

LAND REGISTRATION AND MULTIFUNCTIONAL INTEGRITY OF CADASTRE

Ion BOTNARENCO, PhD, Associate Professor, Agrarian State University of Moldova Faculty of Cadastre and Law, Chişinău, 42 Mirceşti St., Republic of Moldova, phone: +37369935639, e-mail: i.botnarenco@uasm.md

Efîm ZUBCO, Senior Lecturer, State Agrarian University of Moldova, Faculty of Cadastre and Law, Chişinău, 42 Mirceşti St., Republic of Moldova, phone: +37369238114, e-mail: e.zubco@uasm.md

Sergiu POPESCU, Senior Lecturer, State Agrarian University of Moldova, Faculty of Cadastre and Law, Chişinău, 42 Mirceşti St., Republic of Moldova, phone: +37369206832, e-mail: s.popescul@uasm.md

Abstract: Land registration (real estate development) represents a key step in the development of cadastral process. The analysis of historical development of cadastre proves that „land registration” has completed the formation of cadastral process, its first step, and simultaneously, it marked the beginning of a new era of cadastre.

The importance of registration process is also manifested by the fact that in many countries, land registration, has been long associated with the cadastre as a whole.

Land registration has a significant influence in the process of economic policies formation. In this context, the principle of compulsory land registration or voluntary land registration occurs, which actively influence the respective fiscal policies.

The whole complex of economic policies is under the influence of the principle of compulsory land registration. Through the prism of the registration process we can notice the formation of different models of cadastral process development.

Keywords: *Land registration, Multifunctionality, Integrity, Models of cadastre, Fiscal policies, Compulsory registration.*

1. Social, economic and ecological importance of land registration

1.1 The concept and the study period

The study period refers to the period of cadastre implementation in the Republic of Moldova, i.e. 1990 - 2000 and till present. It is obvious that we took into account examples from other countries and longer periods of time, but all of them referred to the concept of this study.

The essence of the registration process as a whole is determined by the concept of the study and the conceptual issues of major importance. First, land registration is a component part of the integral cadastre multifunctional performance.

We can currently identify social, economic and ecological aspects of the land registration process. The Republic of Moldova is at its initial stage of general cadastre implementation, including land (real estate) registration when many countries – members of the European Union – have been implementing cadastre for hundreds of years. The experience of EU countries is already at the level when favourable conclusions can be drawn, for the Republic of Moldova as well.

1.2 The subject and the object of the study

This study is dedicated to the content and features of the land registration process as a component part of the multipurpose cadastre integrity. The subject of the study is within the aspect of cadastre integrity and it also develops its own multifunctional performance.

The “conceptual aspect” includes three important conceptual directions of the registration process: social, economic and ecological. At present there is an open question: which is the role of the registration process in the cadastre content and, at the same time, which is the function of registration in the society; how does the registration influence the economy and its role in the process of natural resources protection.

Land rights are the object of study at the initial stage of cadastre implementation.

This stage is already mastered (passed), including by the Republic of Moldova. When we say “a mastered, passed stage”, we do not mean that it is “completed”. The stage of land rights persists throughout the period of cadastre implementation, deployment and maintenance.

However, the land right as an object of registration has passed a long development stage. At present both the object of registration and the ownership right as well as other rights, interests, restrictions, liabilities, etc. have been already passed.

As to “the object of cadastre”, it is important to correctly answer the following question: what is the object of registration – the land right or the land itself?

Both the subject and the object of the study at the initial stage of implementation are nothing but a derivative of the land relations reform held in the Republic of Moldova. The essence of the land relations reform is based on the concept of the land title. There was no private ownership of land before the land relations reform, issued in the Republic of Moldova in 1992. Since 1992 the right of private land property is declared by the Land Code (Law 828 of December 25, 1991).

The subject of our study will state the answer to the question – which is the role of the registration process in the diversified protection of rights, all economic policies implemented in the country, in the protection of natural resources.

Thus, we think that the need to protect property rights is an objective necessity and, therefore, a mechanism of right protection.

It is obvious that the protection of rights as a necessity and a measure can only be achieved through detailed knowledge of the object of right, in this case of the object of our study - the land fund along with the buildings, installations and facilities situated on it.

The Republic of Moldova is an agricultural country and the implemented cadastre will contain a pronounced agricultural content [1].

The interaction of the land registration process with the development of the whole economy is successful in both social and economic development of the country.

1.3. The purpose of the study, materials and methods that are applied

We have already mentioned that the study period includes the period of the land registration process, which is under permanent motivation of the need for fundamental, social and economic changes [2].

The purpose of this study is to submit a detailed analysis of the land registration process in the Republic of Moldova since 1992 till now.

The study period of the deployment of the land registration process in the Republic of Moldova is relatively short, but, however, it is long enough to determine and argue different development stages and sub-stages of the society, development sub-stages of the

land registration process to realize their impact on the society, to argue the development direction and the formation of different economic models under the influence of the registration process.

It is important to mention the importance of the land registration process in the context of the multipurpose cadastre integrity within this study.

Both cadastre and the land registration process in the Republic of Moldova cannot be separated from the world practice.

Therefore, the aim of this study is to overlay the existing situation in the Republic of Moldova with an older practice from different countries within the EU [3].

The following informative materials were used in our study:

- scientific studies related to the realization of the cadastral process in the Republic of Moldova;
- annual and periodic information related to cadastre from EU countries;
- yearbooks of the Agency for Land Relations and Cadastre and the Real Estate Register of the State Enterprise “Cadastre”;
- annual and regular information of the National Bureau of Statistics of the Republic of Moldova and other EU countries;
- other information and scientific studies on the implementation of the real estate cadastre in the Republic of Moldova and other countries.

The author of this study applied various scientific methods. The most important are: the analysis of the historical development of processes and phenomena; the systemic analysis of processes (phenomena) in progress; the analysis of statistical data; the graphical analysis of trends; the method of analysis and synthesis.

2. The process of land registration in the Republic of Moldova

2.1 The role of the land registration process in the multipurpose integrity of cadastre

The land registration process is an important part of the cadastre integrity. We can state the following on the role of the registration process:

Land registration means the completion of the first historical stage of cadastre;

Land registration is the beginning of modern cadastre;

Land registration has in its turn a multipurpose content: social, economic and ecological one.

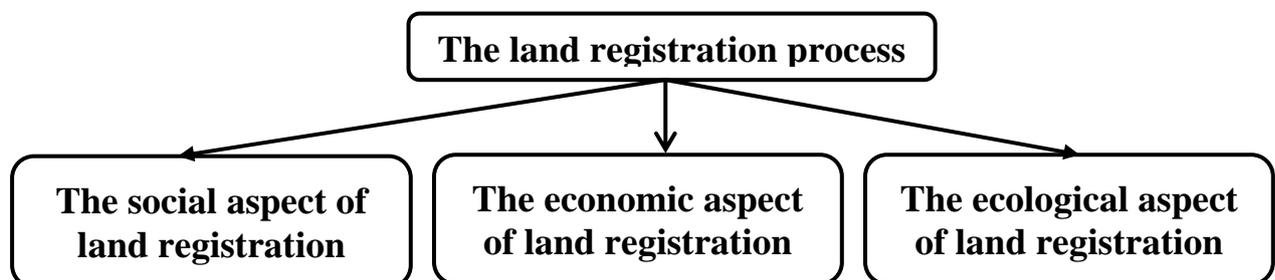


Fig. 1. The structure of the land registration process.
The source: developed by the author

2.2 The social aspect of land registration

The social aspect of registration comes from the content of the land right as a social category. The land right in its turn, considered at the light of the cadastral registration process, includes several development stages.

First, we would emphasize the stage that is not widely spread in the process of land registration in the Republic of Moldova – the interest in acquiring a right. The "interest" obviously appears primarily in the sequence of the birth of a right. Interest is the beginning of any process including the process of right.

Interest often appears as an economic category. Interest will have a social content in our case.

As soon as the process of land registration has an important purpose - to protect land rights, the registration of an interest in the right becomes an objective necessity.

The interest registration in the process of right procurement becomes an increasingly widespread practice in many European countries. The UK may serve as an example as it implements a modern land register [4].

Other components of the registration process, at the same time they are the stages of the right registration process, are the following: procurement of rights and land (real estate) formation. These two component parts of the registration process are pretty significant. Primarily through their deployment sequence. Sometimes the procurement and formation of rights will be followed by land formation, in other cases land formation will be followed by the formation and procurement of rights.

It is important that these steps are carried out compulsorily, without any breaks. This condition is apparent from the axiom that there is no land without a land title and any title refers to a land lot (immovable property).

The following methods are most widely spread in the process of acquiring land rights:

- under the law by an administrative act;
- by a legal act;
- by inheritance;
- by accession;
- by usurpation;
- by a court decision.

When forming a parcel (real estate), the following methods are widely spread: land separation, division and consolidation. The combined method is quite widely spread: when several methods (separation, division and consolidation) are applied for a unique formation purpose.

The stage of “protecting a formed and an acquired right” is important as well. As we mentioned above, the protection of rights is the main purpose of the registration process as a whole.

The need to develop a mechanism in order to regulate land relations increases along with the development of the right as a social category. The role of cadastre in the regulation of land relations becomes deeper and the land register, which includes detailed information about the right, the holder and land, becomes a determining factor.

The social aspect of land registration is presented in the following diagram.

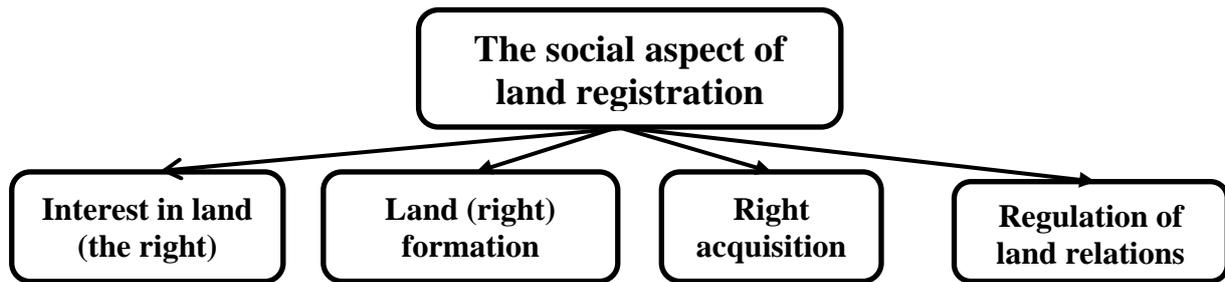


Fig. 2. The right structure in the registration process
The source: developed by the author

2.3 The economic aspect of land registration

The economic content of the registration process is known from ancient Egypt. Land registration was applied to the taxation process of landowners. A new stage of the economic content development began together with the birth of capitalism in Europe.

Napoleon's reforms in the tax area made this stage more pronounced. The taxation of agricultural land depending on its productivity and its degree of fertility, which ultimately are component parts of the land value, had a positive effect on the level of tax payment. Land taxes became fairer, which also raised the level of credibility.

From the point of view of the subject of taxation two concepts of the fiscal policy are most widespread – the income tax and the taxation of real estate at a market price. The development of fiscal policies is another topic. Here we are going to describe only the impact of the registration process.

It is obvious that the registration process has a direct impact on tax concepts.

The fact that land registration is compulsory is very important. Therefore, we should mention an important principle in the registration process: compulsory registration.

Compulsory registration of land creates necessary prerequisites for the application of the taxation concept based on the market value of land.

The lack of obligations in the registration process will not make it possible to apply this tax concept. However, one needs to note that the fiscal policy, which is based on the market value of land (real estate) is recognized to be more efficient.

Italy may serve as an example of the fiscal policy application based on the freedom of the registration process [5].

The fiscal policy based on the compulsory land (real estate) registration is applied to several European countries, primarily to the Scandinavian ones [6].

The interaction between the registration process and bank lending is also important. Market economic relations boost the development of the bank lending policy development and the process of land registration certainly raises the level of credit security.

This aspect of the registration impact on the credit security influenced the registration process in many countries. For instance, a mortgage register is more demanded than land register in France. This aspect influenced the whole system of land registration and the staff, who maintain both mortgage and land register [7].

The subsidy policy is very important for the development of the agricultural sector at the current stage of the country's development. Subsidizing is an effective mechanism to regulate land relations. Rational management of agricultural land without applying any subsidy policy is impossible. Subsidizing land and many other activities can be carried out in their turn only under the conditions of the strict accounting of land and activities.

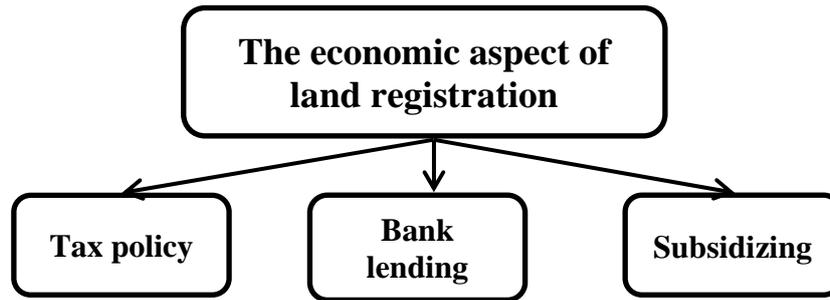


Fig. 3. The economic impact of the registration process
The source: developed by the author

2.4 The ecological aspect of land registration

The land register is the main element in the cadastral information system. This function requires mandatory accumulation, analysis and distribution of a huge volume of information on the quantity and quality of land.

The ecological aspect of the registration process results from the role of cadastre in assessment, protection and management of scarce natural resources.

The society reached the limit when unconditional exploitation of natural resources has become dangerous for the future. The principle of sustainability or economic and environmental balance in the exploitation of natural resources increasingly requires deeper knowledge and the development of protective measures.

The issue of sustainability in the use of resources is increasingly the subject of discussion at the highest international forums including within the UN, which has established a special committee to monitor the situation.

Special attention is given to land resources, including agricultural land, the forest and water funds, the quality of the air basin (air).

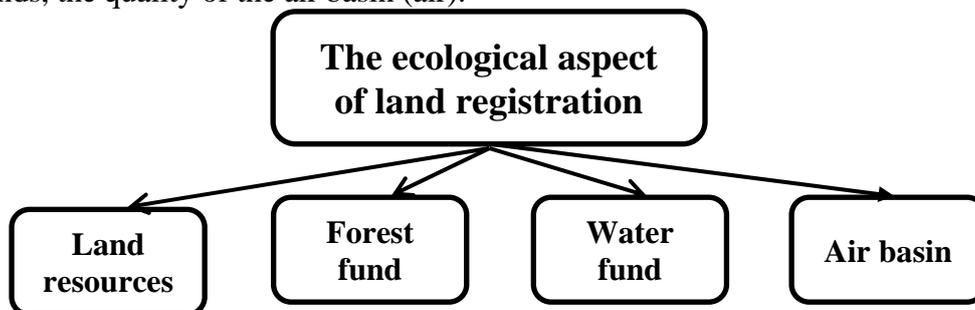


Fig. 4. The ecological aspect of land registration
The source: developed by the author

2.5 The concept of registration and the structure of registries

Practice shows that the concept of the registration process directly influences the structure and content of the registers that are applied.

Depending on their function, we distinguish several registration models in different countries. Thus, there is a dominant register and several registers (subregisters) in the UK. The prospect of additional registers is that they are going to become part of the main register at a certain stage.

The technical and technological level of the main register is much higher; the same thing refers to the staff (specialists).

We should mention that there are two basic registers in France, which function independently in terms of the registration process; these are the mortgage and land registers.

One register predominates over others, which serve various fields, in the countries of Scandinavia. The structure of registers in the Republic of Moldova is as follows:

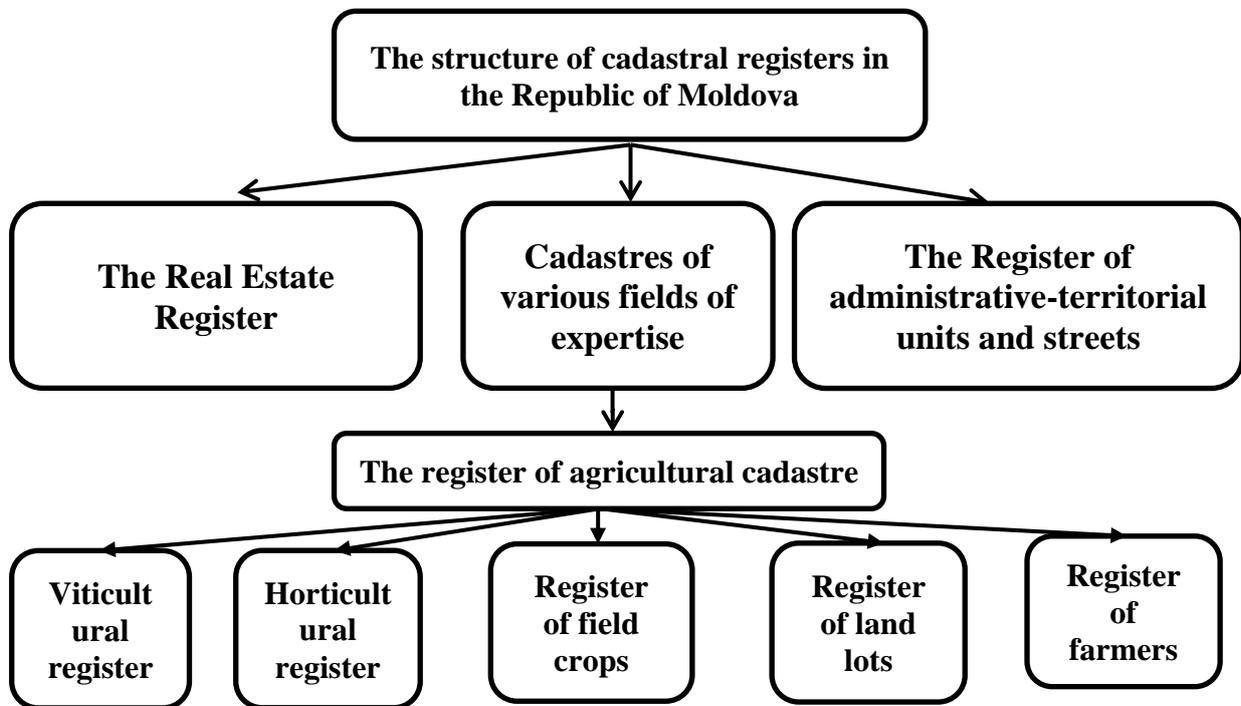


Fig. 5. The structure of registers in the Republic of Moldova
The source: developed by the author

The Real Estate Register serves cadastrés of various fields of expertise from the informational point of view, and namely: agricultural, water and forest cadastrés. It should be noted that the agricultural register is more advanced than other registers. The Register of viticulture is already functioning within it, as it was approved by Government Decision No. 282 of March 11, 2016. Some measures have been taken to implement the Register of horticulture. At the moment they are developing the Register of field crops. The Agency for Payments and Intervention successfully makes use of the Register of parcels and the Register of farmers. They call it the Register of Holders in the Republic of Moldova.

The Real Estate Register in the Republic of Moldova is recognized as a general register. Other registers are being co-developed, and namely: the cadastral registers of various field of expertise, the register of administrative - territorial units and streets. The registers of water and forest funds are at the conceptual level.

The development of these registers is inevitable. We only have to trace their connection with the real estate register. If the independence of each register is preserved, the credibility of the real estate register will decrease and the registration system of immovable property will undergo degradation as a whole.

Taking into account the experience of other countries, credibility to the register is of paramount importance and can be raised to the level of principle.

3. Conclusions

1. The interest in acquiring land rights in the Republic of Moldova was shown by a provisional certificate. This certificate did not include the size, location, etc. These aspects were arranged in the process of land formation in nature, based on the corresponding project.

2. Land formation and its transfer in nature is a stage of the right acquiring process. Any right can be registered only when it exists. The document that confirms the existence of the right in nature means the beginning of the registration stage.

3. The third action within the process of cadastral registration was the registration of the right of land ownership. The main purpose of land registration was to develop a mechanism in order to protect land (immovable property as a whole) rights. The registration process along with the protection of rights also created favourable conditions for the development of both market economic relations and land market. Land registration had a massive, compulsory character in the Republic of Moldova.

4. The process of registration created necessary conditions for the development of economic policies and, firstly, the fiscal policy followed by the policy of mortgage lending in order to protect it; the subsidy policy is not the least.

5. The multidimensional content of the information regarding the Land Register made it preferable for its application in the field of right protection and interests, as well as the protection of limited natural resources – the aspect is both ecological and social.

6. Finally, we can state that the land registration process is based on the principle of compulsory registration and application of massive registration methods, which will serve as a basis for the implementation of social, economic and ecological policies.

4. References

1. Botnarenco I., *Valoarea terenurilor – oglinda economiei. Iasi. Simpozion stiintific international GEOMAT 2013. Culegeri de lucrari stiintifice, 2013. P.13 ISBN 978-606-685-243-2*
2. Botnarenco I., *Cadastru bunurilor imobile in Republica Moldova. Chisinau. Pontos. 2012. ISBN 978-9975-51-400-2.*
3. Botnarenco I., *Valoarea terenurilor – oglinda economiei. Iasi. Simpozion stiintific international GEOMAT 2013. Culegeri de lucrari stiintifice, 2013. P.13 ISBN 978-606-685-243-2*
- 4.[PDF] [https://en.wikipedia.org/.../History_of_English_.../History of English land law - Wikipedia, the free encyclopedia.](https://en.wikipedia.org/.../History_of_English_...)
- 5.[PDF]*The Land Registration System in Italy Principles ...www1.agenziaentrate.gov.it/.../italianp.../DE%2....*
- 6 [PDF] *Overview of Swedish Cadastre System-BGIS 2012 fght.utm.my/.../21-Overview- of-Swedish-Cadas.....*
7. *Registering Property in France - Doing Business - World ... www. doingbusiness.org/.../registering-property/ ..*