

LAND ADMINISTRATION AND MANAGEMENT; REAL ESTATE MARKETS

Chapter 1. Land administration and management

A. CURRENT SYSTEM OF LAND ADMINISTRATION – THE LEGISLATION FRAMEWORK

General legislation

Under its Constitution, the Republic of Moldova has a free-market economy. The Constitution guarantees property rights for all Moldovan citizens and foreign nationals without limitation, with the exception of agricultural and forest lands. Moreover, it sets out the liability of the State for recompense. To further protect ownership rights, no property can be expropriated without prior and just compensation.

Land and real estate

There were two major land reforms in the Republic of Moldova after it declared independence from the former Soviet Union in 1991. The first reform involved the privatization of agricultural land, and the second related to urban land. This included residential, commercial and industrial plots.

The Land Code was adopted in 1992. Its primary purpose was to establish land rights and begin the process of transferring State land to private ownership. Since then, the legal framework, as set out in the Code, has been put in place, been revised and now covers almost all aspects of land and property ownership and dispute resolution. Almost all land is owned by private citizens without restrictions, except in the case of agricultural land which can only be owned by citizens of the Republic of Moldova or local agricultural companies.

Between 1998 and 2001, the first 2.8 million land plots were recorded in the real property register.

A total of 4.5 million land plots have been registered so far, of which 3 million are for agriculture, 0.8 million for construction, and 0.7 million for other use.⁹²

Land and real estate registration

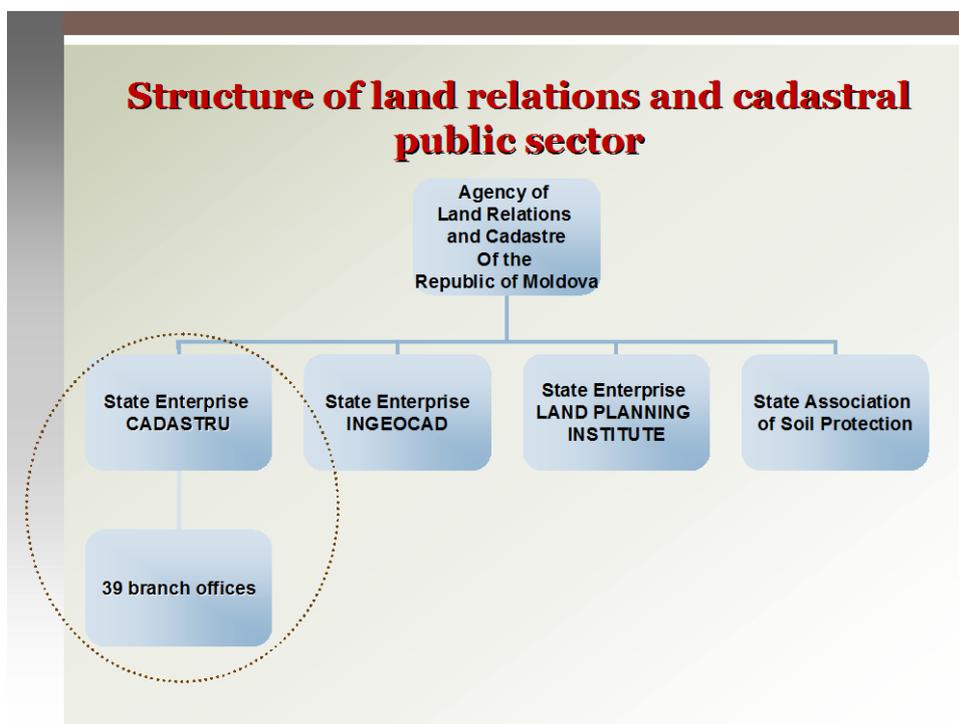
Land and real estate registration is the responsibility of the ALRC, which was founded in 1994. It is a Government body, which reports directly to the Prime Minister. Its core function is to set and administer policy in relation to land administration, property registration, cadastre, geodesy, land planning and soil protection. It also presents to the Government its proposals regarding changes to legislation and ensures their passage through Parliament.

⁹² Cadastru.

On behalf of the Government, it is the shareholder in four state-owned enterprises:

1. Cadastru – responsible for real estate registration, mass valuation for fiscal purposes, keeping the real property register and the cadastral map, and the address and utilities registers, and providing services related to property measurement and formation and other cadastral-type works
2. INGEOCAD – responsible for the State geodetic network, State border demarcation and other geodetic services
3. IPOT – the Land Planning Institute – responsible for public land delimitation, and land consolidation programmes introduced by central Government
4. State Association of Soil Protection – responsible for restoring agricultural land, and land improvement

Figure 12. Organizational structure of land administration bodies



Source: Cadastru. "Property Registration System in Moldova: General Overview". August 2013. Powerpoint presentation.

B. LAND REGISTRATION

State enterprise Cadastru (Cadastru) – the State land registration authority

Cadastru has statutory authority to register land under the Law on Real Property. It has no authority to set its own land legislation, but works closely with the ALRC and Government officials to draft new land law. It is a state-owned company regulated by the Law on Entrepreneurship, and operates on a self-financing basis. The methodology framework for fees is set by Parliament, and the Government approves the fees for property registration. When Cadastru undertakes work on a commercial basis, it is permitted to set its own fees.

It currently employs approximately 1,080 staff, half of which are professionally qualified registrars and surveyors. They are based in the 39 branch offices in major towns and cities throughout the country. The head office is in Chisinau.

In 2012, its offices received 370,000 applications for registration, approximately 25% of which were taken in at the Chisinau cadastral office.

Services to the public

All citizens, notaries and public authorities have access to the land register, which is open to inspection upon request and on payment of a small fee. Payment is made by credit card.

Anonymous access to the property register is permitted, but in these cases a cut-down version is released and details of the owners and any encumbrances (typically mortgages) are not shown.

There are no restrictions on searches by address or by cadastral identifier, but only certain public authorities can search by name. The list of authorities able to do this is approved by law, and information is released free of charge.

Searches of the register are available on the web but results must be collected in person from Cadastru on an appointments-only basis. Postal or telephone services are not currently offered.

Requests for registration must be presented in person by the notary to the Cadastru office responsible for the area in which the property is situated. The estimated completion time for registrations is currently seven days.

The role of Cadastru in handling complaints

There are established procedures within Cadastru for claiming compensation when errors are made, but the indemnity fund and procedures for claims do not extend to mistakes made by third parties. Notaries and private surveyors have separate insurance cover but claimants must go directly to these parties. It is not clear at the present time who has responsibility for ensuring that insurance is in place, or indeed what the checking process actually is.

The land register

The Republic of Moldova currently has a mixed registration system comprising title and deeds registration. The whole country is now compulsorily registrable, and new rights must be registered within three months of the date of the transaction. The land register is open in principle. This is described in greater detail later in this Chapter.

The country has a unified system for real estate registration, property rights registration and assessment for taxation purposes. Calculation of taxes and tax administration is a separate function carried out by the Tax Authority but Cadastru is responsible for valuation for taxation purposes using mass valuation systems. Its central valuation department has responsibility for the analysis of market data, the development of the valuation model, property data capture, the calculation of value and the notification of the cadastral value to the owner. Post-valuation complaints from owners are handled by the local cadastral offices.

The register of individual properties comprises three parts:

- a) A description of the property
 - The cadastral identifier
 - Property address

- Total area of the plot
 - Total area of each building
 - Land use
 - Use of any building erected on the land
- b) Details of the owner of the property
- Name
 - Personal identifier
 - Address (if different from the property)
 - Date of birth
- c) Encumbrances affecting the property
- Nature of it, e.g., mortgage
 - Holder, e.g., mortgagee
 - Document
 - Date of registration of it
 - For mortgages, the loan amount

Some of the comprehensive details kept on the register were drawn from other State registers (e.g., births, marriages and deaths registers) which are accessible to the staff of Cadastru to improve the accessibility and inter-operability of State information.

Privacy of the register is always a sensitive subject, and approaches vary from country to country. The Republic of Moldova has an open register but elects to keep some information private. For example, although mortgages are entered into the land register, details are not available to the public. No figures were available on the percentage of titles held under mortgage, but estimates of 25,000 new mortgage applications per year were made by Cadastru. This would equate to 6% of titles.

The mortgagee's interest is protected from the date the application is received at the office of Cadastru, and the fee for registration is approximately EUR 4.

Land disputes

Disputes can be initiated either by the property owner or by the owner's notarial representative. Where the litigant is the property owner, no special fees are applied, but stamp duty is applicable where the litigant is a legally qualified person. Disputes are heard by the Chief Registrar at Cadastru or, alternatively, the dispute can be referred directly to court.

C. MAPPING AND GEODESY

INGEOCAD – the State geodesy, topography and mapping authority

The geodetic and mapping systems are the responsibility of Cadastru's sister organization, INGEOCAD. Full coverage was achieved in 2012 at a map scale of 1:50,000.

Cadastru maintains the cadastral map of land parcels, which comprise technical descriptions of each land plot, e.g., area, coordinates and land use. These maps are produced based on field measurements. Urban maps are produced at 1:500, 1:1,000 and 1:2,000, while non-urban ones are produced at 1:5,000 and 1:10,000. 900 localities (including major cities and towns) are covered by these.

They are updated for individual plots, the work being done either as:

- A result of the owners' request
- A review programme by surveyors at Cadastru, or
- By a private cadastral mapping company

The role of the private sector in the real estate registration process

Whilst the mapping and registration process is a State function, some activities are undertaken by private sector participants.

Surveyors

Private surveying companies carry out surveying activities under contract to the ALRC. This is not overseen by the State. Private sector activity is usually done by companies licensed to carry out geodetic work. Individual surveyors are certified as fit to practice by the ALRC. Certificates are awarded for five years and, after this, a surveyor must re-take an exam for the license to be renewed. The surveyors undertake work under contract from the Agency, and staff from Cadastru manage the contracts. Surveying is understood to be less burdensome or difficult now than in previous years, and so the number of surveying firms undertaking the work has decreased.

Notaries

There are approximately 300 notaries in the country. They are public officials but are not employed by the State. They operate on a self-employed basis. All land transactions, except those involving small agricultural plots, must be handled by a notary.

They are responsible for ensuring that completed purchases are registered at Cadastru. This involves personal presentation, together with the owners and all of the deeds relevant to the purchase, at the relevant branch office to pay the fees and ensure registration is carried out.