

**UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE
COMMITTEE ON HUMAN SETTLEMENTS
WORKING PARTY ON LAND ADMINISTRATION**

Workshop "Customer - Co-operation - Services"
Vienna, Austria 12-13 September 2002

Theme I. Cooperations

**ALLIANCES AND SUPRA-NATIONAL PARTNERS
IN COUNTRIES IN TRANSITION
WITH REGARD TO LAND ADMINISTRATION**

Ninel SADJADI

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

I. Introduction

The purpose of this presentation is to draw the attention to existing co-operation systems between organizations of different legal status such as international and supra-national organisations as well as national and private organisations. Such so-called alliances and other forms of co-operations can be found any where, but especially during the last ten years the so-called “countries in transition” have served as a wide area for various forms of co-operations and alliances of different organisations and within an uncountable amount of different sectors. The sector of land administration is just one, wherein such alliances and co-operations have taken and are taking place. Other sectors include for example legal fields (arbitration, competition etc), humanity affairs (orphans, woman related matters etc), and many more.

This presentation tries to explain the legal status of individual organisations as well as linkages between organisations. The limited frame of the this presentation, however, only allows to scratch the surface of topic. The cited organisations are chosen without any preferences.

II. Definition of “Alliances”

The overall question when dealing with this matter is the actual meaning of the term “alliances”. We all have a common understanding of what could be meant by this, but what does this really mean?

An alliance is a voluntary association between organisations, whereby the organisations themselves remain independent from each other not only in legal terms, but also – in fields where no co-operation was agreed –in economic terms.

III. International Organisations and their activities in transition countries

International Organisations are cross-border organisations of either states or private institutions. This leads to the difference between **inter-governmental organisations (IGOs)** and **non-governmental organisations (NGOs)**.

A. Inter-governmental Organisations (IGOs)

IGOs are created under international law and by association of two or more states with respect to matters of common interest. The creation of common organs is a necessary precondition for IGOs.

IGOs are differentiated in various ways:

IGOs are divided into supranational and traditional international organisations. **Supranational Organisations** – opposite to **traditional international organisations**, which act on the basis of the principle of co-operation – are similar to states, having legislative, executive and judicative power (e.g., European Union via European Community, EURATOM and European Coal and Steel Community – ECSC).

- **European Union (EU)**

The EU, within the frame of its PHARE programmes, has been granting economic aid to several countries of Central and Eastern Europe, as is known. In 1999, PHARE was the main tool providing financial assistance and expertise to manifest, among other things, Slovakia’s pre-accession strategy. In order to fulfil the Copenhagen criteria, the PHARE allocation was used for measures facilitating

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

implementation of the Union Acquis, and for financing infrastructure investments needed to ensure the restructuring within important areas of the economy. It is remarkable that the national allocation of the 1999 PHARE Programme for Slovakia in the amount of € 26,7 Mio. provided for an appropriation of the funds also for initiatives to attract foreign direct investments to Slovakia, and for the reform of the Slovak Cadastre.

The financial aid comprised funds for the implementation of an electronic cadastral information system including training and support for the respective hard- and software.

It is well known, that the European Union is interested in implementing measures in favour of entrepreneurship and competitiveness among candidate countries on their way to a market economy. When we talk about countries in transition, one step to be implemented in the respective countries' legislation and administrative foundation as soon as possible is the abolishment of corruption within the public administration by introducing transparency and acceleration of administrative procedures, which is paramount when a successful reform process in South Eastern Europe is at stake. Let me just add a few examples where the EU already has taken measures in order to increase the countries' future chances on the European market:

In Bulgaria, the principle "one stop shops" which means that one competent administrative body has gathered information and data to serve the client in solving administrative issues by contacting only one agency is in construction. Therefore, bureaucracy is diminished and the people regain their trust in the public sector. The principle "one stop shops" is being implemented in several Bulgarian municipality administrations. The EU supports such projects since such measures are crucial to activate direct investments by EU countries.

In Serbia, from July 1, 2002, a drastic change has taken place as regards building permits. In Belgrade, zoning and building permits are issued at the office of the Urban Planning Secretariat. The requests are filed at a special office of the Urban Planning Secretariat. Public companies and public utility companies of the city of Belgrade also have sent their representatives to this office, so all licenses and permits required are obtained simultaneously – at the same office.

In Latvia, the Euro Info Centre (EIC) was opened recently, giving Latvian entrepreneurs the opportunity to enter into the EU market. This is done by publishing brochures and guides, by providing internet services and by maintaining the Baltic Market portal. The latter is meant to provide information for the Baltic countries on business creation, finance, taxation and labour legislation. Moreover, it offers information on expert resources, which means that similar patterns of making available research and consulting services similar to Western European Organizations such as the CLC in Austria, do exist already in transition countries and should be maintained in the future.

Universal organisations aim at all members of an IGO whereas **particular organisations** aim at certain members of the IGO, such for example **regional organisations**, the field of activity of which is limited by a certain region or such as **special international organisations** the aim of which can only be fulfilled by certain states e.g., the OPEC, because petrol can only be produced and exported by certain states. (the aims of a general organisation can be fulfilled by any state, e.g., Universal Postal Union [UPU] as postal matters concern any state).

- **Organization for Security and Co-operation in Europe (OSCE)**

One organization important for maintaining security by means of implementing or introducing preventive diplomacy, human rights and democracy is the OSCE. It is the largest regional security organization in the world and operates missions and field activities e.g., located in South-eastern Europe, the Caucasus, Eastern Europe and Central Asia.

**ALLIANCES AND SUPRA-NATIONAL PARTNERS
IN COUNTRIES IN TRANSITION
WITH REGARD TO LAND ADMINISTRATION**

On August 14, 2002, the OSCE through its chairman-in-office expressed its full support for the upcoming parliamentary elections in Montenegro by supervising the elections and thus opening a path for the implementation of international standards as regards democratic electoral processes in the Balkans. Such measures taken by the OSCE of course do establish a certain awareness for democracy and fair electoral processes among the people. Such measures are based on elementary human rights and the principles of modern constitutions. Nevertheless, one should not underestimate the value of measures within a smaller frame. The OSCE is not only competent for solving questions of a constitutional dimension, but also for assisting in tasks often taken for granted within EU member states.

If we, for instance, draw on Serbia, a project is worth mentioning which was originated and supported by the OSCE mission in Belgrade:

The OSCE Mission to the Federal Republic of Yugoslavia and the Belgrade Office of the Council of Europe jointly initiated a Law Information Center located at the National Library of Serbia in Belgrade. The Law Information Center was opened on July 18, 2002. Looking back to the Yugoslav land administration and cadastre system which has to be amended totally due to a lack of (reliable) data as regards cadastre, property rights and their registration, one will understand the importance of the newly founded Law Information Center which grants access to international and national legal documents, decisions, laws etc.

According to the Serbian Governmental Geodetic Authority (RGZ), in Serbia there are approximately 1 Million unlawfully erected buildings not registered at all, neither in the land cadastre, nor in the land administration books and deed books, respectively. Most of these illegally built buildings were erected during the past 10 years. As you can imagine, the main problem thus is not the implementation of a new real estate cadastre by geodetic authorities (which has been going on since 1992), but the unsolved ownership status of the real estate as well as of the building erected on this real estate. Issues like denationalisation, company property rights and the like still remain unsolved. Before registering real estate in any register, new laws dealing with those issues have to be enacted. In this context, the importance of the Law Information Center is evident: the archives will be updated constantly, keeping any interested person, researchers, university students, lawyers etc, informed on amendments and new regulations.

The Law Information Center initiated by the OSCE is only one step towards legal certainty after a long period of uncertainty about real estate ownership as a typical issue of post-communist legal systems. Many people, especially from the Former Republics of the Balkans, will appreciate the possibility to finally have access to any new laws or regulations concerning privatisation, the movement of refugees and displaced persons. New laws have yet to be adopted.

When talking about OSCE's vital presence in the Balkans, let me cite its "legal aid project" in Bosnia and Herzegovina, launched back in 1997. The project provides for legal advice and assistance for people who are not able to afford court fees or attorneys' honorariums, making available the legal system in the whole Bosnia and Herzegovina region. In order to maintain a functioning administration of the project, the OSCE has appointed an independent Benefits Commission with its seat in Sarajevo. The Commission consists of lawyers and social workers, dealing with criminal law and civil law matters, mostly property and housing cases. As mentioned before, the problems arising from the increased occurrence of displacement, refugees and thus uncertain property ownership as regards real estate is huge in the Balkan region.

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

- **The International Institute for the Unification of Private Law (UNIDROIT)**

The International Institute for the Unification of Private Law (UNIDROIT), as an independent inter-governmental organization, promotes the harmonization and coordination of the private law of states or groups of states; its final aim is the adoption of uniform legal rules by states. Membership of UNIDROIT is restricted to States acceding to the UNIDROIT Statute. UNIDROIT's member States are drawn from the five continents and represent a variety of different legal, economic and political systems as well as different cultural backgrounds. Among the UNIDROIT member countries, there are also countries in transition like Slovakia, Slovenia, and Yugoslavia.

In order to promote the unification of private law, UNIDROIT and the **European Center for Peace and Development (ECPD)** with its European headquarters in Belgrade, Yugoslavia, have initialised a postgraduate school on the Law of the European Union and International Business Law which will commence its work in October, 2002. The postgraduate studies provide for a firm education of lawyers and other graduates in the field of great legal systems, international contracts of importance for countries in transition, etc., comparing civil law systems of Western European Countries like Austria, Germany and Switzerland.

As a partner of the European Center for Peace and Development in Belgrade, UNIDROIT will manifest its relevance considering the UNIDROIT principles of international commercial contracts in the Balkan region.

- **United Nations Economic Commission for Europe (UNECE)**

UNECE was set up in 1947 by the UN Economic and Social Council (ECOSOC). It is one of five regional commissions of the United Nations. Its primary goal is to encourage greater economic cooperation among its member States. It focuses on economic analysis, environment and human settlements, statistics, sustainable energy, trade, industry and enterprise development, timber and transport.

- **Working Party on Land Administration (WPLA)**

The Working Party on Land Administration (WPLA) is a sub-organisation to the UNECE and constitutes a network of land administration officials in Europe and North America.

A further difference can be made between **peace organisations** (NATO, UNO) and **technical organisations**, which act on fields different from peacekeeping, such as FAO, IMF and the World Bank Group.

- **NATO**

In order to guarantee stability and safety in the Balkan region, international and supra-national organizations respectively, such as NATO, OSCE, the EU and the Council of Europe, direct transition countries towards a modern legislation based on the principles of free market economy.

In May 2002, the Slovenian foreign ministry State Secretary Ignac Golob expressed the importance for Slovenia to become a member state to the NATO. The lecture of the Slovenian State Secretary was held under the title "NATO Membership – a successful end to transition". Hungary has already joined the NATO and is about to become a member state to the European Union. In May 2002, Romania and Bulgaria, as two candidate countries for EU membership, have expressed their will to join NATO. The 19 member states of the NATO will decide in Prague, this November, which of the current nine candidates (Albania, Bulgaria, Estonia, Latvia, Lithuania, Macedonia, Romania, Slovakia and Slovenia) are to join the Organization.

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

Undoubtedly, NATO membership is meant to guarantee political and military security. However, when joining international organizations, transition countries have to follow further factors, ensuring their economic and social security, a prerequisite for modernization and development, as well.

- **World Bank Group**

The World Bank Group is one of the world's largest sources of development assistance. In Fiscal Year 2001, the institution provided more than US\$17 billion in loans to its client countries. It works in more than 100 developing economies with the primary focus of helping the poorest people and the poorest countries

Back in 1997, just to mention several active projects run by the World Bank, the latter approved a loan in the amount of USD 25.5 Mio to Romania for a general cadastre and land registration project. In 2001, the World Bank approved a loan to Bulgaria in the amount of € 33.5 for a registration and cadastre project. Similar to the situation in Serbia, both countries shall be supported by establishing an efficient system for securing land titles of real estate owners and by providing for a basis for real estate registration.

Due to the fact that the EU is interested in the candidate countries to harmonize their legislation to the EU legislation, it is obvious that the EU and the World Bank do have sufficient methods of cooperation to consequently promote the reform process in Central and Eastern Europe. One step towards a joint operation in the reform process was the signing of a Memorandum of Understanding between the World Bank, the European Commission and the European Bank for Reconstruction and Development in April 1998. The World Bank's country assistance strategy for the EU candidate countries facilitates the EU accession agenda. It was also set up to achieve growth and a diminution of poverty in the transition countries.

In Croatia for example a Real Property Registration and Cadastre Project has started which will be co-financed by the World Bank (loan), European Commission CARDS Programme (grant) and Croatian funds. The main aim of the project is to modernize land registry and cadastre in a such way to establish a sustainable system which will be able after Project is finished to initiate further changes by itself. Indicative sum for this project is about 38 mil US\$, and in the moment it is in the appraisal mission stage.

B. Non-governmental Organisations (NGOs)

NGOs are defined in the ECOSOC Resolution 1296 (of 1968) as follows: *“Any international organization which is not established by intergovernmental agreement shall be considered as a non-governmental organization ..., including organizations which accept members designated by governmental authorities, provided that such membership does not interfere with the free expression of views of the organization.”* Their field of activity is various. They include organisations such as: amnesty international, Greenpeace International, International Olympic Committee. NGOs have consultative status with the United Nations (UN). According to the ECOSOC Resolution the UN divides them into three categories:

ECOSOC Resolution 1296:

16. *In establishing consultative relations with organizations, the Council will distinguish between:*

(a) *Organizations which are concerned with most of the activities of the Council and can demonstrate to the satisfaction of the Council that they have marked and sustained contributions to make to the achievement of the objectives of the United Nations in the fields set out in paragraph 1 above, and are closely involved*

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

*with the economic and social life of the peoples of the areas they represent and whose membership, which should be considerable, is broadly representative of major segments of population in a large number of countries (to be known as organizations in **general consultative status, category I**);*

*(b) Organizations which have a special competence in, and are concerned specifically with, only a few the fields of activity covered by the Council, which are known internationally within the fields for which they have or seek consultative status (to be known as organizations in **special consultative status, category II**).*

*19. Other organizations which do not have general or special consultative status but which the Council, or the Secretary-General of the United Nations, in consultation with the Council or its Committee on Non-Governmental Organizations, considers can make **occasional and useful contributions** to the work of the Council or its subsidiary bodies or other United Nations bodies within their competence shall be included in a list (to be known as the **Roster**). This list may also include organizations in consultative status or similar relationship with a specialized agency or a United Nations body. These organizations shall be available for consultation at the request of the Council or its subsidiary bodies. The fact that an organization is on the Roster shall not in itself be regarded as a qualification for general or special consultative should an organization seek such status.*

NGOs may further be divided into **non-profit making** and **profit making organisations**. NGOs are generally considered by the law as private persons, which makes them subject to the laws of the countries they are acting in.

- **International Federation of Surveyors (FIG)**

FIG was founded in 1878 in Paris. It is a federation of national associations and is the only international body that represents all surveying disciplines. It is a UN-recognised non government organisation (NGO) and its aim is to ensure that the disciplines of surveying and all who practise them meet the needs of the markets and communities that they serve. It realises its aim by promoting the practice of the profession and encouraging the development of professional standards.

- **International Valuation Standards Committee (IVSC)**

IVSC is an NGO (Non-Government-Organization) member of the United Nations and works cooperatively with member States, organisations such as the World Bank, OECD, International Federation of Accountants, International Accounting Standards Committee, and others including valuation societies throughout the world to harmonize and promote agreement and understanding of valuation standards.

- **European Real Estate Society (ERES)**

The European Real Estate Society (ERES) is a non-profit organisation affiliated with the International Real Estate Society, an organisation giving an even wider contact base in real estate. It was established in 1994 to create a structured and permanent network between real estate academics and professionals across Europe. ERES provides an open forum for the exchange of ideas and the dissemination of research relevant to applied decision making in real estate finance, economics, appraisal, investment and asset management. It is dedicated to promoting and advancing the field of real estate research throughout Europe. Incorporating many national property research societies, academic researchers and real estate practitioners, our annual conference and regular publications provide a forum for information flow and debate on research issues.

ALLIANCES AND SUPRA-NATIONAL PARTNERS IN COUNTRIES IN TRANSITION WITH REGARD TO LAND ADMINISTRATION

IV. National Organisations

National organisations are organisations created by states for a specific purpose. Such organisations include for example Swede Survey or Dutch Kataster. Dutch Kataster is currently for example co-financing a cadastral pilot project in Croatia. The German Agency for Technical Cooperation (Deutsche Gesellschaft für Technische Zusammenarbeit – GTZ) is also currently co-financing a technical assistance project in Croatia.

- **The United States Agency for International Development (USAID)**

USAID is an independent federal government agency that receives overall foreign policy guidance from the Secretary of State. The agency works to support long-term and equitable economic growth and advancing U.S. foreign policy objectives by supporting economic growth, agriculture and trade; global health; and, democracy, conflict prevention and humanitarian assistance.

USAID began operating in Kosovo and Montenegro in 1999. The political status of Kosovo still remains unsolved. Resolution 1244 of the United Nations Security Council authorizes the UN Interim Administration Mission in Kosovo to regain peace, democracy, stability and self-government.

In order to avoid an economic and social collapse in the Kosovo, the UN have taken up several tasks in this region. Among these tasks, the UN and three donor countries agreed to rebuild a cadastre, based on a three-year-programme. USAID's assistance programme in Kosovo helps stimulate the economic reform process, democracy and social transition.

V. Center of Legal Competence (CLC)

Bearing in mind the impact, that building up links via “personal relationships” between Western European Countries and transition countries may have, let me cite also the Center of Legal Competence (CLC) as an example for a functioning alliance factor:

The CLC is an Austrian institution for research, training and consulting services; it is based on a decision by the Council of Ministers of December 14, 1998. In 1999, the association “Center of Legal Competence” (CLC) was founded under the auspices of the Federal Minister of Justice and several other chambers and federations, respectively, in order to support the legal development in Europe and Central Asia with a focus on EU candidate countries.

CLC cooperates with bodies of experts comprising local and foreign university professors, their institutes and research assistants. Already existing research institutions operating in the countries in transition are integrated through cooperation agreements. So the Center of Legal Competence (CLC) – e.g., within the regional development program INTERREG IIIA – entered into a close cooperation with the **Europe Institute Budapest (EIB)** the objective of which is to carry out research in the issues of European unity in the framework of social sciences. Further co-operation includes the **Institute for Banking Law** in Cracow and various universities in Central and Eastern Europe.

In 2001, the CLC and the **European Center for Peace and Development (ECPD)** in Serbia, Belgrade, entered into a cooperation in order to facilitate both institutions' goals. By doing so, even countries which are not EU candidates as yet are prepared for the EU legislation and, which is even more important, for the creation of “EU awareness” and the community's advantages with respect to trade connections, as well.