

## SEMINAR 2. CO-ORDINATION INITIATIVES

**Reconcevoir et reorganiser l'administration**

— Administration accessible: l'administration est fournisseur de services

- Service au public 24h/24, 7j/7
- Procédures et processus d'information simplifiés («easy to find»)

- Service au public 24h/24, 7j/7
- Accessibilité des données personnelles
- Service individualisé
- Accessibilité sans barrières

- Opportunité d'intégration réelle des processus
- Services publics en temps réel (interne et externe)
- Accords de coopération
- Services publics transactionnels
- Relations personnalisées («1-to-1»)

— Impulsion donnée à une administration fonctionnant «en réseau»

• En interne: coopération entre autorités → transdépartementale, transrégionale

- En externe: Partenariats (PPP)

— Management des ressources humaines et nouveaux services publics

- Leadership et gestion de la performance
- Responsabilisation et travail autonome
- Formation continue et e-learning
- Disponibilité des technologies de l'information
- Garantie du service public
- Sécurité informatique
- Authenticité du service
- Vie privée, confidentialité
- Confiance

— e-démocratie, communication et participation

**Accessibilité**

— S'ouvrir à tous les canaux possibles

• Internet, bornes et terminaux publics, centres d'appels, GSM, TV, e-mail, ...

— Organiser un accès direct et guidé

• Combiner la cyber-administration avec le maintien du contact humain

- Optimiser l'ensemble de l'infrastructure publique en vue du service au public

• Etablir un dialogue direct

• Soutenir la formation aux nouvelles technologies de l'information («e-learning»). ■

This presentation represents a strictly personal and partial vision of the situation of the Cadastre in Portugal.

I will firstly briefly introduce the recently created Portuguese Geographic Institute (PGI) and then go on to speak about the situation of the real estate Cadastre in Portugal, the structure of cadastral data, and lastly, some mechanisms of coordination among the organisms and institutions most directly involved with real estate, principal among which, in addition to the PGI, are the Conservatories of the Real Estate Register and Notaries (Ministry of Justice), the General Directorate of Taxes (Ministry of the Treasury), the Ministry of Agriculture, local governments and naturally, the proprietors.

1. The PGI, created by Decree Law 8/2002 of 9/1, is the consequence of the merge of the National Centre of Geographic Information (NCGI) and the Portuguese Institute of Cartography and Cadastre (PICC), assuming their attributions, competencies and responsibilities.

The principal missions of the PGI are the following:

- Exercise the role of national cartographical authority
- Produce official geographic information
- Develop and coordinate a national system of geographic information
- Conduct research and training in the area of geographic information science and technology
- Promote the development of the information society.

With specific reference to the Cadastre, the PGI is responsible to:

- Establish references for all real estate (rustic and urban)
- Identify the referenced properties
- Issue Real Estate Cards
- Obtain and graphically reflect the geometric characteristics of all real estate
- Provide support for the evaluation of real estate property
- Ensure the maintenance and updating of cadastral data

— Certify the cadastral elements of each property

2. In Portugal, until 1994, geometric Cadastre was only practised on rustic property, representing approximately 55% of the country's surface area and only 12% of its 18 million existing properties.

The principal aim of this Cadastre was fiscal and constituted an inventory, and was therefore unconcerned with the legal ownership of individuals.

As of 1995, the PICC (now PGI) changed over to a real estate Cadastre, meaning the package of data that characterises and identifies all existing rustic and urban real estate property in the country.

In accordance with Cadastral regulations, real estate is characterised by:

- Its administrative location – District or Autonomous Region, municipality and «freguesia».
- Its geographic location – the position of its vertices on the applicable system of coordinates.
- Its geometric configuration – the mapping of a closed polygonal line, joined at the ends.
- Its area.

and is identified by a unique numerical code called the Real Estate Identity Number (**Número de Identificación del Predio or NIP**), which is included in the Identity Card of each property.

The NIP consists of 20 digits, divided into 5 groups.

## The Cadastre in Portugal

**DIMAS DIAS VEIGAS**

*Mr. President, members of the round table, fellow congressionists. Portugal*

*(Não me sendo possível apresentar a comunicação na língua de Camões, tentarei fazê-lo na de Cervantes.*

*Que ele e vocês me perdoem a ousadia!*

*No siendo posible hacer una presentación en la lengua de Camoes, intentare hacerlo en la de Cervantes.*

*Que el y ustedes me perdonen la osadia!*

The use of the NIP is obligatory on all public documents identifying the estate, and it is also compulsory to present the Identity Card at notarial and other official acts.

3. Cadastral data are loaded onto SICAD, the system of real estate cadastral data, which allows

- To view and consult graphic and alpha-numerical cadastral information
- To maintain and update cadastral information keeping a historic record.
- To make simple queries and statistics.
- To obtain and make available graphic representations of cadastral elements.

The formats and structures of graphic cadastral data are, briefly:

- System of coordinates: Hayford-Gauss, Datum 73
- Graphic scale: 1/500 to 1/5000
- IGDS (DGN) Format, in 2D
- Files: two types:
  - .cad extension – for general cadastral information, except for place names
  - .top extension – for place names.
- Multi-coded graphic elements, in accordance with the Catalogue of Objects approved by the PGI.

4. Current status of the Cadastre:

4.1. Completed and/or valid:

a) Rustic Cadastre (up to 1994):

— In 12 Districts and 2 Autonomous Regions, covering:

- 134 municipalities
- 1067 «freguesias»
- 1 985 000 rustic estates
- 4 890 000 hectares
- 23 798 cadastral sections, scaled between 1/500 and 1/5000

b) Real Estate Cadastre (rustic and urban):

- In 2 Districts, affecting:
  - 3 municipalities
  - 42 «Freguesias»
  - 102 468 estates
  - 36 300 hectares
  - 573 cadastral pages, scaled between 1/1000 and 1/2000

4.2. Real Estate Cadastre under execution on the national and regional levels

- 6 municipalities
- 80 «freguesias»
- 171 000 hectares
- 360 000 estates

5. Harmonisation and coordination between the principal institutions

In cadastral terms, an estate represents a fraction of *legally autonomous* land, which in theory should be closely linked to its legal characterisation and registration, established in the Property Register.

This theory gains strength with the definition that the Cadastre is only definitive when it is harmonised with the property register, and until harmonisation occurs, it is only provisional.

To achieve harmonisation, the PGI and the General Directorate of Registries and Notaries (DGRN) must reciprocally ensure the continuous input of real estate elements into the respective databases. When differences exist between the Cadastre and the Property Register, the owner is responsible to achieve harmonisation.

Execution or renewal of the Cadastre must also be ensured, whereby the Property Register Conservatories located in each municipality communicate to the PGI all changes occurring during a given period.

On the other hand, the identification of real estate in the Register must not contradict the inscription on the real estate matrix, administered by the General Directorate of Taxes (DGCI), or with the respective Cadastral description, meaning that registration (legal) and matrix (fiscal) should also be coordinated. The DGCI can access the Cadastre at any time although it is not obligated to do so.

**The close relationship between Cadastre and Property Register on one hand, and the Register and fiscal matrix on the other, is therefore clear.**

However, reality has shown us that the process of harmonisation is not an easy or rapid process, because:

- Inscription in the Property Register is not obligatory, therefore many properties are not registered in the municipal offices that maintain the Property Register.
- Some inscriptions and descriptions of estates are not correct.
- Some Registers are out of date in terms of area, boundaries or owners.
- The Register allows for variations in area of up to 10% for rustic real estate and 5% for urban real estate.
- Lack of updating of the Cadastre.
- Lack of updating of matrix elements.
- The process of computerisation of cadastral and Register data has not been conducted evenly at the different levels of the Administration (national, regional and local). The lack of general criteria means that some institutions lack information systems and others, sometimes thanks to personal initiatives, have reached a high level of computerisation.

• Estate boundaries are not always established with legally valid deeds (which in many cases do not even exist).

• To complicate the situation further, the concepts and characteristics of real estate (Cadastre, Register, Taxation) do not coincide, leading to a situation in which a single physical reality can be treated and referenced in different ways by these three entities.

A simple demonstration:

— In the case of the Civil Code – CC (legal effects and basis of registration):

*Two types* of property are considered and defined:

- Rustic
- Urban

— In the case of Cadastral Regulation (cadastral effects):

Only *one type* of property is considered and defined.

— In the case of the Tax Code (fiscal effects):

*Three types* of property are considered and defined:

- Rustic
- Urban
- Mixed

An example of merely the numeric affects of this situation is the case of the municipality of Ilhavo where on the date of execution of the Cadastre (1999) there were nearly 24,000 estates inscribed and described in the Register, nearly 27,500 for cadastral purposes, and nearly 41,000 on the fiscal matrix.

6. In the phases of execution or maintenance of the Cadastre, if differences or modifications are found in area or the position of boundaries, it is the owner who, once notified, must seek harmonisation of the Register with the Cadastre.

Mistakes or variations can be rectified via presentation of a technical document, produced by the PGI, reflecting the boundaries established in accordance with the owners of the neighbouring properties.

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To maintain and update cadastral information, property owners must notify the PGI of any modification occurring to the estate, due to boundary errors or changes, consolidation or segregation of the estate, or errors and omissions existing in cadastral data. Modifications can be registered by presenting a technical document in any central or regional office of the PGI, in the period of 30 days following notarisation of the act. The notary must advise the owner of his obligation to declare and the applicable period. This information must be expressly included in the deed.

— The technical document is obligatory whenever the notarial act reflects a change of property boundaries.

— This document must be presented for the modified estate, and for all those affected by the change.

— These modifications will only be effective when registered on the Property Register.

Who can draw up a Technical Document?

- a) an entity licensed to practice cadastral activity
- b) a technical specifically licensed by the PGI.
- c) the PGI, as a service.

The PGI introduces the changes into its information system, as long as they are legal and that the technical document is correct and contains sufficient information.

The inscription of modifications or the reasons for rejection will be notified:

- to the owner
- to the conservation office of the Property Register
- to the tax office

Expropriating entities are likewise required to notify the PGI of its actions and which cadastral properties are affected.

Local authorities are also required to notify the PGI of modifications to administrative boundaries, place names, and number of estate police. The PGI has the competencies and attributions to issue an Official Administrative Letter, drawn from a database registering the state an most consistent position of the border limits of the country and those of administrative circumscriptions. This information makes up the elements of SABE/EuroGeographics.

#### 7. How can this information be harmonised?

How to relate this descriptive information, including boundaries and defined areas, collected by almost empirical processes, obsolete and out of date; with up-to-date information on a digital geometric platform?

A pilot project is currently underway in collaboration with the General Directorate of Registers and Notaries (DGRN) to harmonise the Cadastre with the Property Register and the transfer of data between the two.

Another project is underway, in collaboration with the General Directorate of Taxes, for this General Directorate to adopt the NIP, which would allow exchange of data between the two entities.

And because the elaboration of the Cadastre is a costly and lengthy exercise, the PGI is working to promote collaboration with other organisms and to establish cooperation agreements with local authorities (which are ultimately the principal users and beneficiaries of cadastral information, essential for the implementation of municipal master plans) to develop joint actions in the production of large scale cartography and to computerise the rural Cadastre and to maintain the rustic and real estate Cadastre.

We are also witnessing greater cooperation between the PGI with several independent agencies on matters of technical support, in preparation and availability of regulations and technical forms for the contracting and production of large scale and cadastral cartography, that are integrated into municipal projects of urban re-qualification

(POLIS program), territorial organisation and the training of municipal SIG.

Similarly, agreements have been reached with the Ministry of Agriculture to prepare cadastre and cartography which will serve as the basis for the implementation of projects for the re-composition of agriculture and forests and for irrigation.

Unfortunately, negotiations initiated several years ago to develop a project of agricultural parcelling were never completed, which has represented the loss of an opportunity to develop a country-wide project of undeniable benefits and to rationalise financial and technical resources.

8. In the absence of the political attention that the Cadastre deserves and demands (obviously, because it does not give votes in the short term) and due to ignorance or lack of knowledge by politicians of its potential as an instrument for planning and integrated organisation of the territory, for providing services to different entities and for different purposes, no coherent and consistent criteria have ever existed for its execution.

An example is that in QCA II initially 25,000,000 euros were budgeted to execute the Cadastre and improve the information system, which has been reduced, in practice, to less than a third of that amount. For QCA III, the perspective is darker still.

9. Taking into account the recognised importance of the multi-purpose cadastre, it is absolutely necessary in Portugal to revise the entire philosophy of action in this matter, with regard to coordination of the activity of different parties, the rationalisation of resources, the concentration of resources and diversification of sources of finance.

Personally, and as a basis for a deeper and wider reflection, I believe that on the national level the following is needed:

- Obtain financial resources;
- Standardise cadastral, registral and fiscal legislation;
- A more rigorous definition of the objectives of the Cadastre;
- A definition of the quality and level of precision sought: a high quality, very precise Cadastre, or a less precise but faster one, in the form of a simple estate inventory.
- Define and establish priority areas of action for a more rigorous and better quality Cadastre;
- Determine whether or not to use the information of thematic Cadastres already prepared or underway, the agricultural parcel, for example.
- Intensify international cooperation (also in Portugal, many people of other member States have purchased property).

Can most of the responsibility for execution and establishment of priorities still be transferred to independent local entities or their associations, as some people advocate?

Should the responsibility for maintenance be transferred to licensed technicians and companies?

Thus, the responsibility of the central organisms, in this case the PGI, should always preserve the essential elements of:

- regulation, standardisation, training, licensing, and taxation of cadastral activity,
- as manager and guarantor of the quality of the cadastral information system and of the link to real estate legal and fiscal sub-systems.

— The PGI must also undertake the coordination and standardisation of cadastral activity required or executed by other competent entities, in order to minimise:

- duplication of work,
- misuse or dispersion of funds, which are always scarce.

This will require greater coordination and closer cooperation between the parties that intervene in these matters (organisms producing the basic geographical information, private sector, organisms coordinating the legal situation of property, and institutional and private users):

— Coordination with other member States relative to the objectives, methods and structure of cadastral data, their integration in an information system and the exchange of data between institutions.

— Definition of the policy of availability of cadastral information, means, prices, data forms, copyrights, etc.

I conclude with a special salute to the great majority of my colleagues in the PGI who, believing in and aware of the importance of this Congress, have come here at their own expense.

Thank you for your attention. ■

## Coordination experience among the Member States

**ARVO KOKKONEN**

*Deputy Director General, Cadastre  
National Land Survey of Finland*

### Existing Legislation

Surveying law and legislation on the registration of real estate belong to the sphere of national legislation. In Finland and Sweden application of surveys is exceptionally wide compared with practices in other EU Member States and they constitute features of governmental power and of civil and administrative law.

Directive 95/46/EC «On the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data» has been issued as a means to influence directly national legislation and to harmonise the EU market. The first article of the directive ratifies two leading principles that seem indirectly to affect extensively the entire base register system. These principles are linked to the privacy of natural persons, the processing of personal data and the free flow of personal data between Member States. Firstly, when processing personal data, the Member States must guarantee basic rights and freedoms and especially citizens' right to privacy. Secondly, the Member States cannot restrict or forbid the free movement of personal data between Member States for privacy reasons. The conformity of base registers (incl. the Cadastre) may be important for the sake of their intelligibility and data transfer promotion.

### Finland and other Nordic Countries

Due to the common history of Finland and Sweden, laws on surveying and registration have the same origin. Governmental power, i.e. surveyors of the State and municipalities, has played and still plays a central role in surveying. Procedures for surveys have been included in indemnity assessment procedures as well and redemptions are conducted in survey procedures. The basis for foundation of the Cadastre in Finland as well as in other parts of Europe has been fiscal reasons, i.e. compilation of fiscal catalogues. User-oriented information service demands on data contents of the Cadastre have been imposed no earlier than during the last century. Tiling all register units is an example of the need for alteration in rights registration. Previously the legislation was concerned with registration of privately owned properties (taxable land) only.

### Membership period in the EU

Finland has been a member of the EU for eight years. This is a short period of time to assess EU membership's effect on real estate registration. As I mentioned before, laws on surveying and registration of real estate are national legislation. During membership the law on surveying and partially the law on cadastral registration were renewed. At the same time the Code of Real Estate, which describes real estate rights, was renewed as well. Renewal of these laws is based purely on national interests. A proposal for a Land Information System (containing the Cadastre and the Land Register) and information service therein was submitted last autumn to the Parliament and is currently under debate. In connection with the proposal preparation legislation on information service connected to land information was investigated in Europe and especially in the EU Member States. Soon it transpired that legislation like this is quite new in Europe.

### Experience in Practice

#### *Nordic Joint Projects*

Nordic surveying authorities Maanmittauslaitos (Finland), Lantmäteriet (Sweden), Kort-og Matrikelstyrelsen (Denmark) and Statens Kartverk (Norway) together with Helsinki Technical University, Stockholm Royal Technical University, University of Aalborg and Norges Landbrukshøgskolan launched in autumn 1999 a joint research project that aimed to compare real estate rights and their registration. The study has advanced so far that it can be published by the end of this year. One preliminary observation reveals how important it is to define exactly those concepts that should be compared, and mentions the need for going deeply into metadata: data about data. One aim of the study was to initiate new research that could be exploited at the European level as well. There are expectations that at least the results gained from the research methods used could be exploited.

Another remarkable Nordic study carried out during the membership period was the study on usability of land consolidations for solution of land-use problems. The study results directly influenced the renewal of Finnish surveying law.

#### *Experience in the WPLA Organization*

Finland has taken part in the activity of the WPLA and its predecessor MOLA throughout their existence. The