

A. *Boundaries are determined both by co-ordinates and boundaries in relation to a cadastre analog maps on 15% of territory and by boundaries without co-ordinates in relation to a cadastre analog maps on 85% of territory (but not by topographic maps !!!)*

30. **What laws govern the recording of ownership boundaries?**

A. *(1) Act NR SR no 162/1995 corpus iuris on the cadastre of real estates and on the entries of the ownership and other rights to the real estates (the cadastre act) in the wording of amendment  
(2) Act NR SR No 215/1995 corpus iuris on geodesy and cartography*

31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**

A. *There are responsible 79 district cadastre authorities*

32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

A. *Yes, cadastre law requires it. There is in # 3 of cadastre law, point 3 "The parcel is the geometrical definition and location and the depiction of plot in the cadastral map or in geometrical (division) plan with marking its parcel number"*

## Country: SLOVAKIA

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?
- Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)
- A. Government funding . . . .80%  
Fees paid by customers . . . . 20%
34. Who or what Institution has the authority to decide the level of any fees payable?
- A. The Law of National Parliament of Slovak Republic NR. 145/1995 corpus iuris about administration fees
35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).
- A. Yes. Fees are set under provisions of the law. See also No. 34.

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).
- A. Transfer documents, gift documents, lease documents, heritage documents, mortgage documents, exchange documents, pawn right documents, onus right documents and many other documents.
37. Does the law stipulate the form of the land register to be maintained for each individual registered property?
- A. Yes, the law stipulates it
38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).
- A. Yes, the cadastre law stipulates in # 30 such forms. By # No.30  
" The proposal of contribution must be submitted in written form and must include especially the following:  
(a) the name (business name) and the permanent address (the seat) of the proposer,  
(b) the indication of a cadastral office, the receiver one,  
(c) the indication of a kind of legal action after which the right to the real estate originates, changes or expires; if the subject of the contribution proposal consists of legal relations from more legal actions, all of them are indicated,  
(d) the common document or other document which proves the right to the real estate,  
(e) the identification of parcels if the right to the real estate is not entered in the owner's folio  
(f) the price of the real estate,  
(g) the evaluation of the real estate,  
(h) the indication of enclosures"

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).
- A. Such law does not exist. The creation of documents and presenting them for registration is not limited by special professions

## Country: SLOVAKIA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *Registering of land rights, administering of cadastre survey and mapping and registering of land use is integrated into one authority (district cadastre authority) on the base of Cadastre Law*

## Country: SLOVENIA

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *A written Constitution (Official Gazette of the Republic of Slovenia, No. 33/91).*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes.
3. **If there is, please list the main laws which govern land registration.**
  - A. *- Law on Land Cadastre (Official Gazette of the SRS, No. 16/74 and 42/86)  
- Law on Land Registry (Official Gazette of the Republic of Slovenia, No. 33/95)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Responsible for maintaining the Cadastre is the Surveying and Mapping Authority of the Republic of Slovenia, which is a part of the Ministry of the Environment and Physical Planning*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Responsible for the Land Register is court. There are 44 land - registry county courts in Slovenia.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Court.*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Registry is a place of record of legal facts and documents.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. Yes
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. ----

## Country: SLOVENIA

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes, it is compulsory under Law on Land Register.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The effect is to pay fine (10.000 SIT-200.000 SIT).*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There are two legal basis for registration of the rights:*  
*- ex officio (on the basis of a judicial ruling on inheritance)*  
*- contract*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *- Law on the Land Register*  
*- Rules on the Keeping of the Land Register (Official Gazette of the Republic of Slovenia, No. 77/95)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *- ownership rights*  
*- rights of pledge*  
*- usage rights*  
*- real obligations rights*  
*- tenancy rights*  
*- advance purchase and acquisition rights*  
*- registration of confiscation and burdening*  
*- other rights prescribed by the law*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *1 year.*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *See No. 15.*
18. **Is proof required of the discharge of a seller's mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration?**
- A. *Yes. It is possible*

## Country: SLOVENIA

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *By the Court - that means by the State.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *They are.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *One of the basic principles is the principle of trust in land register entries.*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *- by application to the Registrar  
- by application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *Partly. The general ledger yes; but the collection of documents shall be available only to a person who has justifiable interest.*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *No*
27. **Is information as to the price paid for a property available to the public?**
- A. *No*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Boundaries are determined approximately 30% by co-ordinates and 70% in graphic cadastre.*
30. **What laws govern the recording of ownership boundaries?**
- A. *Law on Land Cadastre*

## Country: SLOVENIA

31. Which organisation is responsible for maintaining the survey and mapping of registered properties?
- A. *Responsible for maintaining the survey and mapping of registered properties? is Surveying and Mapping Authority of the Republic of Slovenia.*
32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).
- A. *Yes, Law on Land Cadastre.*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?
- |                        |                         |
|------------------------|-------------------------|
| Government funding     | .....%                  |
| Fees paid by customers | .....%                  |
| Other means            | .....% (please specify) |
- A. *The cost of maintaining the land registration system is financed by fees paid by customers 100%.*
34. Who or what Institution has the authority to decide the level of any fees payable?
- A. *Law on administrative fees ( Official Gazette of the SRS, No. 7/72)*
35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).
- A. *Fees are set under Price list for performing geodetic services.*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).
- A. *- transfer  
- mortgage  
- court decisions  
- other contracts*
37. Does the law stipulate the form of the land register to be maintained for each individual registered property?
- A. *Yes*
38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).
- A. *Yes*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).
- A. *No*



## Country: SLOVENIA

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *Yes. Land Registry is responsible for registering land rights and for transmission of court decisions to Surveying and Mapping Authority, which have to be included in Cadastre. and Surveying and Mapping Authority has to transmit decisions about boundaries, use,... to the Land Registry.*

## Country: SPAIN

### Section A: CONSTITUTION AND LEGISLATION

1. In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?

A. Yes

2. Is there a statutory system of land registration which records rights in land, including ownership, in a public register?

A. Yes. It records ownership, rights in land and every legal limitation

3. If there is, please list the main laws which govern land registration.

A. Registration Law. Civil Law (Code). Urban and Agrarian Law. Procedural Law.

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?

A. The Registrars, professionals under the dependence of the General Direction of Registries and Notaries, of the Ministry of Justice

5. Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).

A. Ministry of Justice

6. Who is authorised to independently supervise or audit the operation of the Land Registration?

A. Ministry of Justice (G.O. of Registries and Notaries) and National Chamber of Registrars (Professional Association)

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).

A. The Registrar has statutory powers, deciding the scope of the rights to be registered. The register is a juridical register and title register: There is a presumption of exactitude of the content of the register

8. Does the act of registration confer legal status on the rights in land?

A. Yes. This legal status protects strongly to the registered owner and protects absolutely to those purchasing with price and good faith

9. Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?

A. Yes

10. If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?

A. Yes (First Registration)

## Country: SPAIN

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *In case of certain rights; mortgage, surface. But due to the strong effects of registration, more than 90% of the properties have been registered*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The failure in registration cannot affect those who have registered*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Clearly, there is a considered examination (qualification) of the document from the formal and material point of view (check of the validity)*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Ley de Propiedad Horizontal (1960) with several modifications (the last in 1999). Timeshare Law (1998). Registration Law. Civil Code.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *All kind of rights considered to be able to affect third people ( third parties)*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *There is no limit at the moment*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Ownership, usufruct, servitudes, mortgages and any other real estate rights*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No. But the notary has the information of the registral situation in the moment of the contract*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes. The notary can present the document immediately through fax.*

### SECTION F: GUARANTEE – INDEMNITY – RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *By the State through the activity of the Registrars who are responsible from Civil, Penal and Administrative point of view.*

## Country: SPAIN

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *The Registrar is responsible*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Yes, the Registrars*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar. In particular cases (material mistakes)*  
*B. By application to the Court. Mainly, as a general rule*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *C. In certain circumstances . . . There should be an interest (very often presumed)*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes*
27. **Is information as to the price paid for a property available to the public?**
- A. *Yes. But it is not under the protection of the register since this refers to rights*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes. Through the co-ordination with the cadastre*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *The cadastre has UTM co-ordinates*
30. **What laws govern the recording of ownership boundaries?**
- A. *Law for the Cadastre*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The Cadastre*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *No. There is a number for the register in coordination with a number for the cadastre*

## Country: SPAIN

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. *Fees paid by customers 100%*

34. Who or what Institution has the authority to decide the level of any fees payable?

- A. *The government through a law*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

- A. *Ley de Tasas y precios publicos      Registration Law*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

- A. *Any notarial, judicial or administrative (public) document referring to ownership or real rights*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

- A. *Yes*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

- A. *When the presentation is made, there is a particular form filled by the register*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

- A. *Notaries are ruled by a Notarial law. There are agents (lawyers, mediators) who intervene in the markets under general rules of concurrence*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

- A. *Yes. The Cadastral number is in the documents and the register, and there is communication between both cadastre and register*

## Country: SWEDEN

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *The Swedish constitution (which consists of five different laws) contains the following statement (in The Instrument of Government, article 18): The property of every citizen is protected in such a way that no-one may be compelled, by means of expropriation or any other such disposition, to surrender his property to the public administration or to any private person, or to tolerate restriction by the public administration of the use of land or buildings, other than when necessary to satisfy urgent public interests.  
Any person who is compelled to surrender property by means of expropriation or other such disposition shall be guaranteed compensation for his loss. Such compensation shall also be guaranteed to any person whose use of land or buildings is restricted by the public administration in such a way that ongoing land use in the affected part of the property is substantially impaired or injury results which is significant in relation to the value of that part of the property concerned. Compensation shall be determined according to principles laid down in law.  
Access to the countryside shall be open to all under the right of public access, notwithstanding the above provisions.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, and this system of land registration is described in the Land Code.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *There are a number of laws that regulate land registration and other parts of land administration. The Land Code contains all the fundamental articles that govern land registration (as well as actual procedures such as transferring ownership), and these are supplemented by the Land Register Act and the Land Register Ordinance.  
Cadastral procedures (subdivision, amalgamation, etc.) are based on the Land Code and a number of acts (which are passed by Parliament) and ordinances (which are passed by the Cabinet) such as the Real Property Formation Act, the Adjudication and Registration Act, the Utility Easements Act and the Real Property Register Ordinance.  
A full list of the most important legislation is attached\*. (\*not attached in this report)*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The Land Code, in Chapter 19 section 2, states that land registration is the responsibility of Land Registration Authorities, which are part of the local courts (District Courts).*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Inskrivningsmyndigheten (Land Registration Authority).  
Inskrivningsdomare (Chief Land Registrar).  
Land registration is the responsibility of the Land Registration Authority, and all decisions are made in the name of each Land Registration Authority (of which there are 91 at present. In 2001 the number will be reduced to 7). Each authority is managed by a Chief Land Registrar, who must be one of the judges of the District Court to which the Land Registration Authority is part of. The Chief Land Registrar has the right to delegate his power to the staff of the Land Registration Authority according to the District Court Ordinance. The Land Registration Authority belongs to the jurisdiction of the Ministry of Justice.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The independent standing of each court is regulated in the constitution. Each District Court is headed by Chief Justice, who has an administrative responsibility for the whole court. The National Courts Administration has a supportive function in relation to the courts. All government agencies, and the courts, are audited by the National Audit Board. Decisions made by a court can be appealed to one of the Courts of Appeal.*

## Country: SWEDEN

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
- A. *The rights of ownership pass upon the signing of an agreement between the parties in accordance with the legal requirements. If all such requirements have been met, which the Land Registration Agency must consider, registration can take place, i.e. the Land Register be changed. Only the registered owner (or the registered site leasehold owner) can get a mortgage registered in the property, and anyone dealing with the individual or organisation that is the registered owner is in good faith (and the registered owner is protected if someone else deals with the property). A buyer can only get his title registered if he has acquired the property from the registered owner. In short, registration can only take place if the Land Registration Authority finds that all legal requirements have been fulfilled, and that registration brings about certain rights.*
8. **Does the act of registration confer legal status on the rights in land?**
- A. *Yes, see question 7.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
- A. *The Land Registration Authority can grant a pending title, which can be made final when the "missing" condition has been fulfilled. One example when an application for title registration (registration of ownership) can be made pending is when the transfer contains a specific area of a property. The title is then pending until the area bought has been sub-divided (and constitutes a separate property). In the case of a title pending because of the need for a cadastral procedure, the pending title will fall if survey has not been applied for within six months. No possibility to grant a qualified title, e.g. as to the final survey, exist.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
- A. *See question 9.*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes, the laws stipulate that registration of a transfer must be applied for within three months. But there is no remedy if this does not happen.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *If registration is not applied for by a new owner, he has no protection against the previous owner (who then is still the registered owner) carrying out other transactions (registering a mortgage and using that or an existing mortgage as security for a loan, transferring the property again, etc.) with the property and the third parties being able to - successfully - claim good faith.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *There is a considered examination of the documents and the granting of a "guaranteed title" to the property by the Registrar. See also questions 7 and 12.*

## Country: SWEDEN

- 14. Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Sweden has no legislation that provides for ownership of an apartment, or registration of that (strata title registration). There is however a system of "housing co-operatives" (bostadsrätt), which means that buying a specific share in the housing co-operative (and becoming a member of the co-operative) brings with a right to live in a specific apartment in the building which is part of the property owned by the housing co-operative. The co-operative has the responsibility for all common areas (land, stair-cases, exterior parts, etc.), while each share holder/member has the responsibility for normal maintenance of the apartment he has the right to use. This is regulated in the Housing Co-operative Act.  
In Land Register, the housing co-operative is the registered owner of the property.*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

- 15. What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Absolute ownership and site leaseholds can be registered. For each property in the Land Register (i.e. covering all land of Sweden) there is someone registered as being the full and absolute owner.  
There can be several absolute owners for a property, but not to fixed parts of the property. Each such person is owner to a share, an unspecified part, in the property (e.g. 1/3, 7/8, etc.).  
Site leaseholds can be let by the municipality as an owner of the property. The leasehold conditions are registered, and the leasehold owner can transfer his rights in the same way as an absolute owner.  
Certain kinds of leases can be registered as an encumbrance for instance for housing or agriculture purposes.*
- 16. If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *The leases that can be registered as an encumbrance must be for a minimum of five years and for a maximum of fifty years. Leases for life can also be registered.*
- 17. What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages (which are created by registration, the Mortgage Certificate that registration produces is then used as security when the property is pledged in a mortgage contract), easements and leases (which are registered in order to protect the interest created in the agreement) and site leasehold agreements and transfers of such rights (see question 15).*
- 18. Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No. In Sweden the buyer of a property usually agrees with the financial institution to take over all responsibilities concerning existing mortgage contracts for which the property has been pledged as security (and the Mortgage Certificates that are tied to the Land Register been handed over to the financial institution).  
If the buyer wants to enter other agreements instead of those existing, this does not involve the Land Registration Authority. When a loan has been fully repaid the mortgage certificate is handed back to the owner, who can then use the same certificate as security again.*
- 19. Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes, an intending purchaser can secure protection from a hostile transaction by getting a pending title (see question 9) by lodging the contract for registration. When the final purchase document (bill of sale) has been signed, the pending title can be made into a full title.*



## Country: SWEDEN

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes. This means e.g. that funds are distributed in accordance with the priority of mortgages in case of a sale by public auction. The State will compensate a buyer who has, in good faith, acquired the property from someone who, although being registered, was not the rightful owner (e.g. after having been registered by presenting a document with falsified signatures).*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *The Land code stipulates that acting upon an official extract from the Land Register not older than one month constitutes good faith.*
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *Indemnity is paid by Kammarkollegiet after an application by the person who has suffered damages.*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A **By application to the Registrar**  
B **By application to the Court**  
C **By other means (please specify)**
- A. *When an entry is erroneous, it shall be corrected by the Land Registration Authority, if the error is an conflict with what the intention was at the time of the Authority making the entry. The other main course of action is to appeal the decision made by the Land Registration Authority. If the time for making an appeal has elapsed, a process can be initiated in the district Court, claiming a better right.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A **Wholly**  
B **Partly**  
C **In certain circumstances**
- A. *Yes, the register in its entirety is open to public inspection.*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes, an official extract (gravationsbevis, certificate of search) from the Land Register can be obtained at a fee set by statute. This document contains information from both the Land Register and the Property Register (cadastre) as well as valuation information. This computered-generated document, which is not signed, can be ordered from any PC or other equipment connected to the Land Data Bank system (which the Land Register is part of) or by contacting any of the Land Registration Authorities by telephone, post or in person. A copy of the map of the registered property can be obtained from the County Cadastral Authority. There is no such thing as an "approved enquirer", as all information is open to the public.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *Yes, it is.*
27. **Is information as to the price paid for a property available to the public?**
- A. *Yes, it is.*

## Country: SWEDEN

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

- 28. Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes. A property is legally defined in the cadastral process, for which the Cadastral Authorities are responsible. The property is described in a cadastral file, which consists of a verbal and a graphic part. The verbal part is also reflected in the Property Register (which is part of the Land Data Bank system), and the graphic illustration of the property is also shown in the Cadastral Index Map (which is being put into digital form now). Each property is given a unique identifier when it is put into the Property Register, and this is when the property is legally created.*
- 29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *The boundaries are determined by co-ordinates, and are in general marked on the ground.*
- 30. What laws govern the recording of ownership boundaries?**
- A. *The Real Property Formation Act.*
- 31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The County Cadastral Authorities (lantmäterimyndighet), which are part of the National Land Survey organisation, and, in some places, Municipal Cadastral Authorities.*
- 32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *Yes, see question 28. The unique identifier consists of four parts - the name of the municipality, the district of the municipality and the block and unit number (e.g. Stockholm Norr 34:2). In parts of some municipalities there is no block number (e.g. Stockholm Beridarebanan 7).*

### SECTION I: FEES AND FINANCING

- 33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**
- |                               |                         |
|-------------------------------|-------------------------|
| <b>Government funding</b>     | .....%                  |
| <b>Fees paid by customers</b> | .....%                  |
| <b>Other means</b>            | .....% (please specify) |
- A. *You can say that the costs for maintaining the land registration system is financed to 100 % by fees and to 100 % by central governments funding!*  
*Fees for land registration are paid by the applicants. These fees are however not kept by the Land Registration Authority, but go directly into the government's account. All operational costs of the District Courts, which the Land Registration Authorities are part of, are financed by grants from the central government. The fees collected in land registration cover the operational costs of the Land Registration Authorities as well as parts of the costs of keeping the Property Register up-to-date. The operational and maintenance costs for the Land Data Bank System, which can be said to be part of land registration, is covered by fees from users of the information in the system. The cadastral procedures are financed directly by fees from the applicants.*
- 34. Who or what Institution has the authority to decide the level of any fees payable?**
- A. *The Land Registration Authorities set the fee for each individual transaction, as well as setting the stamp duty upon registration of transfers and registration of mortgages.*  
*The fee to be paid for a cadastral procedure is set by the Country (or Municipal) Cadastral Authority. The price to be paid is based on the number of hours put in. The price can however be agreed upon (fixed price) with the applicant when the matter is initiated.*  
*The fees for enquiries into the Land Data Bank System, and other forms of use of the system, are set by the National Land Survey.*

## Country: SWEDEN

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

A. *The fee structure for land registration is set by the Cabinet. The fees for use of information in the Land Data Bank System and for cadastral procedures are set in price lists decided by the National Land Survey. The legal provisions for this are found in the different ordinances.*

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

A. *The law stipulates what sorts of rights that can be registered (see questions 15 and 17). In addition to these rights, the Land Registration Authority must be notified of certain things, and these are noted in the Land Register (e.g. declaration of bankruptcy).*

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

A. *The Land Register is computerised. The legislation stipulates the contents of the Land Register (what parts, information contents in each part) and what documents should be produced as a result of the processing of a transaction.  
A Certificate of Search, a Mortgage Certificate, and Proof of Registration concerning title are attached.\* (\* Note - not attached to this report)*

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *No.*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *No, it is open to anyone to act on behalf of the public or to create documents and present them for registration.*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

A. *A property does not exist before it has become part of the Property Register. When this happens, the property automatically becomes part of the Land Register. In accordance with the Land Data Bank Ordinance such a change in the division of land into properties as well as a change in registered title shall be notified to the tax administration. The tax administration supplies the National Land Survey with the assessed value of all properties, addresses to title holders, etc. in accordance with this ordinance. The municipalities, which have the main responsibility for planning, notify the Cadastral Authorities of all plans for registration in the Property Register, or register the plans themselves in this register. This exchange of information is stipulated by legislation and integrated in the computer system used.*

## Country: SWITZERLAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes; "guarantee of property" is defined in constitution (Eigentumsgarantie, art. 22, Bundesverfassung)*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes.*
3. **If there is, please list the main laws which govern land registration.**
  - A.
    - *Civil law, art. 942-977 (ZGB, Zivilgesetzbuch)*
    - *Ordinance concerning land registration (GBV, Grundbuchverordnung, 1910)*
    - *Laws and ordinances on Cantonal level*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A.
    - *On the Federal level: "Federal Department of Justice and Police" has the task of supervision (Federal Office of Land Registration and Land Law)*
    - *On the Cantonal level: Cantonal offices for land registration have the responsibility to carry out*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Department of Justice and Police*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Federal Office of Land Registration and Land Law*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The head of the registration office (Grundbuchverwalter) does not have any statutory power. The registry is only a place of records.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No; if there are doubts, a judge or another authority has to make the decision.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *----*

## Country: SWITZERLAND

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes; in any case.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *New rights won't come into effect; transferred rights won't be transferred*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The registration system bases on considered examination and granting of title by Registrar.*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *- Civil law, art. 712a-712t (ZGB, Stockwerkeigentum)  
- Ordinance concerning Land Registration, art. 33a-33c, (GBV)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *There are 3 forms of property:  
- Alleineigentum: exclusive (sole) ownership  
- Miteigentum: joint ownership  
- Gesamteigentum: collective ownership*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *Leases (Miete und Pacht) can be registered as annotations (Vormerkung), but don't have to. There is no minimum term for those annotations*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *- Dienstbarkeiten: servitudes, easements (art. 958ff, ZGB)  
- Grundpfandrechte: mortgages (art. 958ff, ZGB)  
- Vormerkungen: annotations (art. 959-961a, ZGB)*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Registration is valid only at the moment of inscription into journal (Tagebuch) of the land registry.*

## Country: SWITZERLAND

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes. The Cantons are liable for the registrations.*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. ----
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *The Cantons are liable for any errors in the land register (art. 955, ZGB)*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A: By application to the Registrar (art. 975-977, ZGB)*  
*B: By application to the Court (art. 975-977, ZGB)*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *B: Partly: art. 970, ZGB: information about the proprietor and parcel description*  
*C: In certain circumstances: wholly or partly depending on the interest*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The purchase price is not recorded in the land register, but can be found in the deeds of the transaction (art. 970a, ZGB).*
27. **Is information as to the price paid for a property available to the public?**
- A. *Some Cantons publish the purchase prices (eg. Geneva). In other Cantons, an interest has to be made plausible.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes, cadastral maps are part of the land register (art. 9422, ZGB).*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Co-ordinates.*

## Country: SWITZERLAND

**30. What laws govern the recording of ownership boundaries?**

- A. - Civil law (art. 942 and 950, ZGB)  
- Ordinance of Official Surveying (VAV, Verordnung über die Amtliche Vermessung, 1992)  
- Technical Ordinance of Official Surveying (TVAV, Technische Verordnung über die Amtliche Vermessung, 1994)

**31. Which organisation is responsible for maintaining the survey and mapping of registered properties?**

- A. Federal level: Federal Directorate of Cadastral Surveying has the task to supervise the Cantons  
Cantonal level: Cantonal surveying offices have the task to carry out

**32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**

- A. Yes. A unique number is required for every parcel (art. 1a, GBV)

### SECTION I: FEES AND FINANCING

**33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?**

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

- A. Fees paid by customer: 100%

**34. Who or what Institution has the authority to decide the level of any fees payable?**

- A. Cantonal laws and authorities.

**35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).**

- A. Cantonal fee regulations.

### SECTION J: DOCUMENTS AND FORMS

**36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).**

- A. (see answer to question 17)

**37. Does the law stipulate the form of the land register to be maintained for each individual registered property?**

- A. Yes. There are defined forms for land register in analogue (paper) format, and forms for the digital land register.

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

- A. Yes. Purchase contracts, eg., have to be authenticated or notarized by notaries. The application to the register can only be made afterwards.

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

- A. Notaries: in some Cantons, the notaries are civil servants (sometimes even the Registrar himself), in other Cantons, the notaries are in the private sector acting for the state (art. 55, SchIT ZGB)

## Country: SWITZERLAND

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A.
- a) Cadastral maps are part of the land registry and have to be based on cadastral surveying (art. 942, 950 ZGB)
  - b) Cadastral surveying has normally to be carried out before the land register is established (art. 40, SchIT ZGB)
  - c) because of a), the relationship and coordination between the land register and cadastral surveying is close.



## Country: TURKEY

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, the Constitution of Turkish Republic indicates the right of private land ownership. The legislation in this field also includes Turkish Civil Law, Land Registry Law and Cadastre Law.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes, there is a public land registration system managed by the General Directorate of Land Registry and Cadastre.*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Turkish Civil Law, Land Registry Law, Cadastre Law and Flat Ownership are the main laws which govern the land registry.*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The General Directorate of Land Registry and Cadastre annexed to the Prime Ministry maintains the land register. This organisation undertakes the legal responsibility on behalf of the state (The Treasury)*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The responsible official body is the General Directorate of Land Registry and Cadastre of the Prime Ministry.*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *The General Directorate of Land Registry and Cadastre in Turkey is the only responsible institution recording these registries and the one which supervises the complete procedure through its inspectors on behalf of the state. The state's guarantee is essential all through this process. The registry is open to the inspection of related bodies. Furthermore, the registers are open to the public*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *No. The head of the Registration office does not have statutory powers to decide on questions of land ownership. The Registry is mainly a place of record of legal facts and documents.*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes, registration is the proof of rights in land.*
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. *No, the registrar does not have a power like this.*
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. *----*

## Country: TURKEY

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Yes, the rights and obligations are registered*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *If the failure is on the part of the related parties, such as failure to apply for the registration of the sale, the related transaction will be deemed invalid. If the failure is on the part of the registration office, the state will assume the responsibility and cover the loss*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *A guaranteed title is provided for the land by the registrar. The necessity is the registered rights in the system. The given title is a kind of informative card. But contracts and other documents related to the register are kept at the land registry office. The registered data in the system is essential*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Turkish Civil law, Land Registry Law, Flat Ownership Law and Land Registry Regulations*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *Absolute ownership, shared ownership, allocations, mortgages and long term leases (eg: 49 years etc.) are registered*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *There is no time limitation for registration of a land lease which is a personal right. Leases are registered on the column of restrictions in the registry book as a right and obligation*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *See 15.*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *Yes*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *The registration and preparation of contracts are simultaneous processes in the registration office. So, there is no need to have such a system.*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Yes, land registry is under the guarantee of state. If a failure occurs on the part of the registration office, the state will assume the responsibility and cover the loss. The officer responsible for the fault pays it.*

## Country: TURKEY

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. ----
22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. *No*
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. Yes,*  
*B. Yes, if a dispute occurs.*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. (Written quests for any information will be answered)*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. *Yes, it is possible to obtain copies.*
26. **Is the purchase price paid for a property recorded on the land register?**
- A. *The registered price is the declared purchase price. This value is generally lower than the real (market) value of a real property registered.*
27. **Is information as to the price paid for a property available to the public?**
- A. *No. Price information is not available to the public. Only related person is allowed to learn this information.*

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *Yes, the registered land is indicated on the cadastral maps by means of map index and the parcel number of land*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Boundaries are determined precisely by co-ordinates*
30. **What laws govern the recording of ownership boundaries?**
- A. *Cadastral law numbered 3402 governs the recording of ownership boundaries in the areas whose cadastral work has been completed and Land Registry Law governs in the areas where the cadastral applications have not been completed*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *The General Directorate of Land Registry and Cadastre.*

## Country: TURKEY

32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).

A. Yes, a unique reference number called "parcel number " is used for registration. In addition, the names of village, zone, and block number of parcel (land plot) are registered

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding	.....%	
Fees paid by customers	.....%	
Other means	.....%	(please specify)

A. ----

34. Who or what Institution has the authority to decide the level of any fees payable?

A. Taxes and fees are determined by The Ministry of Finance and Revolving Fund, Fees are determined by the General Directorate of Land Registry and Cadastre

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. Yes, they are set under the provisions of the Fees Law numbered 492, Stamp Duty Law numbered 488 and Cadastre Law numbered 3402

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. Ownership personal rights and other related rights must be registered

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. Yes, the law stipulates the formal registry forms called land registry book

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. The identity card, passport etc. must be presented with other documents indicated in article 13 of the Land Registry Regulations. There is not such a system like notaries or real estate agencies for selling or purchasing real property in Turkey. The principle of registry is essential. All kinds of real property transactions must occur at Land Registry Office

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. The unique authorized body to register and maintain land registry information is the General Directorate of Land Registry and Cadastre in Turkey

## Country: TURKEY

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).
- A. *There is limited coordination between municipalities and General Directorate of Land Registry and Cadastre in the field of application of development and expropriation plans*

## Country: UNITED KINGDOM - ENGLAND AND WALES

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Yes, there is a partly written constitution.*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. *Yes*
3. **If there is, please list the main laws which govern land registration.**
  - A. *Land law is a mixture of unwritten law (Common law and Equitable principles), written law which applies to land whether or not registered and law specifically relating to registered land:  
The legislation includes:  
(a) Law of Property Act 1925  
(b) Land Registration Acts 1925-97  
(c) Trusts of Land and Appointment of Trustee Act 1966  
  
There is also a large, and very important body of subordinate legislation, made under the Land Registration Acts.  
These include:  
(a) Land Registration Rules 1925 (as amended)  
(b) Land Registration (Official Searches) Rules 1993  
(c) Land Registration Fees Order 1998*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *On a specific postholder, the Chief Land Registrar. The office that he runs is also a separate government department*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Lord Chancellor (approximates to a Minister of Justice)*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *National Audit Office*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land– or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *The Chief Land Registrar does have power to decide on questions of land ownership*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. *Yes*

## Country: UNITED KINGDOM - ENGLAND AND WALES

9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**

A. *Yes, either a possessory or qualified title*

10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**

A. *A possessory title can be converted to an absolute title after 12 years if it has not been disturbed. A qualified title can only be converted to absolute if the defect is cured or further evidence, showing that the defect has been cured in the past, comes to light*

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**

A. *Where land is registered there is no compulsion to register at any time. In practice almost all dealings with registered land are registered within two months. This result is obtained mainly because of:*

- (a) lawyers duties to clients to ensure that the transaction is completed and legal ownership obtained;*
- (b) the fear of loss of priority for the dealing against another incompatible dealing by the registered owner;*
- (c) the requirements of lenders to ensure that their security is completed by registration*

12. **If it is, what is the effect of a failure to register new or transferred rights?**

A. *Where land is not registered but there is a disposition which requires that the land becomes registered for the first time. then there is a requirement that the disposition be registered within two months of the date of the disposition. If the land is not registered, the former owner holds the land on trust for the person to whom the property has been transferred, ie. the original owner remains the legal owner*

13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**

A. *There is a considered examination of the documents*

14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**

A. *There are none in England and Wales at the moment*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**

A. *Freehold; Leasehold*

16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**

A. *The lease must exceed 21 years*

17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**

A. *The following rights:*  
*(a) mortgages and charges secured on the land*  
*(b) easements (servitudes)*

## Country: UNITED KINGDOM - ENGLAND AND WALES

18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**

A. *No. In Law it is quite possible (although very rare) for a seller to sell land subject to the existing mortgage*

19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**

A. *Yes*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**

A. *They are guaranteed by the State*

21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**

A. *Not applicable*

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**

A. *Yes*

23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**

**A By application to the Registrar**

**B By application to the Court**

**C By other means (please specify)**

A. *By A or B*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**

**A Wholly**

**B Partly**

**C In certain circumstances**

A. *B. Partly. For freehold properties the register and any document referred to on the register (except a mortgage or charge) is open to public inspection. For leasehold properties the register is open (except again for a mortgage or charge) but the lease, which forms part of the register is not.*

25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**

A. *Yes*

26. **Is the purchase price paid for a property recorded on the land register?**

A. *Yes, from 1 April 2000. The price paid, or value declared, will be entered on the register. However the information will be removed on the next change of proprietor*

27. **Is information as to the price paid for a property available to the public?**

A. *Yes.*



## Country: UNITED KINGDOM - ENGLAND AND WALES

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. Is registered land related to a map indicating the extent and the boundaries of the property?
- A. Yes
29. Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?
- A. *The boundaries are general in relation to a topographic map. Provision is made for fixed boundaries in the legislation but due to the expense of fixing them it is only extremely rarely that an application for this is made*
30. What laws govern the recording of ownership boundaries?
- A. *The general land registration legislation*
31. Which organisation is responsible for maintaining the survey and mapping of registered properties?
- A. *The Ordnance Survey, the state mapping agency of the Department (Ministry) of Environment, Transport and the Regions*
32. Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).
- A. *The land registration legislation requires that a unique number is used for each title parcel. This is called a title number. There is a strong correlation between title number and ownership but it is not 100%. There is also a system of Unique Property Reference Numbers which is increasingly being used to allow the creation of a national land information system*

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?
- |                        |                         |
|------------------------|-------------------------|
| Government funding     | .....%                  |
| Fees paid by customers | .....%                  |
| Other means            | .....% (please specify) |
- A. *100% paid by customers*
34. Who or what Institution has the authority to decide the level of any fees payable?
- A. *Parliament, through subordinate legislation laid before it by the Lord Chancellor.*
35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).
- A. *Land Registration Fees Orders made under the Land Registration Act 1925*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).
- A. *Transfer - Mortgage - Charge - Easement (servitude) - Rentcharge - Lease*
37. Does the law stipulate the form of the land register to be maintained for each individual registered property?
- A. Yes

**Country: UNITED KINGDOM - ENGLAND AND WALES**

**38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).**

A. *Yes. Basically all forms of disposition except mortgages, leases and easements (servitudes)*

**SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET**

**39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).**

A. *Anyone can act in relation to land dealings provided it is not for payment. Where any payment is made in relation to dealings with land then the law (mainly the Administration of Justice Acts) requires that they be either Solicitors, Licensed Conveyancers or Notaries Public*

**SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS**

**40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).**

A. *The Land Registry must use the map information provided by the Ordnance Survey. Local authorities must supply the Land Registry with street renaming/renumbering information. No other formal relationship is prescribed by law.*

## Country: UNITED KINGDOM - NORTHERN IRELAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. Yes
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *Land Registration Act (Northern Ireland) Registration of Deeds Act (N.I.) 1970*  
*Registration (Land and Deeds) (N.I.) 1994*  
*Land Registration Rules (N.I.) 1994*  
*Registration of Deeds Regulations (N.I.) 1997*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *Land Registry - Registrar of Titles*  
*Registry of Deeds - Registrar of Deeds*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *Minister of Finance & Personnel - Department of Finance and Personnel - Registrar of Titles*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Permanent Secretary - Department of Finance & Personnel*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Land Registry guarantees the validity of legal title*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. Yes
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. Yes

## Country: UNITED KINGDOM - NORTHERN IRELAND

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *Only in certain circumstances.*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *The transaction becomes void after a prescribed period of time.*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *Two systems co-exist. Registry of Deeds for unregistered title and Land Registry for registered title. Registered land has a guaranteed title*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *As at (3)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *All as above*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *21 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *See attached\* copy of Schedule 6 of Land Registration Act (N.I.) 1970. (\* not attached to this Report)*
18. **Is proof required of the discharge of a sellers mortgage before registration of a new purchaser is made?**
- A. *No*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration**
- A. *Yes - for a period of 40 calendar days*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *State guarantee of title*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *Not applicable*

## Country: UNITED KINGDOM - NORTHERN IRELAND

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. Yes
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar  
B By application to the Court  
C By other means (please specify)
- A. A. Yes  
B. Yes

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly  
B Partly  
C In certain circumstances
- A. A Wholly
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. Yes
26. **Is the purchase price paid for a property recorded on the land register?**
- A. Yes
27. **Is information as to the price paid for a property available to the public?**
- A. Yes

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. Yes
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. Both
30. **What laws govern the recording of ownership boundaries?**
- A. *Land Registration Act (NI) 1970*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Ordnance Survey of NI maintains the survey - Land Registry maps the registered properties on the OS maps*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. Yes. *Rule 5 Land Registration Rules (NI) 1994*

## Country: UNITED KINGDOM - NORTHERN IRELAND

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Fees paid by customers 100%*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The Department of Finance and Personnel after consultation with the Land Registry Rules Committee*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *Land Registry (Fees) Order (NI) 1996*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *All documents purporting to create or deal with legal interests in registered land*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Yes - Land Registration (NI) Rules 1994*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Yes - Applications for first registration, registration of cautions, transfer of all or part of the land, transfer by limited owner, transfer in exercise of a power of sale, exchange, application by way of assent, application to re-classify title, application to register a charge, transfer of charge, release of charge, register an inhibition, cancel a lease, registration and cancellation of notice of presentation of bankruptcy petition, registration of a bankrupt's right of occupation*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *Solicitors are the only body permitted to act in conveyancing for remuneration. In theory, anyone else can act without remunerations (Solicitors Order (N.I.) 1986)*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *No*

## Country: UNITED KINGDOM - SCOTLAND

### Section A: CONSTITUTION AND LEGISLATION

1. **In your country is there a written or an implied Constitution which includes a right for people to hold and dispose of private rights in land?**
  - A. *Implied Constitution*
2. **Is there a statutory system of land registration which records rights in land, including ownership, in a public register?**
  - A. Yes
3. **If there is, please list the main laws which govern land registration.**
  - A. *The Land Registers (Scotland) Act 1868*  
*The Titles to Land Consolidation (Scotland) Act 1868*  
*The Conveyancing (Scotland) Act 1924*  
*The Conveyancing and Feudal Reform (Scotland) Act 1970*  
*The Land Registration (Scotland) Act 1979*

### Section B: INSTITUTIONAL RESPONSIBILITY , SUPERVISION AND MONITORING

4. **Does the law place responsibility for maintaining the land register on a specific Minister, a Government Department, Institution or official postholder?**
  - A. *The Keeper of the Registers of Scotland who is a statutory office-holder.*
5. **Please indicate the official titles of the responsible Minister, Ministry or Institution, and the postholder responsible for the Land Registry (for example Minister of Finance, Ministry of Justice, Chief Registrar).**
  - A. *The Minister of Justice, Scottish Parliament*
6. **Who is authorised to independently supervise or audit the operation of the Land Registration?**
  - A. *Minister of Justice, Scottish Parliament*

### SECTION C: STATUTORY POWERS AND AND THE LEGAL STATUS OF REGISTERED LAND

7. **Does the head of the Registration office have statutory powers to decide, from evidence and documentation provided, questions of land ownership, and the benefit and the burden of other rights affecting land – or is the Registry simply a place of record of legal facts and documents? (please specify).**
  - A. *Yes. The Keeper of the Registers of Scotland has statutory powers of decision making*
8. **Does the act of registration confer legal status on the rights in land?**
  - A. Yes
9. **Where, at the time of registration, there is some doubt as to the conclusiveness of the right does the Registrar have powers to grant a provisional (or qualified) title?**
  - A. Yes
10. **If such a power exists, is the Registrar able to convert such a registration into absolute title after a specified time has elapsed?**
  - A. Yes

## Country: UNITED KINGDOM - SCOTLAND

### SECTION D: PROCEDURES FOR REGISTRATION

11. **Is it compulsory for those obtaining new rights in land (eg. on purchase or mortgage) to register those rights?**
- A. *There is no explicit legal compunction with a penalty for non-compliance. The compulsitor lies in the difficulty in enforcing rights in a competition if they have not been registered*
12. **If it is, what is the effect of a failure to register new or transferred rights?**
- A. *see above - no 11*
13. **Is the registration system based solely on the retention and filing of indexed documents (a register of deeds), or is there a considered examination of the documents and the granting of a 'guaranteed title' to the land by the Registrar?**
- A. *The latter*
14. **Please specify any laws which govern the ownership and registration of condominiums (apartments).**
- A. *Common law of the tenement\* (There are under consideration proposals to introduce a statutory regime)  
\*this is a Scottish term for old flatted properties (or apartments)*

### SECTION E: REGISTRABLE RIGHTS AND INTERESTS

15. **What forms of land holding are registered? (eg. absolute, provisional, freehold, leasehold, tenancies, shared ownerships, etc.).**
- A. *The Scottish equivalent of absolute/freehold and leases of non-domestic properties for more than 20 years*
16. **If leases are registered what is the minimum term (years) of a lease for it to qualify for registration?**
- A. *20 years*
17. **What rights other than ownership (for example mortgages) must be registered to ensure such right has legal standing?**
- A. *Mortgages, charges, tenancies under long leases (see 15 and 16)*
18. **Is proof required of the discharge of a seller's mortgage before registration of a new purchaser is made?**
- A. *As a matter of practice rather than an absolute legal requirement*
19. **Is it possible for an intending purchaser to secure, from the Land Registry, guaranteed priority or protection from a hostile transaction after contracts have been exchanged but before registration?**
- A. *No*

### SECTION F: GUARANTEE – INDEMNITY - RECTIFICATION

20. **Are the Land Rights that are registered guaranteed by the State or by any other means? (please specify).**
- A. *Indemnified by the state in terms of the Land Registration (Scotland) Act 1979*
21. **If such rights are not guaranteed by the State what other protection is there for a person or legal entity who suffers loss by an omission or error in the register?**
- A. *---*



## Country: UNITED KINGDOM - SCOTLAND

22. **Has the Registrar (or the Ministry or Minister) power to pay indemnity to anyone who suffers loss by an omission or error in the land register?**
- A. Yes
23. **Where a person or a legal entity disputes the facts recorded on the land register how can they seek rectification?**
- A By application to the Registrar**  
**B By application to the Court**  
**C By other means (please specify)**
- A. *A. By application to the Registrar,  
B. By application to the Court*

### SECTION G: PUBLICITY AND FREEDOM OF INFORMATION

24. **Is the register open to public inspection?**
- A Wholly**  
**B Partly**  
**C In certain circumstances**
- A. *A. Wholly*
25. **Can an approved enquirer obtain a copy of any register or map of a registered property?**
- A. Yes
26. **Is the purchase price paid for a property recorded on the land register?**
- A. Yes
27. **Is information as to the price paid for a property available to the public?**
- A. Yes

### SECTION H: SURVEY, MAPPING AND BOUNDARIES

28. **Is registered land related to a map indicating the extent and the boundaries of the property?**
- A. *The map indicates the boundaries. The title sheet reveals the extent if the extent is greater than 2 hectares.*
29. **Are boundaries determined precisely by co-ordinates or are they determined by general boundaries in relation to a topographic map?**
- A. *Co-ordinates*
30. **What laws govern the recording of ownership boundaries?**
- A. *Legal titles*
31. **Which organisation is responsible for maintaining the survey and mapping of registered properties?**
- A. *Ordnance Survey*
32. **Does the law or any regulation require that unique reference numbers are used for registered land? (please specify).**
- A. *No, but in practice unique references are used.*

## Country: UNITED KINGDOM - SCOTLAND

### SECTION I: FEES AND FINANCING

33. To what extent is the cost of maintaining the land registration system financed by fees paid by customers or by central government funding (indicate relative percentage)?

Government funding .....%  
Fees paid by customers .....%  
Other means .....% (please specify)

A. *Fees paid by customers 100%*

34. Who or what Institution has the authority to decide the level of any fees payable?

A. *The First Minister for Scotland*

35. Are fees set under the provisions of the law or regulations? (please indicate any legal provision that governs the setting of fees).

A. *The Land Registers (Scotland) Act 1868*

### SECTION J: DOCUMENTS AND FORMS

36. What documents does the law stipulate as registrable? (for example, transfer, mortgage).

A. *Any document capable of transmitting or affecting any identifiable interest in land providing it is not a "souvenir" plot or the document is frivolous or vexatious*

37. Does the law stipulate the form of the land register to be maintained for each individual registered property?

A. *Yes*

38. Does the law stipulate the forms that have to be presented to the Land Registry when applications are made to register ownership and other land rights? (please specify the forms).

A. *Yes. There are statutory application forms for*  
*- FIRST REGISTRATION (this is the first time a property is registered)*  
*- TRANSFER OF PART (when part of a property which is already registered is transferred)*  
*- DEALING WITH WHOLE (when the whole of a property which has already been registered is transferred)*

### SECTION K: PROFESSIONS AND AGENTS AUTHORISED TO PARTICIPATE IN THE LAND MARKET

39. Does the Law stipulate which professions or agents are authorised to act on behalf of the public when land is transferred or mortgaged, and are authorised to create documents and present them for registration? (please list such professions and indicate the relevant laws or regulations).

A. *No, but in practice the vast majority of transactions are handled by solicitors because the lending institutions normally insist on this*

### SECTION L: RELATIONSHIP WITH OTHER LAND INFORMATION INSTITUTIONS

40. Does the law specify any formal relationship or co-ordination between the organisations responsible for registering land rights, cadastral survey and mapping, land valuation and land use? (please describe).

A. *No*

**Sponsored, printed and published by:**

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