

The Multi-Purpose Information System of Real Estates in the Czech Republic

Vladimíra ŽUFANOVÁ, Czech Republic

Key words: Cadastre; Land management

SUMMARY

The Cadastre of Real Estate and Land administration, by its fundamental principle, strives to operate as an information system. It records ownership and spatial representations (geometry and topology) of the smallest spatial units. Any other information related to this basic data should be considered an added value, which can be combined with the basic data to provide a significant resource for performing analyses which support decision making in all areas of human life.

The decision to register any new kind of data should be clearly defined by the reason and purpose. From the start, there was an economic reason to establish the cadastre - the interest of the state to ensure property tax payments. Current requirements have a wide scope. Information is needed on the physical, economic, environmental and territorial attributes of real estate and they are expected to focus on the protection of the rights of property owners, persons entitled to the easements, persons authorized by the lien, on the protection of creditors, on environmental protection, land use planning, land valuation or on economic and statistical purposes. Proper data management must be defined by regulations to become executable and had to be subsidized in order to have the financial means necessary to become feasible.

Since 1. 1. 2014 a new Civil Code as well as a new Cadastral Act have been in effect. These acts expand the kinds of data, which are recorded in the Cadastre and Land Registry. The Cadastral Act defines a "building right" as a new type of property (in addition to parcel, building and building units/flats or non-residential space), sets down prices as new information about the property, defines "supplementary co-ownership" as a new type of ownership and extends the number of rights and obligations, that might be recorded in the Cadastre and Land Registry.

The paper aims to show the content of the Cadastre and Land Administration in the Czech Republic, to present the experience with data acquisition and data maintenance as an inspiration for other countries and perhaps to open discussion about the significance of recording of some types of data.

The multi-purpose Information System of Real Estates in the Czech Republic

Vladimíra ŽUFANOVÁ, Czech Republic

1. CADASTRE OF REAL ESTATE OF THE CZECH REPUBLIC

Cadastral of Real Estate of the Czech Republic (CRE) is the set of data about real estate in the Czech Republic, including the inventory and description and the geometric specification and location. Parts of it are records of property and other material rights and other legally stipulated rights to this real estate. The CRE contains a lot of important data about parcels and selected buildings, building rights, residential and non-residential units and their owners.

The CRE is administered as the information system about the territory of the Czech Republic mainly by computer means, where the cadastral unit is the basic territorial unit, and its documentation comprises two collections among others – the collection of geodetic information and the collection of attribute information. The collection of geodetic information contains the cadastral map (including its numeric representation in determined cadastral units). Collection of attribute information contains data on cadastral units, parcels, buildings, building rights, residential and non-residential units. The CRE is maintained in the information system of real estate (ISKN).

2. CADASTRE FOR RIGHTS PROTECTION OF THE OWNERS

The main role of the CRE is to focus on the protection of rights of property owners. This is necessary in order to protect people who take in good faith that what is written in a public directory actually exists. And vice versa - what is not on the list or what was deleted from the list doesn't really exist.

For more than 60 years parcels and buildings were registered in the CRE and for more than 20 years units (building units and non-residential space) were registered. Since 1. 1. 2014 has been changed the number of property types to register.

The new Civil Code defines a "building right" as a new type of properties, defines "supplementary co-ownership" as a new type of ownerships and innovates rights related to the buildings and units.

1.1 Building as a part of the plot

Buildings were registered separately in the CRE in the period 1951-2013 by the Civil Code from 1950's. According to the law the plot and the building on the plot are two separate things. In spite of this, cases came up, in which the owner of the building was not the same as the owner of the land on which the building was located. It was the cause of wide range of difficulties. The practice had to deal with particular relationships between both owners.

The new Civil Code came again to the principle of superficies solo cedit, ie. everything that is attached to the land should not be distributed and isolated but protected and supported. Since the new Civil Code has been put into effect the CRE has ended the management of buildings as separate properties in the legal sense and considers them only in the technical sense. It has been applied only for those cases where the owner of the building and land were the same person and the consolidation still continues.

1.2 Building rights

In consequence of this removal of the ability to register a building as a separate property, the need to deal with cases of new development on the land of another owner has increased. It is possible to conclude an agreement on the establishment of building rights between the land owner and the builder. The right to build is something that has to be registered in the CRE as a property as well. The new buildings become part of these building rights, and the owners of the land and building rights have to deal each other so that they unite the ownership by the agreed deadline.

In case the building is built or reconstructed without an agreement to set building rights, it becomes a part of the land on which it is located, and thus the owner of the building is the same as the owner of the land.

1.3 Supplementary co-ownership

Supplementary co-ownership is a special type of the ownership. There are some owners of their own property, who are allowed to use it only together with some shared property (e.g. a driveway). The ownership of that shared property names supplementary co-ownership.

Ownership of property in supplementary co-ownership is inextricably linked with the ownership of properties for whose use property in additive ownership serves. Separate transfer of such property is not possible.

3. CADASTRE FOR RIGHTS PROTECTION OF THE LINKED PERSONS

The CRE protects rights of property owners as well as the rights of persons entitled to the easements, persons authorized by the lien or rights of creditors.

Registration of rights into the CRE means record of material rights, of rights agreed on as material ones, lease (f.i. of a flat) and tenancy (f.i. of agricultural land with the right of use its fruits) into the cadastre. There are three types of registrations in the KN: entry, record and note. According to the new legislation all material rights are registered by entry.

The original scope (till 2014) of the rights registered in the CRE was, in particular, lien, easement, pre-emptive right and other rights, if they were established as material rights, and notes regarding a submitted proposal for order to execute a judgement concerned the property or execution order against real estate administration and sale.

The new range of recorded data is much broader and includes “Entry” for registration of constitution, change, termination, prescription of rights and recognition of their existence or non-existence, “Record” as a registration into the CRE, by which the rights are derived from the registered ownership rights, and “Note” as a registration into the cadastre, by which are registered significant information about real estate or owners and other beneficiaries.

Registration via Entry:

- easement,
- right of lien (pawn right),
- future right of lien (pawn right),
- right of submortgage,
- pre-emptive right,
- future possibility of using the property after its transfer (type of easement) - Czech term = výměnek,
- administration of trust fund,
- reservation of ownership right,
- reservation of the right to purchase back,
- reservation of the right of sale back,
- prohibition of alienation or encumbrance,
- reservation of the right of better purchaser,
- trial purchase arrangement,
- lease (based on the request of the owner or leaseholder with the approval of the owner),
- tenure (based on the request of the owner or the tenant with the approval of the owner),
- surrender the right for damage compensation on the estate,
- distribution of right to real estate into single ownership rights to units.

Registration via Note regarding to the real estate:

- submitted proposal for order to execute a judgement by real estate administration, its sale and creation of a judicial lien with respect to real estate,
- execution order against real estate administration and sale,
- execution order against the business company,
- resolution to carry on the execution by the business company administration, resolution to order the sale of the business company in auction,
- resolution to carry on the enforcement by the business company administration, resolution to order the sale of the business company in auction,
- resolution to order the enforcement by the real estate administration, its sale and by affecting the business company,
- notice for the insolvency administrator of the list of real estate, which are according to the cadastre in the ownership of another person than in the debtor’s one,
- resolution to order the preliminary measures,

- making a contract about realization of the involuntary auction,
- requests about the compulsory purchase of rights to parcels and buildings submitted to relevant expropriation authority,
- commencement of land consolidation,
- decision about approval of land consolidation,
- another decision then under m) or general provision, which either limits the authorization of the owner or another beneficiary to dispose with the subject of right registered in the cadastre or which is legally constrained,
- submitted claim in which the petitioner seeks that the court decides in such a way regarding the real estate registered in the cadastre based on which the entry into the cadastre could be realized unless it is the base for registration of the note of disputable registration,
- reservation regarding the fact that the fixed machine or other fixed device is not a part of the real estate,
- the appellate review of the ineffectiveness of the legal proceedings,
- right of use and enjoyment not registered by entry so as constraint of the scope or type of use and enjoyment by the co-owners,
- reservation of the antecedent order for another right,
- antecedent right to create material right for another person,
- suspension of co-ownership annulment and suspension of co-ownership separation,
- agreement about the fact that the owner has not the pre-emptive right to the right of building and the owner of the building has not the pre-emptive right to the parcel,
- agreement reservation regarding the encumbrance of the building right,
- prohibition of mortgage creation,
- obligation not to prefer a new right of lien to the old one,
- obligation not to allow registration of a new right of lien instead of the old one,
- building, which is not a part of the parcel,
- start of the performance of the right of lien,
- provision about the order of the rights of lien,
- discharge of the right of lien,
- trusteeship succession,
- prohibition of disposition over the real estate,
- temporary nature of the material right on the base of securing transfer of title,
- handing over real estate data to the registry of the Office for Government Representation in Property Affairs,
- limitations on management and disposition over the real estate in connection with subsidy provision from the public funds.

Registration via Note regarding to the person:

- notification about the execution order unless the debtor is the state or the local self-government administrative,

- resolution to order preliminary measures according to which the debtor cannot handle the property assets or can handle it solely with the approval of the preliminary insolvency administrator,
- notification of the insolvency court about the issuance of a bankruptcy decision,
- decision of the adjudication of bankruptcy,
- other decision, according to which the person cannot handle his property assets or its not clearly defined part.

4. CADASTRE FOR SCIENTIFIC AND STATISTICAL PURPOSES

The basic data sets correspond to the parts of data sets by INSPIRE (although the INSPIRE was established later). Cadastre administers or uses the data sets for the themes Coordinate reference system, Geographical Names, Territorial Administrative Units, Addresses, Cadastral Parcels and Buildings. But the complete range of data sets is much broader as shown below.

Data relating to parcels

- cadastral unit,
- parcel number,
- parcel boundary,
- area of the parcel,
- quality of determining boundaries,
- type of land use and methods of land use,
- data on the building, which is on the plot or is part of the plot,
- type of protecting the plot and method of protecting the plot,
- definition point of a parcel.

Data relating to buildings

- number of a parcel on which is building,
- building number or registration number if it was assigned,
- type of building,
- methods of building use,
- data on the units, which are in the building,
- type of protecting the building and method of protecting the building,
- indication if it is a temporary building,
- definition point of a building.

Data relating to building rights

- cadastral unit,
- purpose of building right,
- number of a parcel to which is set up the building right,

- data on the building, which is part of the building right,
- data on the units, which are in the building,
- the last day of the period for which the building right is set up
- type and method of protecting property.

Data relating to residential and non-residential units

- unit number,
- data on the property which part the unit is
- type of unit,
- type of protecting the unit and method of protecting the unit,
- co-ownership interest to the building or parcel

To these technical data maintained in ISKN can be added the data of the Registry of Territorial Identification, Addresses and Real Estates (RÚIAN) that is the second IT system operating by Czech Office for Surveying, Mapping and Cadastre (ČÚZK). The extension is concerned with buildings and their techno-economic attributes:

- date of completion,
- type of building structure,
- number of floors,
- type of heating,
- connection to water, sewage network, gas distribution...

ČÚZK provides these technical data for free via application on public Internet. Within these applications belongs application Consultation of the KN (<http://nahlizenidokn.cuzk.cz/>) or application Remote Access to RÚIAN (<http://vdp.cuzk.cz/>).

5. CADASTRE FOR ECONOMIC PURPOSES

From the start, there was an economic reason to establish the CRE - the interest of the state to ensure property tax payments. There are two types of taxes regarding to property in the Czech Republic, property tax and property transfer tax. Only for the first of them were the data from the CRE used as a basis for the calculation, data about an area of the parcel, about a type of land use and a method of land use.

The new Civil Code solves the tax needs by setting-up the registration of new information about property, specifically property prices and full scale data for a property tax calculation.

5.1 Price data

The price is a new item in the CRE. This item represents the value, which was paid for the property under the contract. The intent of this statute is clear, but insufficient. The implementation and publication of this item has two imperfections. The first is that the obligation to put down the price is into certain types of contracts only, like a purchase contract

or an auction. The second is that the written price is per the set of conveyed properties. Thus the publication of this value has to be comprehensive and containing the compendium of all relating properties and has to include the retention date.

5.2 Tax data

The tax base of the land is mostly the value depending on the type of land (maintained by the cadastral office) and quality of land (maintained by a competent administrator). The quality of the land sets the average price per square metre. The intention to file the qualitative data of land in the CRE follows the objective to keep all this information in one system.

Currently the CRE keeps the data on quality for agricultural land. The data are updated irregularly and in one shot. Moreover, the data on quality of non-agricultural land are missing. Therefore, the cadastre is actually focused on these goals:

- what information should be recorded,
- what is the proper procedure to take up the data,
- what is the proper proceeding to update the data.

6. CONCLUSION

The Czech Cadastre of Real Estate contains a large amount of attribute information regarding to property; the scope of the data is determined by the legal regulation. The Cadastre of Real Estate ensures the long-term stability and accuracy of the data and provides the data to a wide range of users. Attribute information can be used separately or can be combined with geodetic information to represent thematic analyses and maps, that are required in many different sectors of society.

REFERENCES

Act No. 500/2004 Coll., Code of Administrative Procedure
Act No. 256/2013 Coll., on Cadastre of Real Estate (Cadastral Law)
Decree No.357/2013 Coll., on the Cadastre of Real Estate (Cadastral Decree)
<http://obcanskyzakonik.justice.cz/>
<http://www.cuzk.cz/English/Cadastre-of-Real-Estate/Registration-into-the-Cadastre-of-Real-Estate/Registration-into-the-Cadastre-of-Real-Estate.aspx>

CONTACTS

Vladimíra Žufanová
Czech Office for Surveying, Mapping and Cadastre
Pod sídlištěm 1800/9
Praha 182 11
CZECH REPUBLIC

Email: vladimira.zufanova@cuzk.cz
Web site: www.cuzk.cz