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Land Registration systems to enhance sound real estate markets and promote sustainable development

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THE IMPACT OF MEGA TRENDS IN REAL ESTATE

Land Registration systems to enhance sound real estate markets & promote sustainable development

- good governance and accountability (Principles 3, 6, 12, ...3.3, 3.4, 3.6, 3.7, 6, 12...)
- reducing credit risk and litigation on real estate transactions (Principles 2, 6, 8, 9,10... 2.7, 6.4, 6.5, 6.9, 8.2, 8.4, 8.6, 8.10, 9.1, 9.2, 9.5, 9.7, 9.8, 9.9, 9.10, 9.11, 9.12, 10.2, 10.3...)
- economic effectiveness (Principles 1, 2, 3, 10, 12... 1.8, 2.10, 2.13, 3.5, 10.5, 12...) & integrated markets (Principles 2, 3... 2.1, 2.2, 2.3, 2.4, 3.4, 11...)
- enforcement of sectorial regulation:
 - housing (Principles 1, 8, 11...1.3, 1.4, 8.3, 8.8, 11...)
 - environmental protection (Principles 4, 6... 4, 6.10...)
 - energy (Principle 1... 1.6 ...)
 - urban (Principles 1, 2, 5... 1.7, 2.11, 5, 7...)
 - agricultural (Principle 2... 2.15, 2.16...)
 - taxes (Principle 10... 10.4...)
- social peace (Principle 6... 6.1, 6.8, 6.10) and fairness (Principles 2, 3... 2.5, 2.10, 2.11, 3.3...)
- integrate national and supranational norms (Principle 2)



?: Why are LR and C the only institutions mentioned in the title of one principle (6)?

If we read the rationale and criteria inside, its clear that the principle 6 is devoted to:

- assure real rights as basis to meet social need to affordable sustainable housing,
(Social impact)
- speed access to loan, reduce rates interest and secure the quick recovery of the mortgage value,
- overcome trade off between security and ease of transactions transferring rights on real estate
(Economic impact)
- enforce sectorial regulations
(Climate impact)



LR function = legal certainty on real estate
= base of sound real estate markets

= means of facing economic/social/climate needs



LR = LEGAL CERTAINTY = BASE OF SOUND REM = FACING EC/SOC/CLIM NEEDS (1)

??? buyer/investor/banks lending money:

- Owner? (real owner/legal capacity)
- Real estate identification (& boundaries)
- Charges?
- Further investigation?
- Title Guarantee?

Public administrations... before urban/agricultural actions

Answers ?



LR = LEGAL CERTAINTY = BASE OF SOUND REM = FACING EC/SOC/CLIM NEEDS (2)

Answers provided by an efficient land registry:

- speeding real estate transactions,
- lowering interest rates and
- easing access to housing...

....contributing to: sustainable economic development & social peace



LR = LEGAL CERTAINTY = BASE OF SOUND REM = FACING EC/SOC/CLIM NEEDS (3)

LR = transversal institution— all principles Policy Framework

LR >>> tool LM/LA

Dealing with:

-real estate = asset of real estate market and credit marke

-right to property = human right

= linked to third party effect as inherent to its essence

= rights on the territory over which the States exercise their sovereignty

Linked to: -law effects and concrete national legal framework

Hence, Policy Framework: ~~kind~~ land registry system

guidelines for LR contributing to assure sound real estate markets



POLICY FRAMEWORK GUIDELINES FOR LAND REGISTRY: (1)

Principle 6:

TARGET: **security** of real estate transactions and LA/LM by -identifying,
-recognizing
-protecting
...property rights

MEANS: LR:

1-**Certain & reliable LR** (updated)

2-**Efficient system for the property title provision**
(=**registration in title system**), cataloguing, classification and updating



POLICY FRAMEWORK GUIDELINES FOR LAND REGISTRY: (2)

FEATURES OF AN EFFICIENT LAND REGISTRY SYSTEM:

- impartial institutions settle by the state to identify-define-guarantee real rights
- enforceable to anyone (including State authorities)
- proof of the legitimacy of the title of ownership over time
//registration as title: legal procedure to adjudicate property rights that makes unnecessary a proof of the legitimacy (title system)
- accessible to third parties: facilitate ready access to information on titling
- integrated system identification/cataloguing/classification real estate & p.r.



POLICY FRAMEWORK GUIDELINES FOR LAND REGISTRY: (3)

EFFECTS FROM AN EFFICIENT LAND REGISTRY:

-**secures** private land ownership and security of tenure & provide legitimacy of lawful possession

(=good governance & social peace = key condition for functioning real estate markets).

-**reduces** credit risk and litigation on real estate transactions (consequence)

-**facilitates** access to loans and guarantees (consequence)

-**enforces** sectorial regulation: -housing (Principles 1, 8, 11...1.3, 1.4, 8.3, 8.8, 11)

-environmental protection (Principles 4, 6.4, 6.10...)

-energy (Principle 1... 1.6 ...)

-urban (Principles 1, 2, 5... 1.7, 2.11, 5, 7...)

-agricultural (Principle 2... 2.15, 2.16...)

-taxes

FUNDAMENT: check of validity of all the elements in the transaction according to the applicable law by an independent authority (good governance + accountability)



HOW LAND REGISTRY SYSTEM AIMS TO CONTRIBUTE TO MEET MEGA TRENDS

Turning challenges into opportunities for Economic and Social Growth: (1)

SOCIAL MEGA TRENDS:

- globalization-migration:
- informal settlements
- homeless/illness/disabilities
- transfer between unknown contracting parties
- awareness of environmental changes

LR:

- real estate assets in another country...
 - law ruling the acquisition/mortgage/transfer?
- different nationalities, matrimonial property regime?
effects against third parties?
- informal settlement: tenure is challenged... I lose my home? ask for a mortgage?
- check license/authorisation to access to social housing
- identification contracting parties: signatures verified
- enforcing sectorial regulation:
 - energy efficiency,
 - rights over water/other natural resources,
 - forest/coastal/mines protection...
- ...checking the required license to build, to develop an specific use
 - taxes paid?
- link to urban/agricultural/water/energy qualification
& public planning & environmental policies
- refusing registration of ilegal buildings/uses on land



HOW LAND REGISTRY SYSTEM AIMS TO CONTRIBUTE TO MEET MEGA TRENDS

Turning challenges into opportunities for Economic and Social Growth: (2)

ECONOMIC MEGA TRENDS:

Data economy

Consumer protection

Transparency, accessibility and open data

Digital culture-new technologies

Business ecosystem

IoT

Globalization

Closed-loop or circular economy

Automation

IoT

Self sufficient and DIY economies

Competing and merging value system

LR:

-accurate and reliable information

-no hidden charges

-avoiding unnecessary cost of research or title insurance

-comprehensive (enforcement of sectorial regulation) & up to date

-deputation of the data previous to its delivery in order to protect personal data and privacy

-electronically access to data/ digital signature/ personal data & privacy protection

-real estate identification through modern technologies

-LR digitally managed

-balancing automation with highly expert human intervention

-connection between LR and any other public administration to exchange selected data

-IoT:

-to connect LR with the house/building

-to connect LR with title holders

-to connect LR with public administration

-cooperation between land registry & other institutions

-numerus apertus and numerus clausus (exceptions)



CLOSING REMARKS

1-Transparency and accessibility of data:

lack of trust - imposition of trusting absolute strangers
need to foster & enhance reliable institutions
LR: indefeasible title

2-Globalization- integration of national and supranational regulation, engaging people from different nationalities, cross-border transactions:

How European land registries are facing these challenges?

-LRI to ease the access to information from foreign land registries
-IMOLA to ease the understanding & adaptation
prior concerns: liability & accuracy: LR = State = national law

3-Self-sufficient and DIY (design-it-yourself) economies pushing for new kinds of tenure and real rights:

LR: answer through numerus apertus & exceptions numerus clausus

4-LR contributes to meet the aspirational trend to live in green houses/green cities/green economies: registering and providing sectorial information



Policy Framework: “Security of tenure, for each form whereby land rights are held, should be ensured”

= empowering people (ensuring social peace and fairness)

facing new needs on housing & real rights

ensuring agile transactions in real estate market (no research) & lowering cost



To finish...

Principle 6.5: Security in legal transfer of property rights (6.5): “**Security in legal transfer of property rights:** “...checking of all legal requirements for the validity of the transaction, by independent authority entitled as such by the State...”

...in order to avoid fraud and judiciary disputes...

what means GOOD GOVERNANCE AND ACCOUNTABILITY