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THE REAL PROPERTY TRANSACTION IN FINLAND AND SLOVENIA

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The main purpose of my Short-Term Scientific Mission at the Helsinki University of Technology in Finland, Department of Surveying, was to investigate the real property transaction in Finland which is a part of the COST action G9 – Modelling of the Real Property Transaction. The work focused on features surrounding the procedure of real property transaction. Besides the study of the Finnish and Slovenian cases of the real property transaction the mission included the participation at the subdivision process of the plot in the field and a visit of the National Land Survey of Finland in Helsinki. The revision of drafts of the Finnish and Slovenian models of real property transaction was made with the aim of getting a comparable model suitable for cost estimations of the real property transaction. The discussions with the experts at the institute and collaboration with a PhD student, who was working on the Finnish model, was a useful approach to understanding the Finnish system, which provided the basis for a further comparison of these two different models of transaction.

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1 REAL PROPERTY REGISTRATION

A unified registration of real estate and the actual real estate data are a prerequisite for the real estate market and land management in general. According to an investigation by FIG (Fr. Federation Internationale des Geometres), the traditional cadastre systems in most of the investigated countries consist of two components: land registration as the legal part and cadastral mapping as technical support (Kaufmann, 1996). Thus, land registration and cadastral system bring security and stability to the society and changes of attributes of land plots. New plots should be considered and implemented carefully. With modern technology it is possible to link land objects directly with the information needed for registration. As in most European countries the cadastral systems in Finland have been denoted with the modernization of real estate evidence in the last decade.

In Finland the term real property refers to a registered area of land including the buildings belonging to the same owner. Buildings built on leased land are legally considered as movable property even though often called real estate (Viitanen, 2003: 5). The public cadastral registration system is a system for direct ownership and land lease agreements. A register unit is a real property, a piece of land (water) that may also include several parcels, especially outside the detailed plan areas. The specification includes a register code number, consisting of the number of the municipality, district, block and the number of the real property unit. The public Land Data Bank System includes the Real Estate Register (Cadastre) and the Land Register (Viitanen, 2003: 38).

The Real Estate Register (Fin. Kiinteistörekisteri) is kept by the District Survey Offices and by some municipalities. It consists of the information about the real property units, including the register map and the archive of the official cadastral survey documents. On the other side the Land Register (Fin. Kirjaamisrekisteri) as a register of property ownership and mortgages includes the information on real property units, easements, special rights and historical background of the real estate unit. The information from the Land Register can be obtained from local authorities and also directly on the internet for registered users. The information from the ownership register is given in a Certificate of Registration of Title (Fin. Lainhuutotodistus), and the information about mortgages and special rights is given in an Abstract of title (Fin. Rasiustodistus) (Viitanen, 2003: 39). The Real Estate Register also includes the information about the ownership and mortgages; however the information is normally updated only twice a year.

The National Land Survey of Finland, a governmental agency subordinate to the Ministry of Agriculture and Forestry, consists of 13 District Survey Offices, five national operation offices

and a small central administration. Besides the National Land Survey of Finland the cadastral registers are maintained in 86 municipalities. The project of creating a single cadastral register updated by all the 87 register keepers will be implemented in Finland in the next two years, which means that after the project is completed, it will be possible to conduct information searches on the basis of a map of the entire Finland in one database. In addition to the real estate attribute data, the new cadastral system UKTJ will also include ownership data kept by the Ministry of Justice (National Land Survey of Finland..., 2003).

2 REAL PROPERTY TRANSACTION

The base for estimating transaction costs including the time expense of the real property transaction process is the list of all involved institutions/parties and the lists of all procedures that belong to the process of real property transaction. There were some reports of the real property transaction process for Finland (Vitikainen, 2002) and Slovenia (Ferlan et al., 2004) as well. In this study, both models have been compared and adjusted with the main purpose of being able to assess both procedures and the costs of transaction. Since the process of the real property transaction is different in these two countries some presumption had to be made before the comparison. In the study case the owner sells out a parcel to the buyer, which is a subdivided part of his real estate. For the comparison of the costs for the buyer and seller the case of the real property transfer has been chosen, as it was determined at the WG4 meeting in Ljubljana in March 2004. Therefore the case of a simple transaction of land plot has been defined as follows:

- *Buyer's aim:*
Buy a parcel of land in an urban area, if all legal aspects of the property are correct in the town of population of 25 000–50 000 (the purchase price: 20 000 €).
- *Object of sale:*
Parcel of vacant urban land, planned for detached housing, no infrastructure on the plot, no obligations (no existing and no future mortgages, servitudes).
- *Purchase method:* Direct money transfer.
- *Referenced year:* 2002.

The pre-contract activities in the sense of looking for the real property, checking the prices on the real property market, visitation of the real property etc. are not included in this study although such activities are usually unavoidable and thus more or less present.

2.1 FINLAND

2.1.1 The process of real property transaction in Finland

The purchase of a real property or shares of a real property is an official legal act that must be done in a specific form. This form includes a written document as the purchase agreement with certain terms, signature of the parties and a special public purchase witness, e.g. notary public. After the seller and the buyer make a contract of sale, the public purchase witness, who can be from the Local Court, the Local City Administrative Court, or the District Survey Office, checks and verifies the contract (Viitanen, 2003: 39). The notary checks the accordance of the deed with the legal formalities and identifies the purchase parties. The signature of the contract must be drawn at the same time – all the signers of the contract have to be present when signing the contract. The public purchase witness then reports the purchase to the local survey office and to the municipality of purchase. The Cadastral Authority registers the purchase in the cadastral database and in the public purchase register.

Besides the real property units also non-separated land areas can be owned and purchased. In the case of buying non-separated land areas the specific form has to be followed as well. These parts of a real property will be subdivided after the transfer of the ownership of the determined land area is registered in the Land Register.

The municipalities have the right of pre-emption of a real property in order to acquire land for urban development, recreation or conservation, when the area sold is bigger than 5 000 m². The exceptions are the cities of Helsinki, Espoo, Vantaa and Kauniainen, where the plot must have an area of more than 3 000 m² and the use of land may also be other than those mentioned. The municipality must make the decision within three months from the purchase. If the municipality decides to use the pre-emption right, the buyer will be compensated for the paid purchase price and for the costs caused by the preparation of the purchase. It is possible to get the information about the intention of the municipality in advance. In practice the municipalities use their right of pre-emption quite seldom (Viitanen, 2003: 40).

After the purchase of real property the buyer is obliged to register his title in the Land Register at the Local Court within six months. When applying for the registration the transfer tax (4 % of the purchase price) must be paid. The report of the registration of the title is sent to the Cadastral Authority by the Local Court. The Cadastral Authority checks, accepts and registers the approval.

Under the proviso that the registration of the transfer of the ownership of the land area has been implemented in the Land Register it is possible to get building permits or for example a loan. The subdivision and the registration of the new plot in the Real Estate Register could be executed afterwards. After having received report from the Land Register, the Cadastral Authority appoints a cadastral surveyor to carry out the process of subdivision. The cadastral surveyor collects the data required for the subdivision process. All parties are invited to a meeting. The cadastral surveyor has to check the accordance of the site with the local plan, establish and measure the boundaries and mark the boundaries. He is responsible also for adjusting the property rights with the subdivision. The detailed report of the subdivision is sent to the Cadastral Authority. The Cadastral Authority updates the database and sends the report to the Land Register.

A graphical scheme of the Real Properties transaction process for the Finnish case is given in the enclosure (*Enclosure 1*). It is an overview of the sequences of all the procedures in the process of real property transaction and the involved institutions. On the basis of the scheme the costs for the determined case of the transaction have been evaluated.

2.1.2 The costs of real property transaction in Finland

The purchase price of the plot is 20 000 €. In the case where the parcel is a vacant urban land with no obligations, the costs of the transfer are estimated as (the codes of the tasks refer to the scheme of the real property transaction in *Enclosure 1*):

Task		Costs
B	The fee to the notary	100 €*
D	The transaction tax (4 % of the price)	800 €*
E	The registration fee to the Land Register	80 €*
G	The costs of measuring and marking of the parcel	80 €*
G	The price of boundary marks	80 €*
E	The fee to the Cadastral Authority	760 €*
TOTAL:		1 900 €*

Table 1: Transaction costs – Finland.

* According to Vitikainen, 2002.

If the sale is made by a broker the seller pays a commission to the broker that is normally 2–6 % of the purchase price + 22 % of the value added tax (VAT). In the case where the advocate helps by preparing the contract of sale the seller and buyer have to pay a commission of 200–1000 € to the advocate (Vitikainen, 2002).

Transaction costs	Seller	Buyer	Total
Broker	1 000 €		1 000 €
Notary	50 €	50 €	100 €
Purchase price		20 000 €	20 000 €
The transaction tax		800 €	800 €
Fee to the Land Registry		80 €	80 €
Fee and costs from the Cadastral Authority		920 €	920 €
TOTAL:	1 050 €	21 850 €	22 900 €

Table 2: Transaction costs for the seller and buyer – Finland.

2.2 SLOVENIA

2.2.1 The process of real property transaction in Slovenia

As in Finland, the purchase of a real property is an official legal act that must be done in a specific form. The transfer of ownership of a whole parcel is carried out between the owner and Land Registry directly and means only a change of title registration. The biggest difference between the Finish and Slovenian cases of the real property transfer is that in Slovenia the potential subdivision process has to be executed before transferring the ownership of the real property. After the process of the subdivision is completed and the new plot is registered in the Cadastral database (Sl. zemljiški kataster) and Land Register (Sl. zemljiška knjiga) the contract activities between the seller and buyer may begin.

In the Slovenian case the seller is responsible for the process of the subdivision. The owner pays the costs of the subdivision procedure and in general the owner or the competent authorities submit the request for a subdivision to the chosen cadastral surveyor (private company), which carries it out officially. The cadastral surveyor prepares a detailed description of the foreseen subdivision in accordance with the legislation and legal decrees. The precondition for carrying out the process of subdivision is the subdivision permission of the municipality concerned. The cadastral surveyor invites all the involved parties to the field site where he carries out the process of subdivision (boundaries marking, measurements and arrangement of boundaries in the field). The cadastral surveyor elaborates a detailed report about the subdivision execution and delivers the detailed report with all the enclosures to the owner. The actual owner or the authorised cadastral surveyor submits a formal request for the inscription of the new parcel together with the whole documentation of the subdivision process to the Cadastral Authority. After the revision of the case, the Cadastral Authority reports the approval of the case to the owner and the Land Registry. The Cadastral Authority, whose cadastral database covers the whole area of Slovenia, updates the cadastral database and sends

the relevant data to the Land Registry. The Land Registry verifies and approves the case (registration of new parcel, new ownership, easements and encumbrances, etc.) and informs the Cadastral Authority and the owner by sending a decree (A formal description..., 2004). The first inscription of the real property into the Land Register is tax free.

When the process of the subdivision is completed, the owner of the new plot can publish the selling information. After checking the pre-emption rights at the municipality, the seller and buyer make a contract of sale. The municipality has to inform about the intention of the use of pre-emption right within 15 days. The appointed notary checks and verifies the sale contract (deed valid and signed, subdivision completed etc.) and when the tax is paid the notary verifies the signatures of both parties. The payment of the transfer tax to the municipality concerned is an obligation of the seller. Afterwards the request for the registration of the transfer has to be sent to the Land Registry, which updates the Land Register and forwards the statement about the new owner to the Cadastral Authority, which puts the change into the database of the land cadastre.

2.2.2 The costs of real property transaction in Slovenia

The purchase price of the plot is 20 000 €. In the case where the parcel is vacant urban land with no obligations, the costs of the transfer are estimated as follows (the codes of the tasks refer to the scheme of the real property transaction in *Enclosure 2*):

Task		Costs
B	The fee to the Municipality	20 €
B	The fees and costs of measuring and marking of the parcel	500 €
C	The fee to the Cadastral Authority	20 €
F	The fee for checking pre-emption rights of the municipality	20 €
H	The notary costs and fee to the notary	40 €
H	The transaction tax (2 % of the price)	400 €
H	The signature verification	100 €
E	The registration fee to the Land Register (0.5% of the price, max. 80 €)	80 €
TOTAL:		1 180 €

Table 3: Transaction costs – Slovenia.

If the sale is made by a broker the seller and/or the buyer pays a commission to the broker, which is normally 4 % of the purchase price + 20 % of the value added tax (VAT). This commission includes all the costs concerning the pre-emption right check, sale contract, verification and signature verification of the contract, except the payment of the transfer tax and fee for the inscription of the new owner to the Land Register.

Transaction costs	Seller	Buyer	Total
Costs paid to the land surveyor	500 €		500 €
Fee to the Cadastral Authority	20 €		20 €
Fees to the Municipality	40 €		40 €
Broker	1 000 €		1 000 €
Purchase price		20 000 €	20 000 €
Notary	70 €	70 €	140 €
The transaction tax	400 €		400 €
Fee to the Land Registry		80 €	80 €
TOTAL:	2 030 €	20 150 €	22 180 €

Table 4: Transaction costs for the seller and buyer – Slovenia.

3 DISCUSSION AS CONCLUSION

The models of the real estate transaction for Finland and Slovenia help identify the distinctive features of real property transactions in Finland and Slovenia. On the basis of these two models, we can highlight several advantages and disadvantages of each system. The efficiency of the real property transaction could be established by comparing both models.

Besides the difference in the sequences of the individual steps in the process of the real estate transaction for the chosen case there are also deviations in the time schedule and costs for the buyer and seller. One of the obvious obstacles in the efficiency of the real property transfer in Slovenia in the case, where the purchased real property is the non-separated part of the existing parcel, seems to be the complicated system of supervising and recording of changes in the data basis of the Land Register as well as in the Land Cadastre. Despite the considerable efforts spent on improving the land information systems in support of land management, including real estate transactions, the inefficiency of the land register and land cadastre registration may still be considered as one of the most important barriers hindering the real property market in Slovenia. When comparing the subdivision process of the Slovenian and Finnish cases, the costs are comparable but the process of the time expense of the subdivision process should be taken into account in the further studies. The subdivision in Finland can be executed after the new parcel is sold and thus the time expense does not play a significant role in the real property transaction. On the other side in Slovenia the registration of the selling plot has to be done in the Land Register beforehand. There are some legally approved delays, such as the legally approved delays at the Land Registry (45 days), Land Cadastre (15 days), Municipality (15 days), which issue the requested information needed for the process of subdivision (Ferlan et

al., 2004). Accordingly, the seller has to take into account the whole procedure, from the subdivision to the sale, in case he/she wants to sell a part of the existing parcel.

When comparing the Gantt Charts of both models of transaction for the part of the real property transaction without the subdivision process, the deviation in time expense is obvious. While in Finland, the municipality has to inform about the intention of using the pre-emption within 3 months, the time limit in Slovenia is only 15 days. According to Viitanen (2003) the usage of the pre-emption right of the municipality is quite seldom in Finland (under 5 % of the land acquired by the municipalities) and it is never a main tool in land policy. Furthermore, the intention of the municipality can be known in advance.

4 FUTURE COLLABORATION

In this study the costs of the real property transaction have been assessed for seller and buyer. This includes the fees and duties to the public services, taxes and also the charges to private companies. In the future, institutional costs and the efficiency of the involved institutions should be appraised. There are some governmental (state, municipal) expenditure like the costs of the real property evidence, infrastructure and also some outgoings to the private sector. Thus, the time schedule of the real property transaction for the both cases (Finnish and Slovenian) has been done. The both models may be appropriate for the further study of governmental costs of the transfer.

5 ENCLOSURES

Enclosure 1: Real Property Transaction Model – Finnish case (2 pages).

Enclosure 2: Real Property Transaction Model – Slovenian case (3 pages).

6 REFERENCES

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