



Linking Land Tenure and Use for Shared Prosperity

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY
WASHINGTON DC, MARCH 23-27, 2015



**FROM SECURING TENURE TO ENSURING THE SUSTAINABLE USE OF LAND
WITHIN A CONTEXT OF RESPONSIBLE GOVERNANCE OF LAND TENURE:**

**GOOD PRACTICES AND LESSONS LEARNT FROM TWO DECADES OF GIZ
SUPPORTED LAND TENURE RELATED PROJECTS IN SOUTH-EASTERN EUROPE**

BABETTE WEHRMANN, CLAUDIA SPECHT-MOHL

Independent Consultants

babette.wehrmann@land-net.com

claudia.specht-mohl@t-online.de

**Paper prepared for presentation at the
“2015 WORLD BANK CONFERENCE ON LAND AND POVERTY”
The World Bank - Washington DC, March 23-27, 2015**

Copyright 2015 by authors. All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.

Abstract

Since the mid-1990s, GIZ provides technical support related to land administration and management in different countries of the region: Georgia, Bosnia-Herzegovina, Serbia, Montenegro, Kosovo and others.

The paper shows how this support evolved over time and identifies good practices and success factors.

Supporting South-Eastern European countries in the area of land administration and management over the last two decades, two objectives received most attention: increasing legal certainty regarding property rights and introducing EU and other international standards. In general, securing property rights – hence setting up a functioning land administration, including a land registry as well as a surveying and mapping system – received primary attention from national governments as well as from donors. Regulating the use of land was of secondary interest, but becomes increasingly a key issue.

The paper starts with an overview on typical challenges in the areas of land administration and management these countries were/are facing. It then outlines the focus of GIZ projects and how it evolved over time. At the core of the paper are success factors, derived from good practices and lessons learnt. To identify them, the following issues have been looked at in more detail: establishing the institutional set-up, introduction of new procedures and technologies, capacity development, scaling-up, donor cooperation and the role of advisors.

Key Words:

Land administration, land management, South-Eastern Europe, good practices, success factors

Introduction

After the end of communism and the latest Balkan War countries in South-Eastern Europe had to reorganize their land administration and management. Although Balkan and Caucasus countries have a different history and had to face different challenges when entering into democracies and market economies, they shared some common challenges. Securing land tenure to facilitate the privatization of land as one step towards effective market economies was one of the priorities of those countries.

Since the mid-1990s, GIZ provides technical support related to land administration and management in different countries of the region: Georgia, Bosnia-Herzegovina, Serbia, Montenegro, Kosovo and others. The paper analyses how this technical support evolved over time and derives good practices and lessons learnt. For that purpose, one of the authors systematically reviewed project documents of land related GIZ supported projects in the region since 1995 and conducted interviews with key actors. Both authors have been involved in several of these projects.

The paper starts with an overview on typical challenges in the areas of land administration and management these countries were facing. It then outlines the focus of GIZ projects and how it evolved over time. At the core of the paper are success factors, derived from good practices and lessons learnt. To identify them, the following issues have been looked at in more detail:

- establishment of the institutional set-up,
- introduction of new procedures and technologies,
- capacity development,
- scaling-up,
- donor cooperation and
- the role of advisors.

Key Challenges

The privatization of land required a lot of decisions and measures for all transitional economies, including:

- Taking political decisions,
- Introducing legal reforms and establishing a new legal framework,
- Rethinking the institutional set-up, reallocating responsibilities and/or establishing new institutions,

- Introducing new procedures and business processes,
- Introducing new technologies,
- Human capacity development and
- Ensuring sustainability / long-term financing of the new system.

Taking political decisions

Privatization of land can be done in different ways. Countries had to decide whether they wanted to restitute or to (re)distribute land and how this should happen. Apart from the political aspect of this decision, there also was a practical aspect. Restitution could only be done if ownership and cadastral data from pre-socialist time did still exist. Restitution often required another political decision: which year should be the baseline for restitution? Distribution required a different set of question: How much land should be distributed? Who should be the beneficiaries? How to organize the distribution? Here a practical question was how to identify areas of exactly the size that was legally allocated to people and to delimitate the boundaries in the absence of any cadaster and land register?

Once the political decision on the type of privatization was taken, the land registry and cadaster system had to be up-dated and/or improved. Step by step additional political decisions had to be taken: Which institution should be responsible for which tasks? How to prevent corruption? How much transparency should be applied?

In regard to land management another political question had to be agreed upon: What should be the overall policy? Investor friendly planning and rapid issuing of building permits or economically, socially and environmentally sustainable land management, including meaningful public participation and strategic environmental assessments?

Introducing legal reforms and establishing a new legal framework

The setting-up of an efficient, effective and transparent land administration and a sustainable land management required the introduction, modification and/or amendment of a number of laws, e.g. Law on Land Administration, Law on Urban Planning and Construction, Law on (state owned) Agricultural Land, Law on Land Valuation etc.

Rethinking the institutional set-up, reallocating responsibilities and/or establishing new institutions

New tasks sometimes require the introduction of new institutions or existing institutions have to take over additional tasks. In Georgia, for instance, the National Agency for Property Registration (NAPR) had been introduced as a modern transparent customer oriented one-stop-shop.

Introducing new procedures

New procedures have been introduced to ensure high quality, reliability, efficiency, transparency, accountability etc. In regard to land administration, increasingly e-governance becomes an issue. In regard to land management, public participation has been increased. In addition, EU standards are generally applied or adhered to such as INSPIRE.

In addition to cadastral surveying, land registration and spatial planning additional procedures became relevant after some years such as land valuation, land consolidation and land readjustment.

Introducing new technologies

From cadastral surveying to national spatial data infrastructure (NSDI) a lot of new technologies had to be tested and adopted to the national/regional context.

Human capacity development

New laws, new procedures, new technologies, new tasks and responsibilities required and still require in most countries a lot of human capacity development in many different fields. National experts from public as well as private sector need to be qualified.

Ensuring sustainability / long-term financing of the new system

Finally, the new system has to be financed or become self-financing within a certain period of time.

Meanwhile, all countries of the region have achieved some major progress. Georgia is even ranked first in the Doing-Business-Ranking when it comes to land registration. So far, the efficiency of the system has

been ranked. A new challenge arises this year, when the ranking will not only be based on efficiency but will depend as well on reliability, transparency, full land coverage and dispute resolution.

Land administration and land management will probably continue to be improved over the next couple of years.

The Focus of GIZ Supported Projects

Supporting South-Eastern European countries in the area of land administration, two objectives receive equal attention: increasing legal certainty regarding property rights and introducing EU and other international standards such as INSPIRE. In general, securing property rights – hence setting up a functioning land administration, including a land registry as well as a surveying and mapping system – received primary attention from national governments. Regulating the use of land was of secondary interest. Therefore, international support has mainly been requested to provide knowledge and knowhow on land administration and only to a lesser extent or after several years of cooperation on land management.

Accordingly, most GIZ supported projects started with a focus on setting up or improving the land register and cadaster. Only some projects included land management activities right from the beginning. The project in Bosnia and Herzegovina dealt with land administration only. In Georgia, GIZ and KfW support was mainly on land administration but included a component on urban planning in the capital city. The project in Montenegro gave priority to the use of cadastral data by municipalities linking the improvement of the cadaster with improvements in spatial planning and resulting in increasing revenues from land taxation. In Serbia, at the beginning the focus was on cadaster. Over the years, the original cadaster project evolved into a municipal GIS project that was followed by a new project on urban land management which – one phase later – was complemented with a rural land management project.

Lesson learnt

Countries in transition may have a higher interest in setting up their cadaster and land registry than steering the use of the land they are going to privatize. However, it is crucial to set up an effective land management as soon as possible after the privatization of land to avoid illegal developments, unnecessary conversion of green land into construction land, environmental damages, avoidable loss of agricultural land, un-coordinated land uses etc. The lacking interest in effective land management can have different

reasons. For some national decision-makers it may not be obvious what needs to be changed in spatial planning, land use planning and other land management activities due to the privatization of land. Others may mainly be interested in setting up a functioning land market resulting in an (unregulated) investment boom and some may have a personal interest in not regulating land uses. Independent from the individual motivation of decision-makers to show no or little interest in land management, international advisers should take every possibility to bring the topic on the agenda. This can be done by informing municipalities, working with the association of municipalities, training professionals, cooperating with universities and professional associations (e.g. association of urban planners), providing platforms for advocates of sustainable land use etc.

Establishing the Institutional Set-up

Before improving or introducing a new land administration system, it has to be clear which ministry and/or agency will be responsible for it. On the other hand, the institutional set-up may depend from the general approach. A unified system may require a different institutional setting than a dual system. Therefore, there should first be an agreement on the general system. Looking back, it must be stated that governments and donors could have taken more time to discuss and consider these issues. It is counter-productive if donors push for one approach or even start implementing it without a national consensus, strategy or policy. Experience shows that it is not so easy to integrate data into a national system, if the system is only defined after cadastral surveying and land registration have already started.

Success factors for governments and donors

- Take sufficient time to discuss different options with their advantages and disadvantages and to analyze which model fits best into the country before the country decides which way to go. Rather than directly going ahead with whatever implementation, a donor or even several donors together could finance a type of “model-finding-project”. Such a project could focus on the presentation of different approaches, study-visits to different countries, analysis of the country system (What’s there and can be built on? What’s missing? What’s the (legal) tradition? What will be the purpose of the land administration system?) etc. and lead to recommendations on a model that seems to be most adequate for the country. Only after this decision has been taken, the government and donor(s) should agree on the type of support the donor respectively each donor provides.

Introduction of New Procedures and Technologies

- Again, a key lesson learnt is that it is worth to take time. Just a few examples: Laws need to be developed by lawyers and technicians together, which takes time. (Geo) data-sharing requires trust that mostly cannot be built over night. Cadaster surveying as basis for the legal registration of property requires the agreement of neighbors to confirm the boundaries. Hence, in spite of modern surveying and mapping technologies capturing easily and quickly visible limitations of plots like land use boundaries, fences, walls etc. enough time needs to be arranged to ensure that boundaries are confirmed by neighbors.

Success factors for governments and donors

- *Include national and international experts equally when discussing and deciding on new procedures and technologies.*
- *Design a land administration data model under consideration of legal requirements, define methodologies, technologies and standards and set up the IT systems and procedures for storing, retrieving and updating of cadaster and land register information accordingly.*
- *Define the land administration model, business procedures and technology, methodologies and standards as well as quality control procedures and its required standards, migration formats and the workflows how to hand over the data to the national system before initiating (systematic) registration, cadaster surveying and mapping. Otherwise data will not be compatible and cannot be fed into a common system. Interoperability and international standards of geospatial data has to be a must in order to guarantee future development towards NSDI. Focus on the use and benefit of land registry/cadaster data for municipal administration, including generation of real estate and/or land tax, urban planning, land consolidation, public land management etc.*
- *Invest in building mutual trust and understanding between the “legally oriented” lawyers and the “technically oriented” geodesists and ensure that both professions are actively involved in the discussion of all procedures.*
- *When introducing software, ensure that a) the software / IT-system is of sufficient quality (e.g. allowing for all desired applications and the implementation of relevant standards) and do not chose it based on the price only (as sometimes done in tender evaluations), b) the maintenance of the system is given and c) it can be further developed or adopted once there is no longer support from a project.*

- *When introducing new (IT) systems and procedures at the local administration, do it in iterative circles. Many details of a system are too abstract to be fully understood in theory. Therefore, staff first needs to become familiar with it and gain some practical experience before they can formulate own requirements.*
- *Focus as much on technical solutions as on business processes and workflows in a holistic manner.*
- *Ensure that there is sufficient time planned for establishing trust, interest and willingness to cooperate whenever data have to be shared between different institutions, e.g. in the context of creating municipal GIS, establishing national spatial data infrastructure (NSDI) or when land administration data are needed for state land management, land consolidation, land readjustment etc.*
- *Ensure that new procedures are backed by the law. If they are not yet foreseen in the law, there needs to be a dialogue with law makers from the beginning to ensure that the new procedure will fit into the overall legal framework. Once this has been clarified or in parallel, projects can initiate pilot measures to demonstrate the procedure (e.g. early public participation in urban planning, integrated urban development plans, environmental assessments). Experiences from several pilot projects may then result in a technical guide, which could then be a base for recommendations for changes or amendments in the law. However, in some cases a pilot may only be completed once the legal framework has been established, e.g. a pilot on land readjustment involving land valuation can only be implemented once there is a legal base for land valuation and land readjustment.*

Good practice

When introducing municipal GIS in Serbia, the main challenge was to obtain common agreements between different municipal departments / institutions for data sharing and future applications. Having found a consensus on these fundamental issues the technical realization of GIS was only a matter of time needed for the technical set-up. Accordingly, a lot of time and effort has been invested in establishing trust, willingness and interest to cooperate, which led to the signing of a memorandum of understanding on data sharing in each pilot municipality.

One element of the urban land management project in Serbia is to improve public participation in urban planning. As a first step, all planning procedures have been analyzed to identify at which steps public participation was at that moment foreseen by the law, when it took place in practice and when should it

happen according to international good practice. Based on the assessment, ideal procedures had been developed and tested in several pilot municipalities. The experiences resulted in a guide. Based on the experiences and the guide recommendations were given to be included in the drafting of a new law on urban planning and the draft was regularly commented. In addition to the pilot municipalities, the association of municipalities, the association of urban planners and the university have been involved in the process. The cooperation with the university mainly served to ensure capacity development of future urban planners.

Capacity Development and Scaling-up

Capacity development is at the heart of most GIZ supported projects. It is realized by a broad range of activities, such as twinning projects that involve the partnership of a German land administration, study trips or the establishment of partnerships between administrations or universities in the supported country and Germany.

Success factors for donors

- Initiate peer-to-peer learning in divers ways:
 - a) Cross-border peer-to-peer learning with EU member states: delegation visit, study visits, participation in regional/international conferences or fairs, seminar with trainers from abroad, creation of regional round tables, use of web based networks, creation of partnerships between administrations, professional organizations or universities,
 - b) Inter-municipal exchange, learning from pilot municipalities.
- Offer study tours to different EU member states to allow national professionals and political decision-makers to understand different approaches with their advantages and disadvantages as well as the requirements for each approach.
- Focus on training on the job as the major way of training. Provide intensive training of trainers to ensure high quality.

Good practices

- a) Cross border peer-to-peer learning

Administrative partnerships through city partnerships and twinning projects have been successfully created in Georgia (between Tbilisi and Saarbrücken) and in Serbia (Republic Geodetic Authority (RGA) of Serbia and the Ministry of Food and Rural Regions of the Federal State Baden-Württemberg together with GIZ). Through the long-term co-operation Georgian and Serbian public officials gained an insight into a functioning system and German public officials gained a good understanding of the situation of their peers enabling them to discuss with them about adequate solutions to their problems.

A round table discussion on legal issues with EU member states from the region has been initiated by the latest Serbian project on rural land management to openly discuss the process of EU accession and its legal requirements in the context of rural land management. The same project organized in cooperation with FAO a LANDNET conference to expose Serbian experts in Serbia with an international group of experts from state organizations and academia. As part of the conference, a field excursion was organized to show the progress of land consolidation in Serbia in one pilot municipality and to jointly reflect on it.

b) Inter-municipal exchange and capacity development:

A good practice is the establishment of inter-municipal exchange and support as it was done in Montenegro and Serbia, which serves at the time capacity development and scaling-up. In Montenegro, the introduction of new software has been done stepwise starting in three municipalities to adapt the software to the specific conditions and requirements. These municipalities later provided support to other municipalities by sharing their experiences and answering questions they had to solve earlier. In Serbia, five municipalities served as pilots to set up municipal GIS. Based on their experience and in cooperation with them a “GIS guideline for local self-government” has been developed and distributed to all Serbian towns and municipalities. In addition, representatives of more than 50 municipalities have been trained in small groups to spread the experience. Two aspects of this training deserve to be highlighted: First, one of the trainers was a practitioner from one of the pilot municipalities. Second, all municipalities participating in the training developed an action plan how to set up a municipal GIS in their municipality. All activities have been done in cooperation with the Standing Conference of Towns and Municipalities. As a result, a countrywide municipal GIS network had been established.

c) Training on the job

The intensive capacity building and knowledge transfer over years of the GIZ project(s) in Georgia in the field of setting-up the legal framework, introduction of new modern technologies like digital photogrammetry and terrestrial surveying procedures, GIS, urban planning etc. and its fundamental embedding into the partner structures paved the way for the setting-up of the financial assistance project

of KfW. Then, the intensive countrywide trainings through the training of trainers approach by the KfW project focusing on the introduction and professional use training of various modern surveying technologies for land surveying build a good basis for the development of the land administration sector (e.g. use of GNSS, total stations, GIS). This approach resulted in a) the setting-up of a sustainable private surveying sector and b) in qualified staff of the public sector as many of the current staff have once been trained by the KfW and GIZ projects or even worked with/for it.

In Bosnia and Herzegovina intensive capacity building and training on the job was undertaken countrywide for clerks and the development of a “Best practice handbook” for registration processes obtained high acceptance from legal experts.

Donor Cooperation

Different donors often have different possibilities to support national governments. A good example of subsidiary support is the implementation of the Kosovo Positioning System (KOPOS). Whereas the World Bank financed its establishment, GIZ provided support for the monitoring of its implementation as well as a proposal for its business model.

Sometimes different donors follow different ideologies. While some may focus on increasing social and environmental standards, e.g. more citizen participation in land use planning and effective (strategic) environmental assessments, others may be more interested in investor friendly approaches, i.e. speeding up procedures to enable investors to quickly register their tenure rights and receive building permits. Such different philosophies can result in opposing recommendations to national governments. In other cases, donors/implementing agencies may want to achieve the same but by different means. In both cases, it is important for national governments to lead the process, to listen to all arguments, to have a transparent national discussion about it and to decide independently what is best for their country. In an ideal case, such a decision should be based on international guiding principles and EU standards.

Success factors for governments and donors

- National governments should take the lead in coordinating donor activities.
- If no functioning system is in place or no decision has yet been made by the national government, donors should first support the “model finding” and not just start with whatever implementation (see above success factor under “establishing the institutional set-up). It is important that either

governments decide or agree with donors on one model as well as on the relevant methodologies, technologies and standards, including geodetic reference systems.

- Once a country has chosen a model, additional donors coming in to provide support should respect the choice and do not re-start at zero with another model – except the first model proofed not to be feasible and the additional donor has been asked by the government explicitly to find a different approach.

Good practices

Kosovo: The national cadaster strategy serves as base for all donor activities. Twice per year, the Kosovo Cadaster Agency (KCA) invites for a donor coordination meeting. A good example was the donor cooperation in regard to the Kosovo Cadaster Land Information System KCLIS for which the graphical part of the cadaster data model was defined under funding by the Norwegian Government. A first coarse structure of a data model was discussed and set-up in a common workshop with technical and legal experts of the Kosovo Cadaster Agency, GIZ and Norwegian experts as well as participants from Municipal Cadaster Offices. Main focus was to define, which objects have to be included in the data model and which quality parameters have to be assigned to it. This served as base for the tendering of the KCLIS graphic component.

Bosnia and Herzegovina (BiH): The Land Administration Project (LAP) in BiH was executed from 2006 until 2011. It was funded by the German, Swedish and Austrian government sharing the costs equally with GIZ as implementation partner. The project was built upon the originally separated predecessor projects GIZ Cadaster Project (2001-2005) and Land Registry Project (2003-2005) whereas the Land Registry Project had been originally co-financed by the Swedish government and joined in 2004 by the Austrian government. Hence, the LAP was a continuation of the already established co-financing structure with other donors of the Land Registry Project. Based on the conclusions of the Paris Declaration (2005) the LAP had taken into account to foster more coordination and synergies between international cooperation projects. A broad support could be given by three donors due to the large budget allocation in order to achieve significant results. Additionally, a close cooperation was established and maintained with the World Bank in preparing the WB Land Registration Project. For Example a social and institutional assessment study had been conducted in 2005 as a contribution to the preparation of the World Bank project and for further planning of project activities to be distributed between donors. After a negotiation phase in 2006 the World Bank project was launched in 2007. According to the agreement with the partner institutions and the World Bank, the LAP provided technical assistance while the World

Bank funds were used to procure construction works, furniture and technical equipment, and to finance mass digitization of cadaster and land book records. In order to cover as much partner needs as possible, two additional projects were proposed to be funded by the EU IPA program: the provision of large-scale digital orthophotos and the technical infrastructure procurement for the establishment of a satellite positioning service for Continuously Operating Reference Stations (CORS). Both projects had been accepted and became effective in 2010-2011. Additionally, the Norwegian government had funded a project to develop capacities in scanning existing maps, storing, managing and distributing spatial information. Hence an essential role of LAP was to contribute to the preparation and coordination of all these international projects in view of making them efficient and complementary for an optimal benefit of the beneficiaries.

The Role of Advisors

Providing technical support and advice on land tenure issues in South-Eastern Europe during the last 20 years has sometimes been challenging. Everybody involved had to learn that this means to get involved in politics. A good adviser is one who provides knowledge, knowhow and experience on different approaches based on different philosophies or ideologies, discusses pros and cons of the different approaches, clearly highlights international principles and EU standards in the field of land administration, land management and land governance as well as those related to sustainable development and human rights and leaves the final decision on the approach to the relevant stakeholders.

Success factors for advisors

- Do never simply copy a model from another country without adopting it to national and local circumstances.
- Be aware that you are not there to do the job for someone, but to build the necessary capacity so that national professionals can do the job in future.
- Provide knowledge, knowhow and experience on different approaches based on different philosophies or ideologies, discuss pros and cons of the different approaches, clearly highlight international principles and EU standards and leave the final decision on the approach to the relevant stakeholders.

- Work in highly qualified multidisciplinary teams consisting of geodesists, lawyers, IT experts, urban planners and PR specialists to provide optimal support to partners in the transitional process.
- Use comprehensive approaches addressing the entire “land sector” from a technical, legal, institutional, governance etc. perspective, and a long term approach combined with quick wins for the partners.

Conclusion

Providing support to renew land administration and land management in countries in transition – not only in South-Eastern Europe – over the last two decades has probably been much more complex than anyone expected at the beginning. It’s been far from just being a technical problem to solve. Setting up land administration and management systems requires taking far-reaching decisions on the general political orientation of a country. Should the system be primarily investor-friendly or protect the interests of citizens and protect nature ensuring a sustainable use of natural resources? How transparent should the system be? How much public participation should be allowed? All these are questions, which countries had to face and to answer.

Therefore, donor support in countries in transition need more time than in other countries as everything is moving. It’s a period of (constant) changes. In such situations, a new type of project may be introduced: a model finding project supported by different donors – ideally from the region as they share the same or a similar legal tradition and move towards the same regional standards and requirements (in this case EU standards and requirements) as the country does. In addition, they are close by which allows for cross-border peer-to-peer learning which is one of the most effective ways to provide technical support at this high professional level.

The transitional phase of South-Eastern-European countries is soon coming to an end. The experience from this region will, however, be valuable for other countries that have to rebuild their institutions due to a change of the political system – be it after a war, a revolution or a crisis or as part of a major reform.

References

- Becker, Michael, Ministry of Agriculture and Environmental Protection (Serbia) and GIZ (2015): Peer-to-Peer Learning Approaches: Improving Land Consolidation with Peer-to-Peer Learning in Serbia. Application example elaborated based on experiences from the EU/German funded project: Strengthening Municipal Land Management /Rural Development- Effective Land Management in Serbia. Belgrade. Retrieved from: http://www.methodfinder.net/example93_1.html
- Becker, Michael and Zoran Knežević (2015): Participation and Peer-to-Peer Learning – Implementing EU Best Practices into Land Consolidation in Serbia. Paper prepared for presentation at the “2015 WORLD BANK CONFERENCE ON LAND AND POVERTY” The World Bank - Washington DC, March 23-27, 2015.
- Schindler, Gernod, Schmieder, Ronald and Jasper Lauert (2006): Project Experiences with Land Management in Countries in Transition. Paper presented at the XXIII FIG Congress, Munich, Germany, October 8-13, 2006.
- Specht-Mohl, Claudia (unpublished draft, January 2015): Two Decades of GIZ Projects related to Land Management and Land Administration in South-Eastern Europe - A Knowledge Study.
- Wehrmann, Babette (2010): Governance of Land Tenure in Eastern Europe and Commonwealth of Independent States (CIS). FAO Land Tenure Working Paper.
- A vast number of internal GIZ project documents.