

CREATION LAND ADMINISTRATION IN FORMAL AND INFORMAL ENVIRONMENT

FIG Commission 7, Working Group 1



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INTRODUCTION

- There have been several changes world wide during the last decade, influencing rural and urban land development
- These changes created several challenges to be solved and very much effected developed, transition and developing countries as well
- Tasks to be achieved are very different in countries with developed market economies and countries with less developed economy

- The way how to solve challenges are also varying from country to country in every region depends on the historical, economic and political background
- These changes strongly influence the economy, the land and real estate market
- There is a very strong need in any country of the existence of proper legal and institutional framework which can coordinate as infrastructure of the land and real estate property activities and the sustainable development in long term

FIG STRATEGY

- Land administration matters became one of the most important field to deal with
- FIG Commission 7, Cadastre and Land management is one of the basic pillars of FIG
- Land administration matters are the main objectives in the Commission 7 activities
- In the Commission 7 Work Plan 2002-2006 a decision was made to put more efforts on countries in Africa, Middle East, Latin America, Asia to contribute to the development of land administration systems

FIG Commission 7, CADASTRE, Land management

- Commission 7 deals with land administration matters („the process of determining, recording and disseminating information about the ownership, value and use of land when implementing land management policies,“) Ref. UNECE/ WPLA Land administration guidelines
- „Ownership,“ should be seen as a broad concept of land tenure within various jurisdiction (statutory, customary, informal, etc.)
- Commission 7, deals with land management, that is the implementation of land policy by a wide range of land policy instruments (land reform, land consolidation, land markets, land taxation, marine resource management, etc.)
Ref. Commission 7 Work plan 2002-2006 prof. Paul Van der Molen

COMMISSION 7 aims

- to provide a world wide forum for enhancing and exchanging the knowledge and understanding about land administration and land management
- elaborating the role of land administration and land management for sustainable development
- encouraging the development of appropriate concepts and tools for land administration and land management with regard to specific institutional and operational context of developed and developing countries
- playing leading role in advancing land administration and land management

Important issues have been selected

- land administration, land management in customary and informal areas
- land administration, land management in the marine environment
- avoiding land fragmentation
- institutional conditions
- efficiency and effectiveness
- low costs land administration systems
- ICT support for modern land administration and land management
- Capacity building for land administration and land management

To achieve Commission 7 Work Plan 2002-2006, three working groups have been formed

- Working group 7.1.
Creation Land Administration in formal and informal environment
- Working group 7.2
Instruments for land distribution
- Working group 7.3
Advances in Modern Land Administration

Creation Administration and informal environment

- The implementation of sustainable development has been one of the greatest challenges world wide since years
- Success of sustainable development not an environmental question only, mainly economic task
- The utilisation of natural sources, the importance of long term land and real estate property development has been increased during the last decades all over the world

Changes effected the land related activities on land- and real estate properties

- **CHANGES**
Globalisation, increasing poverty in the developing countries, rural population moves to cities, lack of drinking waters in many region in the world, etc.
- **CHALLENGES**
Sustainable development, creation active land market and land administration in developing and transition countries, access to land and real estate property for all people, etc

- Sustainable development requires an integrated approach, means, legal framework, institutional infrastructures at central and local level, good communication between central and local level
- Sustainable development covers rural and urban issues, rural lands are potential sources for the further urban development
- Creation legal and institutional framework for land related activities (land administration) is not enough, well operational institutions require educated staff as well

IMPORTANT elements of legal and institutional framework supporting the sustainable development

- The law must guarantee
 - ▲ the security of tenure
 - ▲ equal access to land and real estate property
- Land administration institutions regulate the land and real estate markets and infrastructure for sustainable development
 - ▲ land registry, cadastre
 - ▲ spatial planning
 - ▲ valuation
- " Sustainable development is not attainable without land administration "

ref. Bathurst Declaration

- The existence of a well operational land administration in developed and developing countries is equally important
- The market economy requires legal guarantee of secure land tenure and well operational land administration institutions
- In developed countries
 - ▲ secure land tenure
 - ▲ efficient, well performing institutions
 - ▲ advanced ICT systems

wide range of variety of legal and institutional systems

- In developing and transition countries including post conflict areas the task the establishment, reestablishment, modernising legal and institutional framework
"creation land administration "
- In the majority of developing and transition countries world wide the lack of legal security of land tenures hampers
 - ▲ the use of rural and urban land
 - ▲ national and international investments
 - ▲ efficient land management
- Without security of land tenure, equal rights to access land and real estate properties, the economy can't improve and sustainable development couldn't be reality

FIG, particularly Commission 7 have decided to put more efforts in countries in Africa, Latin America, Middle East, Asia

- Commission 7. Working group 1. " Creation land administration in formal and informal environment " was created to contribute to the development of land administration, especially land registry and cadastre organisations in the aimed countries, regions
- Land registry and cadastre are the most important institutions within land administration
 - ▲ registration of land tenure and changes of tenure
 - ▲ maintenance of legal and cadastral mapping data
 - ▲ data provider to the economy, decision makers, public

Why is it important to develop efficient land administration ?

- basic condition to develop the land and real estate markets
- infrastructure for the implementation of sustainable development
- Why is it important to register land tenures and guarantee the security of tenures
 - ▲ no long term economic development

LAND TENURE

- Land tenure means the mode by which rights to land are held. The tenure can exist through customs and traditions, legal developments of case law (common law) or statute
Ref. " Bathurst Declaration "
- Land tenure , through law, registered in land registry and cadastre in developed countries
- Many countries world wide with non registered existing informal land tenure and customary tenure
- To support the economic development it should be essential to register informal land tenure, customary tenure

➤ INFORMAL LAND TENURE

Usually exists in urban areas, there is no sufficient land for housing. Often informal land tenure is considered to be illegal, it is not recognised either by customary or by statutory law
Ref. " Bathurst Declaration "

➤ CUSTOMARY TENURE

Customary tenure is in principle a legal tenure system based on customary law. It is formal in the sense that it may be consistent with oral or written law.
Often customary tenure is connected to land use by minority ethnic groups
Ref. " Bathurst Declaration "

- Formalisation of informal tenure, registration of customary tenure require establishment of legal and institutional framework, creation land administration
- Or extension of the existing land registration systems
- The demand for formal land tenure, demand for registration of customary land tenure should come from the people in the area

ROLE of Commission 7. Working group 1

- Role in development of land administration in developing and transition countries
- THE policy issues of the Working group 1.
- Terms of reference
 - ▲ identify how customary and informal land tenure can be integrated in land administration system
 - ▲ identify when customary and informal land tenure should be recorded, registered
 - ▲ identify land management requirements to land administration systems in formal and informal environment, with focus on land use
 - ▲ contribute to access to land by women and vulnerable group
 - ▲ develop guidelines
 - ▲ identify good practises
 - ▲ organising and contribute to regional conferences

The Working group 1. Decided about topics to be investigated

- customary tenure are different in each country- even within country itself- common elements are to be identified
- problems in land restitution/redistribution
- preparation of guidelines for registration of customary rights. It is important to justify why it's essential to prepare guidelines. It could be the alleviation of poverty
- valuation is a precondition for land restitution. Compensation is another issue that should be investigated
- land reform process are too slow
 - ▲ lack of financial and human resources
 - ▲ even good existing law cannot be implemented
 - ▲ there is no political decision for comprehensive land reform

➤ The Working group 1. can't achieve its goals without collecting information from countries and contribution by professionals from the aimed countries

- ▲ contact persons
- ▲ questioners
- ▲ regional conferences
- ▲ active contribution by UN organisations, (FAO, HABITAT)

➤ Regional conferences, workshops, symposiums

- ▲ Symposium on Land Administration in Post Conflict areas 2004 29-30 April Geneva, Switzerland
- ▲ 2004 10-12 November Nairobi, Kenya
- ▲ 2005 Jordan

CONCLUSIONS

- The importance of existing and operational land administration is increasing world wide
- The operational land administration is the basic infrastructure for the active land- and real estate markets in the developed countries and establishment or modernising of land administration is precondition to develop the market economy in developing and transition countries
- To create land administration in informal environments is essential to formalise informal land tenure and registering customary tenure in land register and cadastre
- The demand for formal land tenure and registration of customary land tenure should come from the people in the area, region
- Creation of land administration is a common interest of each countries to support the sustainable development but the way of implementation, the type of legal and institutional framework depends on their traditions, political and historical background. There is no single recipe, solution. Professional organisations, experts can give advise, recommendations guidelines only.
- FIG, particularly Commission 7 makes all of its efforts to promote the importance of operational land administration systems to improve the economic development and support the sustainable development.
- Sustainable development is not attainable without sound land administration (ref. "Bathurst Declaration")

Thank you for your attention !



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