

Self-financing of the cadastral services

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Abstract:

Self financing of Cadastral service is a cornerstone of sustainable land administration as it provides graphical and textual inventory of property rights over land, buildings, parts of buildings and utilities.

The authority entrusted with providing cadastral services in Kosovo is the Kosovo Cadastral Agency (KCA), established by UNMIK Regulation No.2001/19. General conditions of the activity and the ways of organizing were regulated by the Law on Cadastre. This law was amended, supplemented, and adapted to the conditions and social circumstances of the market economy, as well as the efforts to harmonize with the best experiences of the developed countries.

KCA is a well established organization, however, it needs further improvement and institutional changes to meet current development challenges. Municipal officials are selected, funded and managed by municipalities that are by different political party. Development plans are created depending on the political entity that manages the municipality, which shows that cadastral service does not depend on central development policy created by the KCA, but depends on policies and municipal developing plans that are not unique to the country level. This type of land governance undermines sustainability of land administration system and creates disproportional treatment and discrepancy in development through financing of the services by the Municipal budget and support from the Kosovo budget as well.

The Kosovo experience as well as the experience of other European Union countries demonstrates that the cadastral activity should be managed vertically and using incomes from the fees of provided services. This way of organization has proved to provide better development, sustainable financing, create functional organization and reliable service for the inventory of real property, having in consideration for investment in accordance with principle of self financing using current fees approved from the Minister of Environment and Spatial Planning in Kosovo.

Under the growing market economy, sustainability of KCA as an administering institution of the immovable property registration is becoming critical as it has a significant impact on social and economic development of the country, without implementing of the self financing system for provided cadastral services.

Key words: Cadastral services; Self financing; Sustainable finance system; Cadaster products; Fees for cadastral services

I. INTRODUCTION

The armed conflict in Kosovo has significantly devastated the cadastral system of the country. The Cadastral documentation, in most municipalities of the country, has been taken from Kosovo by the government of Serbia, during the withdrawal of the police and military forces.

Cadastral services are dynamic, with the permanent need for development. Good practices and results presented in the Congresses of the International Federation of Geodesy (FIG) and annual conferences open and examine the experiences of all member countries, as well as open new horizons for the development of cadastral service [1]. The organizing forms and ways of ensuring sustainable financing of KCA require the application of a proper Governance structure, technical, technological innovations and adoption of international best practice.

According to the UNMIK Regulation no. 2000/45 on self-government of municipalities in Kosovo, Article 3 Paragraph 3 regulates that: “The municipality shall also be responsible for implementing Central Authority regulations including cadastre records, civil registries, voter registration and business registration [2]. Commensurate resources shall be made available to the municipality by the Central Authority for these purposes.”

II. CURRENT SITUATION

The Services provided by the Municipal Cadastral Offices (MCOs) and licensed companies are regulated by the Law on Cadastre [3] as well as administrative instructions, regulations and guidelines. According to the article 18 of the Law No. 03 / L-40 on local self-government, central authorities delegate responsibility, in accordance with the law, for the cadastral data, but cadastral activity is not under the management of the municipality, as referred in Article 17 of the law [4].

KCA is a state budget funded organization meaning that it derives its operating costs from the Kosovo Government. Its development was achieved by the support of the central government and donor support, below is presented the chart with the incomes from Kosovo budget and donors (grant and loan).

Donor aid as a source of financing in the KCA budget for 2013, has decreased, although it is admirable the enhanced aspect of infrastructure in some MCOs for the unique exercise of the activities in the country. Currently donor participation in the overall budget is 20% whereas, the source of financing from the loan increases from 21% 2012 to 22% in 2013, whereas Kosovo budget finance is 37 % [6].

Certain fees from KCA products are unlikely to provide sustainable self-funding to the entire cadastral system in Kosovo. According to preliminary evaluations, conducted by KCA, it is considered that there is sufficient budget for

ensuring sustainable cadastral service in Kosovo as stated in the Action plan of the KCA 2014-2017, conducted from the Dutch Kadaster Agency and approved by the KCA at about 5 million Euros per year [7].

In December 2003 the international community (EU, UN) through the "Special Representative of the Secretary-General of the United Nations" Mr. Harry Holker, submitted to the Kosovo authorities the document "Standards for Kosovo". These were the main tasks that Kosovo had to fulfill until 2005. These were the condition to assess whether the "standards are met", based on this would be determined the final status of Kosovo. The document is based on general conditions "A Kosovo where everyone - regardless of ethnicity, race or religion - is free to live, work and travel without fear, aggression or danger and where there is tolerance, justice and peace for everyone" to the requests made to resolve the status, the international response was that there should be "standards before status" for international recognition of independence. It was point: 6) property rights, which among other things was being fulfilled with the production of relevant documents for securing property rights in Kosovo.

The Ahtisaari Statement states that decentralization is needed as an opportunity to provide cadastral services to the citizens in the municipality as a continuation of the implementation of UNMIK Regulation 2000/45, and as application of the principle 8 and 9[8] of the Contact Group for Kosovo. Annex III - Decentralization, Article 5 (Powers delegated to municipalities) says: Central authorities in Kosovo shall delegate the following power to municipalities:

- a) cadastral records;
- b) civil registries;
- c) voter registration;
- d) business registration and licensing;
- e) distribution of social assistance payments (excluding pensions); and
- f) forestry protection.

III. CREATING REVENUE FROM FEES

Fees for cadastral services are designated as cadastral value for reimbursement of necessary expenses for the issuance of cadastral products. The rates in most of the country are economically reasonable, in small municipalities do not provide sufficient revenue. By collecting the incomes from fees and their distribution at the country level, the cadastral service can be organized and not become a burden of municipal incomes and Kosovo budget. In case of organizing the own funding system, it will be provided the funding for unique service and equal cadastral development at the country level.

Achieving self-financing and improving quality of services through vertical organization of KCA will be a priority and a challenge. KCA needs to focus on implementing of the following activities: application of KCLIS in all cadastral offices; systematic registration of the Real Estate throughout the country; development of the state infrastructure for cadastral data and Geoportal; quality management, the implementation of the business model and the development of the management system; human resource development and the advancement of information technology; as well as institutional development, network, management based on best practices and public awareness.

Real Estate and Cadaster and Registration Project (RECAP) in the cadaster is implemented in cooperation with the Government of Kosovo and the World Bank, and aims to assist the Government of Kosovo in establishing and strengthening the capacity of the Kosovo Cadastral Agency to develop property issues through the development of the activity of registration and cadaster.

To ensure long-term sustainability of Land Administration System in Kosovo, it is important to establish registration and cadaster system, which includes appropriate institutional arrangements, financial and technological, and which will be a unified system in the entire country.

IV. FINANCING OF THE KCA AND MCOS

Funding of the KCA is done under Article 30 of Law No. 04 / L-013 for Cadaster. KCA has a separate budget within the MESP approved by the Assembly of the Republic of Kosovo. KCA prepares the budget, submits it to the MESP for review and further processing. KCA is responsible for implementing and managing the budget established by Law for the budget.

KCA will cover costs through certain designated funds with the budget of the Republic of Kosovo. It ensures the acceleration of the development by entries, in accordance with applicable Law on Financial Management and Accountabilities [9].

Costs for the operation and development of the KCA activities are very original. Budget revenues, for wages and salaries as goods-services by years are presented in Annex 1.

The cost of cadastral products will be borne by the applicant (the owner or the person authorized by him). KCA propose to the MESP Proposal - fees through which are covered the necessary expenses (in the average of the MCO) generated by MCOs and KCA. Approved tariffs for cadastral products are unique for the whole country whereas they cover or cause loss depending on the size of the territory and services provided by MCOs.

Incomes generated in 2013 compared to previous years have increased, they are higher than in 2012 by 21.8% and compared to 2011, are higher by 20.81%. The annual growth rate is 10%. Own source revenues of this sector are 99.12% of all incomes generated by the country level created by MCOs. Prishtina leads with 16%, Prizren 17.8%, Ferizaj 7%. A chart on the status of incomes from offering the cadastral products is presented in Annex 2.

With the complete collection of fees for services can be provided by MCOs and KCA can be organized and managed as a self-financing institution. The experiences of countries in the region represent good experience in organizing this

management method. Self-financing of the cadastral service unloads the annual budget of the KCA and covers expenses for sustainable activities of the MCOs.

In accordance with article 58 (municipal incomes), paragraph 3, all amounts deposited and that meet the definition of "municipal own source revenues" are the revenues dedicated to the respective municipality. These revenues are allocated to the relevant municipality in accordance with the proposed budget and its request for budget appropriations. MCOs are part of the municipal departments; as such in large municipalities generate revenues that are larger than necessary funds to cover the costs. Revenues taken from cadastral products are income generated from the sale of services that are systemized, maintained and updated in the KCLIS unified system, managed by the KCA.

All revenues deposited into the official bank account of the municipality shall be transferred, in the manner and within the time specified in the Rules of Financial Monetary Commission (FMC Rules), in proper account of the Kosovo Consolidated Fund.

Pursuant to Law No. 03 / L-049 on local government finances local [10], incomes are in accordance with Article 5 as delegated competences. While Municipal Financial Resources are done through:

- (i) municipal own source revenues,
- (ii) operating grants;
- (iii) grants for enhanced competencies,
- (iv) transfers for delegated competencies,
- (v) extraordinary grants,
- (vi) financial aid from the Republic of Serbia, and
- (vii) incomes from the municipal borrowings. [11]

The provision that provides municipal revenue collection and use as own source revenues for the sale of cadastral products are the provisions:

- Municipal taxes, fees, usage fees, other payments for public services provided by the municipality, and regulatory charges and fines authorized under this law; and
- Revenues collected by any agency, department or organization of the municipality as a result of the provision of any product or service.

Provision, that in general form regulates this field. Whereas, the Law on Cadaster in Article 4 regulates: KCA is responsible for the administration of national computerized system that collects processes and distributes cadastral data.

Article 16 regulates the fees for the issuance of certificates and official documents, in accordance with that, that the municipalities may establish a fee schedule to be determined for the issuance of (i) certificates or other official documents, such as marriage certificates, birth certificates, divorce certificates, social and economic situation and other similar certificates. In the provisions of the law is not included the income from providing cadastral services for the KCA and MCO products.

Currently for goods and services, for which are collected fees by municipalities for cadastral products, offers the products that are under the authority of the KCA. Thus, KCA products are sold while collected funds are used at the municipality level leading to a situation where there is a lack of establishment and maintenance of cadastral service.

Incomes from fees for providing cadastral products can support the technical and technological development of cadaster as well as the regulation of social status of civil servants in the cadastral sector managed by the KCA.

V. RECOMMENDATIONS

Changing the provisions of the Law on Cadaster in terms of service management in Kosovo cadaster, giving the authority to the management of the KCA that in the professional aspect

manage the whole system of cadaster and the immovable property rights register uniquely at the country level. KCA should be obliged, to ensure in each municipality the organization for providing the services.

I consider that all legal provisions in Kosovo are not an obstacle to regulate this form of management. Drafting of a new Law on Cadaster, Integrating the Laws on Cadaster, on Mortgages and on Immovable Property Right Register, will better regulate this issue.

The level of fees should reflect the cost done for cadastral services. All incomes generated by KCA will go into the budget of the Republic of Kosovo.

The draft law will propose a new institutional setup of KCA, integrating MCOs under the one agency to allow development of unified land registration institution. The law will also allow transition of KCA from budget finance to self-financing scheme. Self-financing system will also be proposed to start with parallel financing, until complete transfer to self-financing is achieved.

Currently, it is approved the concept document for drafting the new integrated law on cadastre, which will include the law on cadastre, the law on registering the immovable property rights and mortgages. The draft law will regulate the vertical organization of cadastral services and the own-funding system as a sustainable source of funding. It is recommended the implementation of the procedures for the draft law during 2015, whereas it is expected to be approved by the Assembly of Kosovo during 2016. The implementation of the vertical system is expected to be done during 2017.

In terms of the financing, two options are suggested:

Centralized institution where all fees go to the State Budget and the state allocates money to KCA and MCOs

Second option is that all incomes go to a KCA account and KCA decides how to spend this money on the different MCOs. There are clearly defined functions at the municipal level and only the cadastral functions report to KCA and only

they receive KCA funding. There can also be an additional contingency measure – in years of surpluses, KCA can channel the income back to the State Budget. In case of a deficit, KCA can receive some funding from the State Budget.

VI. CONCLUSION

MCO is a municipal body, not under the supervision of KCA, which is responsible for implementing activities under the cadastral responsibilities delegated by the KCA, provided by law for cadastre and administrative guidelines issued by the KCA and the MESP. MCO activities are performed separately and recorded in the KCA's central database while KCA has no control over the leverage (management mechanisms) for the MCOs management, the quality of services provided by the MCO, the MCOs funding, in the development policy and its human resources.

To ensure long-term sustainability of Land Administration System in Kosovo, it is important to inaugurate a unique cadastral registry system, which includes institutional adjustment, financial and technical advancement - technological uniquely at the country level.

KCA organized along with the current MCOs, should function as unique organizational structure at the country level, for providing cadastral services and immovable property right register. The funding should be removed from the Kosovo budget and switch to self-funding, as integrated institution as a whole and vertical structure for the whole country.

Land administration (cadaster and registration) should be separated from land management activities (sale of land, land use and urban and rural planning, land use monitoring, property legalization, and the treatment of illegal constructions).

The decentralization of management responsibilities is important and functional when applied the difference between the functions of central and local government. In line with the

decentralization process in the country, land management functions should stay within the local government bodies (municipalities), which according to the needs establish appropriate special directory, while recognizing the rights of the ownership and its protection bear the central government.

Termination of the land administration system in other units that are not under management structure creates an inefficient system and below the average. Cadastral system in Kosovo is unsustainable and inefficient as registration service, depending on local self-government bodies.

The appropriate and sustainable development of the property rights system is impossible, within the existing institutional arrangement. Otherwise we would have an inefficient system, unreliable, and not unified for the entire country. Even if, the system efficient operations are achieved on time, long-term sustainability of the system will be under pressure, as in the key objectives of the municipality and the registration of real property rights, get into conflict with each other. KCA is not involved and has no effect on appointing and preparing the MCOs staff. In case the preparation is done by the KCA, evaluation of their education and their work appointing (if appointed) is done by municipal structures and in accordance with the policy of the municipality without allowing the KCA to influence or without the consent of the KCA. KCA's trainees and even MCO heads, may be dismissed from the municipal structures without the consent of KCA.

The foundation of the independent system that works well is financial sustainability. The financial aspect is important not only for increasing KCA's revenues, but also to motivate the staff, to make sure that the quality of the products offered and services to the clients has increased. The aspect of financial independence or dependence of funding from the quality and quantity of the cadastral products delivery will have a positive impact on the quality with the possibility of having an impact on their incomes too.

Service fees for the issuance of cadastral products should be calculated depending on the average costs necessary for the provision of those services, plus the degree of moral and technical obsolescence of technical equipment as well as technical and technological development in the KCA system.

KCA must continuously record and analyze service fee for cadastral registration, price information should be harmonized with the costs of service delivery and customer needs (payment option).

An institutional agreement with all the relevant entities for land administration and good management, internal, organization based on best experiences of other countries, are sufficient for the sustainable development of the land administration system.

Management should also focus on re-organizing and internal protocols (simple, fast, and affordable) in order to reduce the number of informal transactions in organizing and increasing of the KCA revenues, as the direct impact on the development of land administration and the real estate of market at the country level.

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[7] Five Year Business Plan for sustainability of Kosovo Cadastral Agency KI/2012/9000860 Strategic Business plan Kosovo Cadastral Agency 2013-2017, page 6.

[8] The resolution of Kosovo's status should promote effective mechanisms to strengthen Kosovo's ability to enforce the rule of law, to fight against organized crime and terrorism and to safeguard the multi-ethnic character of the police and judiciary. The solution should ensure that Kosovo can be developed in a sustainable way, both economically and politically, and that it can cooperate effectively with international organizations and International Financial Institutions. (http://www.unosek.org/docref/2005-10-07-Contact_Group-Ten_Guiding_principles_for_Ahtisaari-english.pdf)

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[10] Law no. 03-L-048 for the management of public finances and responsibilities

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