

A world-class one-stop shop: The story of property reform in Belarus

In the early 1990s, as a fast-growing, newly-independent economy, Belarus knew that it needed to create a more favorable business climate in order to attract both domestic and foreign investment and sustain economic growth. Aware of its shortcomings, the Belarusian government set out to implement systemic reforms to develop small and medium-sized businesses, attract foreign investment and simplify procedures the public sector. The ultimate goal, as stated by President Alexander Lukashenko, was to make Belarus a competitive player in the international arena by 2010.

One of the reforms envisaged was the overhaul of the nation's onerous property registration system with a "one-stop shop." The purpose of a one-stop shop is to ensure faster registration and cut unnecessary administrative procedures by centralizing the registration process within one agency. Reforms started in the late 1990s and gradually made Belarus' property registration system one of the most efficient and sophisticated in the world. When finally completed in 2007, the World Bank and International Finance Corporation's annual *Doing Business* report acknowledged this by ranking Belarus 14th in the world on the ease of registering property¹.

In order to understand the modern property registration reform in Belarus, it is necessary to recall the legacy of its previous land and property administration systems. Two distinctly different periods are relevant here: the Soviet period from 1917 to 1990 and then the transition to a free market economy from 1990 that continues to this day.

The Soviet era's legacy

The key characteristic of the Soviet land administration system was full state ownership of all land and property resources. The Soviet Union's Decree of the Land of 1917 nationalized all land, abolished private ownership of land and real estate and transferred the land to those working it.² From the moment this decree was adopted in November 1917, all property transactions were prohibited and all real estate in the country valued over a limit set by local administration was confiscated and put under state management.

In the Soviet Republic of Belarus, the management of land resources and construction was carried out by 5 different agencies. In 1925, a further division of land and real estate was introduced: all resources were separated into those under the jurisdiction of local administration—in other words, municipalized property—and those under the jurisdiction of the central Soviet administration and its territorial subsidiaries—in other words, nationalized property. The administration of property thus fell to the municipal or national government; it was a public responsibility. The term "real estate" was abolished together with the separation of property into movable and immovable categories in the Civil and Land Codes of 1922 as land became the sole property of the government.

¹ *Doing Business* 2009 Report, The World Bank/International Finance Corporation

² The Supreme Soviet of the USSR's Decree of the Land, adopted on October 26, 1917

The main features of the property registration process in Soviet Belarus, common to other former Soviet Republics, were the following:

Property Rights: Rights regarding immovable property were vaguely defined or not defined at all in civil legislation. Furthermore, land laws and rights to immovable property generally were not well understood.³ Rights to own personal residences and land plots for personal use were the best defined and most understood. Rights of lease, mortgage and rights to non-residential property were the least defined. Rights to non-residential structures and land had changed little since the Soviet era, and were based upon an antiquated right of usufruct⁴ generally unsuited to private markets in real property.

Law of Registration: The registration of immovable property lacked a clear legislative basis. Many legal issues were simply not addressed because practice had been given priority over a theoretical legal framework. In the absence of a general law governing the registration of rights to immovable property, the legal implications of registrations (or of failing to register) were not clear and most procedures remained undefined.

Multiple Registries: The collection of data and registrations was the responsibility of a number of different bureaucracies. While responsibility for the registration of rights to immovable property legally lay with local governments, in practice it was delegated mainly to two agencies: the Bureau for Technical Inventory (BTI)—for buildings and portions of buildings—and local branches of the Land Committee—for land. Each operated a separate registration system and there was no interface between them. Several other agencies—including the Ministry of Architecture, Construction and Infrastructure—were involved in immovable property cadastre and inventory and claimed their right in the implementation of property registration.

Juridical Data: The amount of information available on immovable property rights was extensive, considering the separate files of local governments, the Land Committee, the BTI and the Ministry of Architecture. However, the reliability of information held by the various registering agencies was generally not very good. For example, on the basis of early reviews of data, roughly 25% of the existing records held by the BTI were erroneous or incomplete and could not serve as the basis for registration of rights. Problems existed particularly in the use of identifiers such as addresses and inventory numbers.

Geodesic Data: A wide range of geodesic data of varying quality was held by different organizations. Accurate maps of Belarus in scales ranging from 1:500 to 1:10,000 could be found. However, some important and potentially useful maps and geodesic data—including the coordinates of the national geodesic grid—were not available, due to security restrictions originating under the laws of the USSR. Multiple agencies had some responsibility for creating and collecting geodesic data. Moreover, some of the state entities responsible for gathering and managing geodesic data had already been converted into profit-oriented entities or had been left to finance themselves due to budgetary constraints.

³ Stephen B. Butler, “Registration of Rights to Immovable Property in the Republic of Belarus: Issues of Law and Administration in the Former Soviet Union,” available online at http://sfrc.ifas.ufl.edu/geomatics/publications/land_conf96/Butler.PDF

⁴ Right of usage

Unnecessary Bureaucracy: State agencies were involved in all aspects of private transactions in a way that was inefficient and questionable. In most cases, the parties to a private-market secondary transaction had to obtain various certifications and approvals from state agencies before they could complete their transaction. Many economists view this as rent-seeking on the part of bureaucracies with the power to prevent a private transaction unless they were paid a fee or tax for their superfluous services.

The post-Soviet era and the need for change

With the collapse of the Soviet Union and Belarus' declaration of independence in 1990, the country found itself in transition—moving from a state-controlled economy to a market-oriented one. With “liberalization, stabilization and privatization” as the 3 pillars of its new economic policy, the country entered into a period of constantly evolving regulations aimed at streamlining and simplifying procedures, most of which were rooted the policies of the Soviet era. One of the priority areas targeted for reform was the property registration system.

The transitional period of the early nineties lead to the reestablishment of market-based real estate. The term “real estate” had reappeared in 1989,⁵ at a time when the country was undergoing major changes. New regulations called for self-financing of properties and introduced economic relations between the government and the public while several reforms of the land administration and management system were implemented. The following summarizes some of the major regulations:

- Reorganization of the established Soviet system of property use and transfer;
- Significant increase of tariffs on all communal services and maintenance for residential as well as now commercial property;
- Gradual privatization of state and municipal estates;
- Creation of a real estate market; and
- Modernization of existing administrative, organizational and legal structures aimed at responding to the new market economy.

But despite these changes, property registration in Belarus remained a complicated, multi-step process that lacked transparency and involved many layers of duplication. At the same time, the real estate market was on the rise and the system was clearly falling short of handling the demands placed upon it. The deputy head of the State Committee of Property (then the Committee of Land Resources, Geodesy and Cartography), Andrei Gayev, recalls the enormous lines in front of his building. People would arrive at 5am in order to get in line for a property transfer, he says.⁶ It was obvious that more needed to be done to improve the situation.

Reforming the registration system

Discussions regarding how to reform Belarus's registration system started in 1994 under the sponsorship of the Ministry of Housing and Communal Services (MOH), supported by a

⁵ Russian Soviet Federation of United Republics Council of Ministers of adopted Decision № 235 on June 29, 1989

⁶ Interview with Mr. Andrei A. Gayev, Minsk, Belarus, September 2008.

\$200,000 grant from a number of international donors. The privatization of real property was considered an essential element of the privatization of Belarus's economy. Building on this premise, the project sought to establish a transparent and legally binding system that recognized and protected ownership rights to immovable property.⁷ Many economists agree that well-administered property rights unlock the value of land and encourage economic development.⁸ This was thinking behind the first project that sought a unified system of property registration in Belarus.

The proposal to unite Belarus's various registration agencies was developed over the course of 1995 and 1996 and then submitted to the Belarusian Supreme Soviet for consideration. The Supreme Soviet was, however, slow to respond. Serghei Shavrov, Head of the National Cadastral Agency, who was closely involved in the process from the outset, attributes this to the Supreme Soviet deputies' lack of support or interest in the project.⁹ Interest in the project finally picked up in 2000 with the help of Kiril Halopik, a deputy who was committed to pioneering the project. Then, representatives from the Ministry of Justice, the National Centre of Legislation and Legal Research, the National Cadastral Agency and the Committee of Land Resources, Geodesy and Cartography (Komzem) formed a 10-member working group. For almost 2 years, the group worked on a model for the unified agency's operations. They met at least once a week, but as the project neared completion their meetings took place on a daily basis.

The working group studied a large number of countries—including Russia, Sweden and Latvia—whose property registration systems featured international best practices. As the working group saw it, the main task was to eliminate all the layers of duplication that complicated Belarus's registration process. Instead, they were to create a simple system where applicants would interact with a registry only twice: once to submit their application and again to pick up their title. In other words, the newly designed system would operate based on the one-stop shop principle. All documents required for the application would be submitted to the registry by the applicant, while the required follow up with other agencies would be done directly by the registry's authorities. The registry, in its turn, would process applications and provide, within the timeframe required by law, the documentation certifying the applicant's right to the property.

That goal was finally achieved in 2002 to 2003 with 3 major milestones. First, on May 7, 2002, Registration Act No. 133 was enacted. The Act delegated the task of property registration to a central government agency and *de jure* ended the separation of rights regarding land and the attached buildings. The Act also called on property and land owners to register their property in the new unified register. According to the Act, registration documents were to be submitted to a single agency instead of to a host of different agencies for approvals. But it wasn't until December 2002 that the agency assuming this huge responsibility was named. Presidential Decree No. 603 of December 10, 2002 designated the Committee of Land Resources, Geodesy and Cartography (Komzem) as the agency responsible for registration of all transactions in the area of real estate—including immovable property, land, buildings and structures. The new system was to become operational in May 2003.

⁷ Stephen Butler.

⁸ Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (2000).

⁹ Interview with Mr. Serghei Shavrov, Minsk, Belarus, September 2008.

Upon publication of Decree No. 603, Komzem immediately set to create a unified registry combining records on land plots and properties from the BTI and the Executive Committee of the City of Minsk. All the records were entered into Komzem's database. The registry was to operate on a centralized basis, uniting 7 regions—6 in various oblasts (or, provinces) and one in capital Minsk. It would include 125 field offices. Information was exchanged electronically between agencies as well as with clients and registration information could be accessed online. Before rolling out the system across the country, Komzem decided to pilot a project in the city of Gorodok in the Vitebskaya region.

The pilot project was a success and, starting later that year, the one-stop shop was rolled out to the rest of the country. At the same time, Komzem drew up legislation defining the operation of agencies subject to the one-stop shop and these agencies' relationships with physical and legal persons. Many administrative procedures were simplified and documents defining how these procedures should take place were drafted from scratch.

Overcoming the obstacles – property registration in Belarus today

Gayev, who supervised the implementation of the one-stop shop from its first pilot to its expansion to the rest of the country, says there were a couple of major difficulties they encountered. According to Gayev, one problem was staffing: "With the opening of new offices, the committee realized that it didn't have enough qualified staff. In fact, only one-fifth of the agency's staff was in compliance with the new law's education requirements, which also specified that officials working in the agency would require training every 3 years" recalls Gayev. In order to address the problem, the agency had to go through an intense recruitment and training program. The effort worked: soon the agency managed to bring its staff to the desired level. Another challenge was extending the one-stop shop to rural areas, which started on January 1, 2006. Some rural areas posed a particular challenge because land had not been surveyed. Officials of rural land and geodesy agencies started to survey land plots in these areas.

Later that year, in May 2006, Presidential Decree No. 289 merged Komzem with the Fund of State Property, creating a new agency called the State Property Committee of the Republic of Belarus.¹⁰ The decree vested this new agency with the authority to implement all state policy in the field of land relations, geodesy, cartography, state property registration, rights on property and property transactions. Kiosks with up-to-date information have been set up in every office of this new agency as well as its subordinate organizations.

Also in May 2006, the newly created State Property Committee launched a website describing the type of services it renders, its fees and the time required to provide these services.¹¹ The State Property Committee also set up information kiosks and electronic systems to manage its lines.

¹⁰ Presidential Decree No. 289 of the Republic of Belarus: "On the Government Structure of the Republic of Belarus," May 5, 2006

¹¹ <http://gki.gov.by/>

The working hours of State Property Committee officials have been expanded to fit the customers' needs; Saturdays and, in some places, Sundays are now working days.¹²

In order to meet increasing demand, the agency's buildings were renovated and its equipment—including hardware and software—upgraded. Data on registered properties and their ownership has been transferred to an electronic format, centralized in one central property registry and connected to all field offices. As of late 2008, the database in the central register had been updated regularly by the registrars.

Today, the State Property Committee employs over 700 registrars and holds information on 4.1 million real estate objects (including land lots, buildings and insulated spaces), the rights and rights limitations on these objects, as well as past transactions. The process of registering property in Minsk is now highly efficient: It takes, on average, only 21 days and 4 steps.¹³ The country can now serve as a role model for other countries seeking to reform their property system.

¹² Presidential Decree No. 2 of the Republic of Belarus: "On Further measures of de-bureaucratization of the government structure," December 27 2006.

¹³ *Doing Business 2009*, International Finance Corporation/World Bank