

Land governance in the South Caucasus Region: Comparative Study of Georgia, Armenia and Azerbaijan

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Key words: Governance, land management, land administration, land policy, South Caucasus, Georgia, Armenia, Azerbaijan

SUMMARY

The present study looks at the land governance situation in three countries of the South Caucasus region – Armenia, Azerbaijan and Georgia. These countries have undertaken cardinal land reforms since 1990s, after collapse of the Soviet Union, in order to introduce free land market with all necessary attributes and infrastructure for its efficient operations. The study focuses on general trends, key achievements and remaining challenges.

The objective of the study is to evaluate the overall conditions, differences and similarities in land governance situation in the countries of the region. The presented approach to land governance includes governing access to land as well as its use.

The countries' land governance situations have been evaluated according to existing land policy indices, ease of property registration, and some other land related indicators. The study is based also on interviews with national and international experts on land governance, a substantial literature review and personal experience from working in the region.

Despite the obvious differences between the three countries, one can observe a clear general trend, characteristic for the entire region: in the fields of access to land and land tenure, including parcel privatization, security of property rights, efficiency of property registration and public land management, all countries of the region achieved an impressive progress. For the ease of property registration, according to the World Bank and IFC launched *Doing Business* ratings, Georgia, Armenia and Azerbaijan rank as high as among top ten worldwide.

At the same time, in contrast to the well-developed land administration systems, all three countries show deficiencies in land management issues. In particular, land consolidation and land banking, market based land valuation, spatial planning and some other essential land market and land governance issues are underdeveloped. These are considered as remaining challenges and future priorities for the enhancement of land governance in the above-mentioned countries.

The study attempts at analyzing the reasons of such deficiencies, as well as drawing up of a list of some recommendations and urgent measures to overcome or improve the existing shortcomings. The recommendations are addressed to the region in general, as well as to each particular country, according to the state of their development.

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1. INTRODUCTION

The issue of good governance becomes increasingly important and actual for the transitional and developing countries of the contemporary world. It is already fully understood that without efficient and responsible governance is very unlikely to achieve any significant long-term economic and social improvements, to become sufficiently competitive with other nations in the times of globalization.

Governance in land tenure is one of the essential aspects of overall governance, as it directly influences the operation of a free land market, access to land and other resources, attraction of investments, employment and, hence, welfare of population. In the last decade or so several internationally sound statements, agreements, resolutions, etc. have been issued to assure an effective implementation of good governance practices in land tenure in particular regions and in the entire world. The global objectives defined by Millennium Development Goals (*UN Millennium Declaration 2000, I.6, III.13*), as well as different documents produced by the UN, the World Bank, etc, and writings and speeches of prominent scientists, experts and politicians (*Bell 2007, FAO 2007, Kaufmann & others 2008*) prove consistency of the above statement.

In this respect we would specially emphasize the efforts of Food and Agriculture Organization of the UN (FAO), which is preparing Voluntary Guidelines to improve the governance of tenure of land and other natural resources. Voluntary guidelines set out principles and internationally accepted standards for responsible practices. They provide a framework that particular countries can use when developing their own strategies and policies. At the same time, the Voluntary Guidelines aim at assisting civil society and the private sector in improving the governance of tenure, and thus contribute to alleviating hunger and poverty, empowering the poor and vulnerable, enhancing the environment, supporting national and local economic development, and reforming public administration.

The present study looks at the land governance situation in three countries of the South Caucasus region – Armenia, Azerbaijan and Georgia. These countries have undertaken cardinal land reforms since 1990s, after collapse of the Soviet Union, in order to introduce free land market with all necessary attributes and infrastructure for its efficient operations. The study focuses on general trends, key achievements and remaining challenges.

The objective of the study is to evaluate the overall purposes, differences and similarities in land governance situation in the countries of the region. The presented approach to land governance includes governing access to land (land tenure and security of ownership) as well as its use (land use and development).

2. METHODOLOGICAL APPROACH

The countries' land governance situations have been evaluated according to existing land policy indices, ease of property registration, and some other land related indicators, in particular TI Corruption Perception Index (CPI), Bertelsmann Transformation Index (BTI), Doing Business country ranking, Environmental Performance Index (EPI) and a land policy index after Lerman/Csaki/Feder 2004. The specific land governance situation of the countries is described based on an analysis of those institutions regulating access to and use of land or in other words regulating the land market.

The study is based also on interviews with national and international experts on land governance, a substantial literature review and personal experiences from working in the region, especially in Georgia and Azerbaijan, in the last 15 years.

2.1 Sources

The sources used for writing this paper, consist of scientific literature, policy papers, project reports, guidelines, databases, etc, provided by the agencies and foundations (e.g. the UN Human Development Report, the World Bank & IFC Doing Business, the Bertelsmann foundation, Transparency International). However, the primary sources are: papers "Good Governance and Natural Resources Tenure in Eastern Europe and CIS Region" (*Salukvadze 2008*), and "Governance of Land Tenure in Eastern Europe and Commonwealth of Independent States (CIS)" (*Wehrmann 2010*), as well as presentations prepared by Wehrmann and Salukvadze on FAO organized workshops "Governance of Land Tenure in the Central Europe" in Bucharest (March 2010), and "Governance of Land Tenure in Commonwealth of Independent States (CIS)" in Moskow (September 2010). All these studies were commissioned by the Food and Agriculture Organization of the United Nations (FAO), for which we would like to express our gratitude to FAO.

2.2 Assessments

Taking into consideration that "evaluating land governance means analyzing the rules, processes and structures through which decisions are made about access to land and its use as well as the manner in which decisions are implemented and enforced (*Wehrmann 2010*)", the regulation of land tenure and land value (defining access to land) as well as land use and land development (defining the use of land) needs to be examined.

According to Enemark and van der Molen (2006), the regulation of land tenure and land value is important for an efficient land market while the regulation of land use and land development is necessary for an effective land use management. All four areas are based on data sets and spatial data infrastructure.

Hence, in our evaluations we consider different but strongly interlinked sets of indicators, reflecting the state of the art in: (i) indicators of overall governance and its implementation;

(ii) characteristics of land policies and land administration; (iii) characteristics of land management and land market efficiency.

Some of the above-mentioned indicators (e.g. privatization strategy, ease of registration process, etc.) could be/are measured by certain systems of scoring, while others (e.g. political will, cultural priorities) stay in a sphere of subjective expert assessments. We try to use our measurements and estimations for comparison of the South Caucasus to other post-communist regions, on the one hand, and to compare the three countries of the region, on the other hand.

3. GENERAL INDICATORS OF GOVERNANCE AND ITS IMPLEMENTATION

Cardinal changes in land policies in the countries of South Caucasus occurred as a part of overall political and socioeconomic transitions from the Soviet system, and were strongly determined by the purposes and actual course of such transitions. At the same time, the elected courses of transition strongly affected the patterns of governance selected by particular countries. Hence, land reforms in these countries must be examined through a prism of nation-wide macro policies, implemented by governments at certain stage of a state development.

Among several determinants indicating character of transitions in the countries of the region, we apply to three sources that are elaborated by the competent agencies and foundations, and are openly available. These sources are: (i) Bertelsmann foundation studies; (ii) Transparency International's assessments; and (iii) the World Bank and International Financial Corporation "Doing business" surveys. They provide indices and/or country rankings, allowing measurement of status and trends of governance and their comparison throughout the countries.

3.1. Democratic transformation

We assume that a combination of democracy and market economy is crucial to a state's long-term viability. It is also crucial for what we call "good governance". The Bertelsmann Transformation Index (BTI) is a global ranking system that analyzes and evaluates development and transformation processes in 125 countries (see *Den Wandel gestalten 2010*). It includes all 15 countries of the region and provides with a comprehensive view of how each of these countries is progressing toward democracy and market economy, as well as the quality of their political management.

The BTI's analysis assumes the goal of a consolidated market-based democracy. It analyzes the status of both democratization and market liberalization as it evaluates reformers' actions, decisions and management within a particular setting. The quantitative data collected for the BTI is outlined in two parallel indices: *the Status Index (SI)* and *the Management Index (M)*.

Tab. 1 shows BTI indices of the countries of the region as of 2010. It is remarkable that South Caucasus is positioned on a halfway between less advanced Central Asia and Baltic region, which has achieved spectacular progress during last decade or so; keeping itself relatively

“clean” regarding corruption even in the Soviet times, it made fast and cardinal transformation towards the best Western standards of democracy and good governance. Curiously South Caucasus is very close but still ahead of geographically and traditionally (historically) more “European” Western CIS.

Table 1. Ranking by BTI

<i>Region¹</i>	SI	M	SI+M	<i>Country</i>	SI	M	SI+M
BALTIC STATES	8.96	6.97	15.93	Georgia	6.03	5.68	11.71
SOUTH CAUCASUS	5.54	4.70	10.24	Armenia	5.75	4.36	10.11
WESTERN CIS	5.67	4.02	9.68	Azerbaijan	4.85	4.05	8.90
CENTRAL ASIA	4.09	3.24	7.33	<i>Note: SI -Status Index, M -Management Index</i>			

Source: Den Wandel gestalten 2010; The agregate scores (SI+M) and average indices for the regions are calculated by the authors

Inside the region Georgia, known for its “Western orientation”, although still far behind the Baltic countries, significantly leads the other two republics of the region, as well as all other non-Baltic countries of the former USSR.

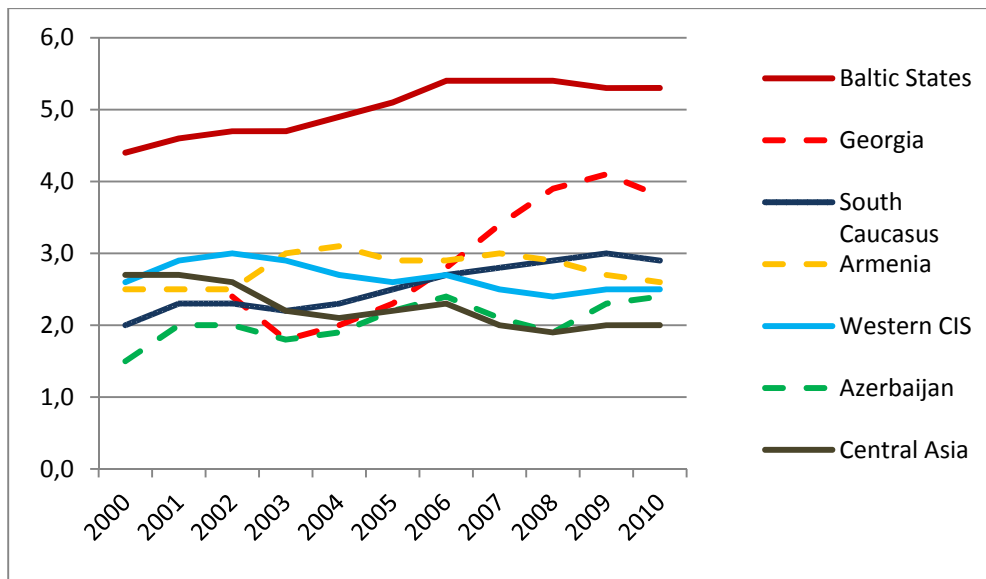
3.2. Level of corruption

Corruption, defined as "the abuse of entrusted power for private gain" (*Transparency International 2007*), is the single most harmful barrier to good governance. Transparency International carries out surveys annually and publishes *Corruption Perceptions Index (CPI)* ranking the countries of the world according to the degree to which corruption is perceived to exist among public officials and politicians.

Fig. 1 describes an interesting picture of how the corruption is perceived by citizens of South Caucasus countries and post-Soviet regions, and how it has changed during the time, more precisely during the 2000s. An average CPI for the Baltic states is significantly higher than of other regions, although much below of that of the world leaders New Zealand and Scandinavian countries – over 9.0 (*Transparency International 2010*). Despite the last year dive only Georgia, effectively fighting corruption during last few years, shows hopeful trends of improvement, which puts the whole South Caucasus region ahead of the remaining post-Soviet regions.

Fig. 1. Corruption level in the post-Soviet regions and South Caucasus countries – CPI

¹ The listed post-Soviet regions other than South Caucasus consist of the following countries: Baltic States – Estonia, Latvia, Lithuania; Western CIS – Belarus, Moldova, Russian Federation, Ukraine; Central Asia – Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.



Source: Transparency International 2000-2010 (datasets); average indices for the regions are calculated by the authors

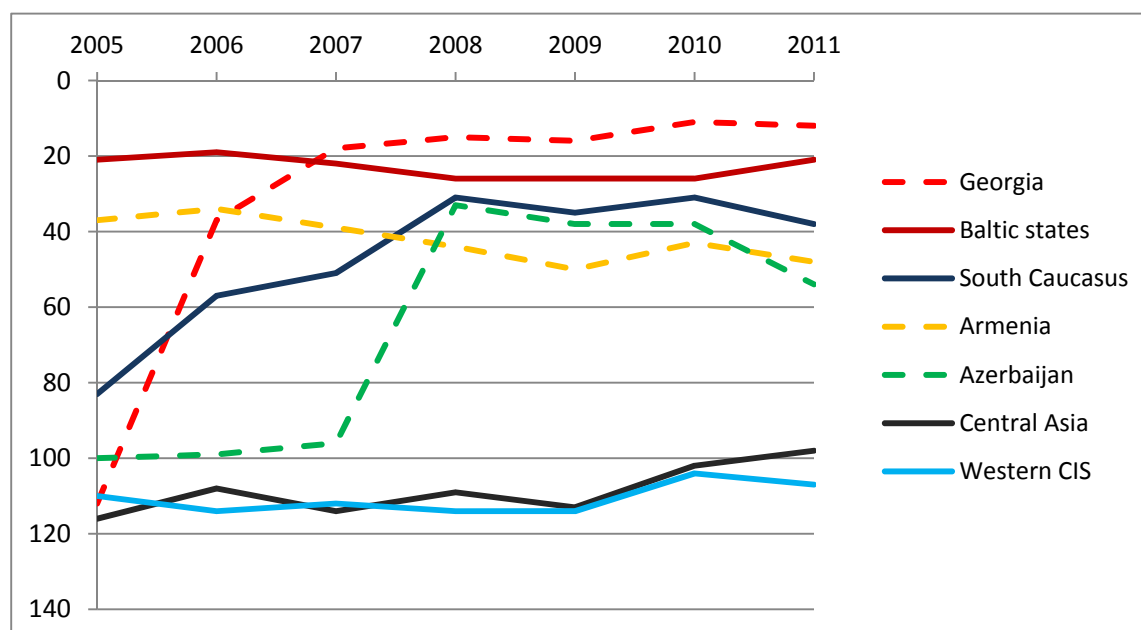
The overall picture on corruption in the region is somewhat threatening: all countries are still far from being free of corruption; however, if Georgia, partially following the way of Baltic states, shows more or less acceptable status and positive trends towards improvement, the other two republics, like most of the ex-Soviet countries, stay relatively corrupt.

3.3. Business environment

Arranging appropriate conditions for development of business and entrepreneurship has always been one of the most important components for assuring good governance. Free, easy, customer friendly and reasonably regulated business environment is a compulsory precondition for good operation not only for enterprises, especially small and medium, but also for individuals who carry out their businesses.

Doing business conducts annual survey, investigating the regulations that enhance business activity and those that constrain it. It presents quantitative indicators on business regulations and the protection of property rights, and compares them across more than 180 countries. Regulations affecting 9 stages (10 before 2011) of a business life-cycle are measured as follows: starting a business, dealing with construction permits, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing business (*Doing Business 2011*).

Fig. 2. Country dynamics by convenience and security of business environment – rankings during 2005-2011



Source: *Doing business 2005-2011*; average ranking for the regions are calculated by the authors. **Note:** Turkmenistan is not covered by the survey

Fig. 2 shows positive progress of the South Caucasus region during the last 7 years in setting up of acceptable business environment, which puts it closer to well-positioned Baltic States. Georgia’s leading role in the region is unchallenged, as well as positive trends of this country in improvement of the business environment. The two other countries of the region are also occupying relatively decent places, especially in comparison with the bottom-placed ex-confederates – Western CIS and Central Asian countries.

In general, outcomes of the three above-presented evaluations strongly comply and correlate to each other. It becomes obvious that the South Caucasus region is on the way of enhancing its governance patterns; however, the final achievements and long-term sustainability of recent progress is still questionable, and the problems with still strong corruption aggravate the situation. Georgia, attempting at harmonization of its governance patterns with European analogues, clearly leads a rating not only in the South Caucasus region but all over the former Soviet space, except of Baltic countries. Below we will examine how such a situation affects the state of the art in the field of land governance.

4. LAND POLICIES AND LAND ADMINISTRATION

4.1. Land reforms and transition to land market

In early 1990’s the countries of South Caucasus began undertaking cardinal changes of the policies in land tenure and land management. In most of cases this was a transition from state

ownership to private ownership of land and the accompanying transition to a land and real property market. The changes in land policies have been implemented through cardinal *land reforms*, which usually envisaged transfer and privatization of state owned properties, adoption of new land legislation, introduction of new land administration systems and set up of favorable environment for emergence and development of land market.

According to the experts, who have dedicated detailed studies to land reforms and related issues in the region (*see Lerman & others 2004, Giovarelli & Bledsoe 2004*), the South Caucasus countries are leading among other post-Soviet countries, except of the Baltic countries, in terms of privatization and farm reorganization. Each of these countries had shown the *political will to privatize* land and move toward market economy. The South Caucasus countries, unlikely most of Western CIS and Central Asian ones, devolved some land management responsibility to the local level. In addition, they passed legislation clearly allowing for land transactions.

The countries of South Caucasus showed quite similar commitment to the introduction and development of liberal land market and market based land relations.

Private ownership was a major component of transition agenda. At the same time, **transferability** of land and real property through market transactions is equally important for economic development and production increase in transition countries. It stimulates flow of resources from less efficient to more efficient users, both in agricultural and urban sectors.

The South Caucasus countries, like Baltic States from the very beginning allowed full transferability of land and real property, while Western CIS states and Central Asia put different regulations on land transfers, thus impeding development of land market. As a result, the countries which assured higher degree of land transferability better succeeded in implementation of relatively active land markets with higher rate of property transactions.

On top of this, Armenia and Georgia directly applied to one-step land **allocation** strategies, i.e. transferring physical parcels to individual owners. Azerbaijan, initially implemented paper land shares in land allocation and later on converted these shares on a mass scale into physical plots.

Another important aspect of land reforms was **distribution** of state owned and collectively used land among new private owners, which was the case in all three countries of the region. Neither of them applied for restitution.

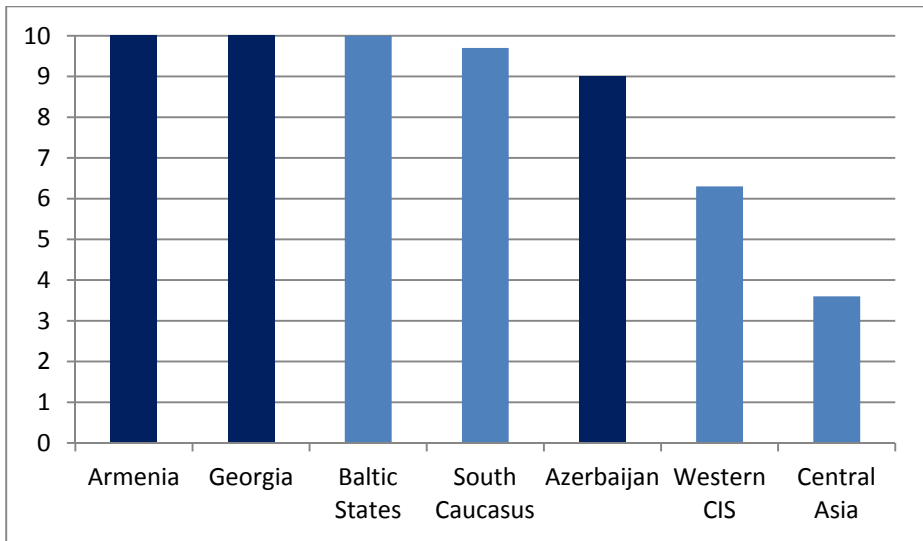
4.2. Reform outcomes

International land experts (*see Lerman & others 2004*) offer interesting and original system of assessment of land policies implemented through land reforms in the former USSR, including the countries of South Caucasus region. It is based on assumption that the ideal model of agriculture in market economies foresees private ownership of all types of land, unlimited transferability, distribution and/or restitution of land to private owners and allocation of

physical parcels. The same principles of liberal land markets should be also applied to urban land. The experts elaborated a measure of assessment, *land-policy index*, allowing scoring land reform outcomes with consequent ranking of countries.

Figure 3 shows ranking of the countries according to four above-mentioned attributes of land policies. In contrast to the original study, the final score is calculated by the authors of this paper as a simple sum of points of all four components. It becomes obvious that according to the applied land policy attributes the South Caucasus region is almost at the same level with the Baltic region; Armenia and Georgia have highest possible land-policy index (10), which means that these countries have implemented relevant legal environments and land policies towards liberal market development. Azerbaijan is one point behind, however still ahead of all Western CIS (except of Moldova) and Central Asian countries.

Fig. 3. Ranking by land-policy index



Source: Lerman & others 2004

4.3. Governance in land administration

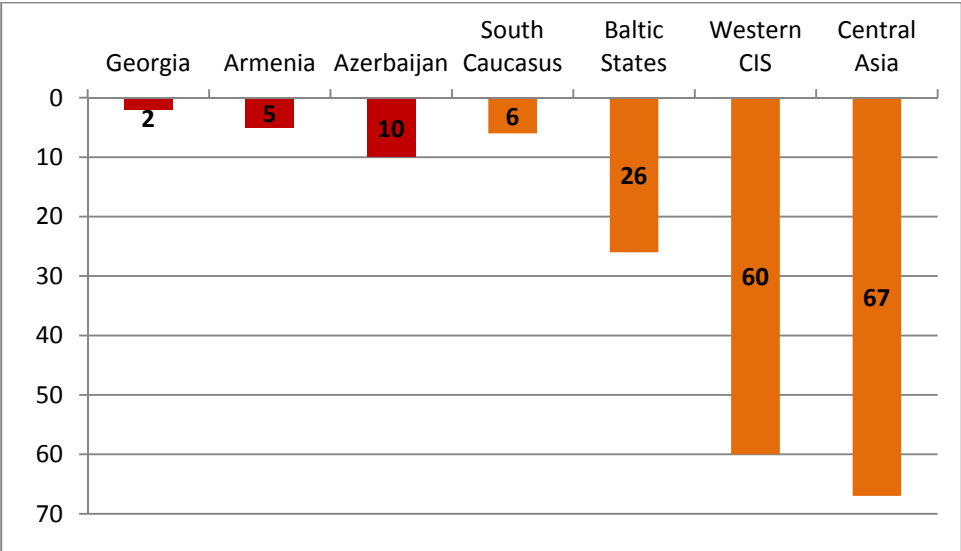
Effective land administration system, especially in the part of title (property rights) registration, is one of the main pillars of good governance. Actually, realization of land-policy strategies on the ground takes place through land administration.

Compliance of implemented land registration systems with *simple, fast and cheap* procedures is surveyed and measured by Doing business project (*Doing Business 2005-2011*).

It is significant that according to the ranking (*Doing business 2011*) the South Caucasus region is a world-wide leader in implementing efficient and advanced property registration systems – all three countries of the region are in top 10. It means that the region takes very

seriously an importance of implementation of effective land administration systems, and the above-mentioned countries have established efficient registration systems with only few procedures/steps and few days for document processing, as well as low costs/fees relatively to property value. Such systems are usually convenient and friendly to customers, and this fact indicates the existence of good governance practices in the field of land tenure and land administration in the corresponding countries.

Fig. 4. Ranking by property registration advance



Source: Doing business 2005-2011; average ranking for the regions are calculated by the authors. Note: Turkmenistan is not covered by the survey

Fig. 4 and Tab. 2 show the situation in property registration from a standpoint of ease of operations. All three countries have spectacular achievements and good current positions.

Table 2. Post-Soviet countries by status and trends of property registration

Country	Property registration 2010			Reform dynamics 2005-2010		
	# of procedures	Time (days)	Cost (% of property value)	# of procedures	Time (days)	Cost (% of property value)
Georgia	2	3	0	cut by 6	cut by 36	cut by 2.5
Armenia	3	4	0.3	cut by 1	cut by 14	cut by 0.6
Azerbaijan	4	11	0.2	cut by 3	cut by 50	cut by 0.3
	convenient			improvement		
	moderate			no change		

Source: Doing business 2005-2010

The table gives much evidence of improvement of registration systems of all three countries. For instance, Georgia managed to turn its public registry from one of the most inefficient and corrupt registries 10 years ago to a customer-oriented, transparent, safe and unified registration system providing for e-services.

5. LAND MANAGEMENT AND LAND-USE REGULATIONS

Besides the above described progress in the region in the governance of land tenure and land administration, we have to confess that in the South Caucasus countries in general **access to land** is better regulated than **use of land**. This trend is very common for all post-Soviet regions, including the Baltic, and even for Eastern European countries (*Wehrmann 2010*).

The components *supporting and regulating* the land market, that are well developed in the western countries, like land valuation, spatial planning, land consolidation, land readjustment, land banking, permitting, land use control, etc. are relatively poorly developed in the region.

Public land management still poses certain problems. The use of public land as well as its disposal is often unclear and non-transparent. All countries lack a proper public land inventory. In Azerbaijan public and private land registers even are not yet unified; the problem is also the differentiation between municipal and state ownership.

Land valuation also is not a strong side of this group of countries. The lack of a clear land valuation system can become a source of injustices and subjective decisions, especially when privatizing a state property. The most advanced in this component, Armenia has applied a real property mass valuation system. This, however, is not related to market value/price. This is mainly due to the fact that there is a lack of information on sales activities, as sales are not reported. Currently land valuation is mainly used by the state (registry) to define fees (*Wehrmann 2010*).

The situation concerning **spatial planning** is somewhat better because all countries experienced extensive planning activities during Soviet times. However, implementation remains at a lower level. E.g. After independence the Georgian capital Tbilisi has first adopted a new master plan only in 2009; Baku, the capital of Azerbaijan, up to now uses a Soviet-time master plan of 1985. Rural areas usually lack any kind of land use plan. The problem is aggravated by weakness (often inability) of local governments to implement projects for spatial development; the public involvement is negligible; investors' development activities often abuse public interests.

The situation is somewhat better in Armenia where spatial planning is regulated in the Land Code. From the legal side – or in other words “on paper” – the spatial planning system is quite good focusing primarily on urban planning (General plans). For each zone it is clearly regulated what can be built and how; the allocation of permits is based on it. In practice, it is however doubtful if the system also works outside the capital.

Although land fragmentation is considered a major problem in all countries and *land consolidation* and *readjustment* seen as very useful instruments for land development, both of these land management tools are hardly introduced.

It is remarkable that *permitting* and *control of construction* that are insufficient for all Eastern European and ex-Soviet countries, became very advanced in Georgia that has been ranked 7th in Doing Business 2011 due to a procedure that only involves 10 steps and takes less than 3 months. Armenia and Azerbaijan are still experiencing very heavy and time-consuming procedures.

All in all, proper land management and efficient land-use regulations remain bottlenecks of the countries of South Caucasus region, and good land governance will require significant changes in these fields.

6. FINAL COMMENTS

All Southern Caucasus countries have followed a similar path to Eastern European region. Remarkably, in land governance the countries of the region are showing more similarities with the European space than traditionally more “Western”-perceived countries of the former Soviet Union, like Russia and Ukraine.

The study shows an obvious positive correlation between the character of overall democratic transition and liberal [land] reforms, with quality of land governance and efficiency of introduced land administration systems.

Remarkable is also that material wealth has not strongly been correlated with advance in democratic, market and governance fields. Neither has it showed direct linkage with implementation of a good land administration practices. Not rich countries of Armenia and Georgia show that effective land governance could be achieved in the conditions of limited socioeconomic development, if political will and commitment to reforming exists.

Spectacular achievements of countries of the region in property registration are result of implementation of easy, cheap and efficient services, application of advanced management approaches, modern IC technologies, and preparation and employment of qualified and motivated staff.

However, the problems of administrative (“petty”) and political (“grand”) corruption stay the most essential barrier on the way to further development and achieving sustainability.

Georgia proves to be the most advanced in implementing effective policies; it succeeded to develop one of the best property registration systems worldwide. However, land management and effective land–use measures remain underdeveloped and need to be addressed in the future. This statement is equally true in cases of Armenia and Azerbaijan either.

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