

Country Studies:

Real Estate Privatization in Selected Eastern European and Eurasian Countries

Prepared for presentation to the Workshop
on "A Land Privatization Index," held in
Minsk, Belarus, 21-23 August 2000



B A S I S

■ Broadening Access and Strengthening Input Market Systems

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Land Tenure Center
University of Wisconsin, Madison

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These country studies were prepared for presentation to the Workshop on “A Land Privatization Index”, held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

The purpose of the workshop was to discuss the feasibility of gathering and publishing statistics on the extent and/or rate of land and real estate privatization in countries and/or regions of countries. The country studies present: (1) the concepts used in the “privatization” of real estate (immovable property), (2) available statistics on the extent of “real estate privatization” carried out since 1990. The workshop participants discussed the comparability of these concepts and statistics across regions and countries.

A report presents a summary of these discussions and recommendations about Real Estate Privatization Indicators, and is titled: “**Estimating the Extent of Real Estate Privatization in Transition Countries**”, authored by J. David Stanfield, Daniel Bromley, and Andrey Kutuzov, Land Tenure Center, University of Wisconsin-Madison, March, 2000.

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Country Studies:

1. Land Privatization in Albania

Kathrine Kelm, Petrit Harasani and David Stanfield with Fioreta Luli, Llukan Puka, Malcolm Childress, and Dwight Haase

2. Legal Aspects of Land Reform in Azerbaijan

Amin Ismailov

3. Legal Forms of Privatization for Various Types of Land and Real Estate in The Republic of Belarus

S.A. Shavrov and A.A. Zharnovskaya

4. Land Privatization in Georgia

David Arsenashvili

5. Land Privatization and Land Markets in Lithuania

Bronislovas Mikuta

6. Privatization of Property in The Republic of Moldova

Ala Climova

7. Development of Private Landownership in Russia

Alexey Overchuk

8. Comparative Statistical Background Information Land Privatization Index Project

Andrey Kutuzov

BIBLIOGRAPHY

“Bibliography on Property Rights and Privatization”, prepared by Angel Nickolov.

LAND PRIVATIZATION IN ALBANIA¹

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1. INTRODUCTION

Albania has a population of approximately 3.2 million, of which an estimated 40 percent now resides in urban areas. The country has a total land area of 28,700 square kilometers, with the following breakdown:

Agricultural land	7,000 km ²
Forest land	10,500 km ²
Pasture land	4,200 km ²
Nonagricultural land	7,000 km ²

(including urban areas, roads, quarries, rivers and lakes)

Following the approval of the 1976 Constitution and decades of effort to socialize the ownership of all real estate, no private ownership of land or buildings formally existed. The Hoxha regime established one of the most extreme forms of socialism in Eastern Europe.

Reform began in 1991 and consisted of various programs of land privatization.² By 1999, more than 3 million new properties have been created, the majority of which is under private ownership. Approximately one-third of these properties is located in urban areas. This transformation has been widely supported politically, even though there is more consensus about

¹ A previous version of this paper was prepared for presentation to the Workshop on “A Land Privatization Index”, held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison. This version was finalized in December 2000.

² We define the term “land” when analyzing privatization as the surface of the earth and structures attached to it. The Albanian term “immovable property” is more precise. In English, the term “real estate” is equivalent.

the rejection of the dictatorial Hoxha regime than about what a market oriented economy and political democracy actually require in terms of land tenure, land use, and development. This paper reviews the history of land privatization, some of the problems that have arisen, and the current structure of land ownership in the country.

The overall framework for privatization was established by Law 7512, *On Sanctioning and Defending Private Property, Free Enterprise, Private Independent Activities, and Privatization* (August, 1991). A significant policy decision of the Albanian Government is stated in this law:

“All sectors of the economy are open to private activity including state-owned institutions and other units, with all of the following fields of activity being converted to private property; industry, handicraft, agriculture, building, transportation, banking services...etc.”³

This was a significant step for the government to take and embodied the ideas that paved the way for the massive privatization Albania has experienced in the last decade. The law puts a minimum amount of restrictions on privatization. It also establishes the National Privatization Agency to oversee the transformation of ownership through sale to employees, auction, distribution of shares and other methods. By the end of 1992, a very rapid privatization of retail trade and service establishments, such as food, household goods, and clothing shops resulted in 75 percent private ownership.⁴

During the initial stages of privatization of these establishments, the government generally transferred ownership of non-land assets only. A number of issues concerning the land had yet to be dealt with, the most significant being the nature and extent of restitution to the ex-owners. As in other countries, efforts were made from an accounting perspective to place a value on the equipment and buildings of the enterprises, and then transfer the ownership of these assets as indicated above. The land issue was left for later resolution.

Concerning agricultural land, however, privatization proceeded on a *de facto* basis until the Law *On Land* was approved by the interim coalition government in 1991. The land privatization process began officially with this distribution of agricultural land, but was soon expanded to include other efforts, as described below.

2. REVIEW OF LAND PRIVATIZATION LEGISLATION

2.1 AGRICULTURAL LAND

Land privatization began with the approval of Law 7501, *On Land* (July 1991), for the assignment of agricultural land and land used for housing in villages to resident farm families. The first stage began with the distribution of agricultural land from the former agricultural cooperatives. The Law *On Land* granted ownership rights of agricultural land free of charge to families living on the ex-cooperatives and it granted use rights to the families working on state

³ Law 7512, Article 3.

⁴ Hashi, Iraj and Lindita Xhillari. 1999. “Privatization and Transition in Albania,” *Post-Communist Economies*, Vol. 11, No. 1, p. 107.

farms. Those families who were resident on the ex-cooperatives but were not permanent members of that community, often teachers, medical staff or scientific personnel, received use rights.

Land was distributed according to the available agricultural land and the number of persons living in the villages, based on a per capita allotment. The total area assigned to each family was determined by multiplying the number of family members by the per capita allotment. The intent of the law was to distribute all land proportionally to every family according to the number of family members as of August 1, 1991. Agricultural lands, irrigated and non-irrigated, with differing slopes and quality were given size equivalents to make distribution more equitable and there were special distribution criteria for fruit orchards, olive trees and vineyards. Agricultural land within the village boundary lines and not occupied by buildings was given in use rather than in ownership.

This meticulous attempt to equally divide the various types and qualities of land contributed to the problem of land fragmentation. Families generally own several small parcels of land that are scattered over a wide area. This fragmentation inhibits many farmers from using land efficiently.

The legal document for privatization of agricultural land is called a *Tapi*. The *Tapi* lists the location and description for each parcel of land given to the family along with the name of the Head of Family. The *Tapi* is signed by the Village Elder, the Head of the Land Distribution Commission and the Head of Family. The *Tapi* is currently used by the Immovable Property Registration System (IPRS) to complete official First Registration of rural properties.

One criticism of the legal and procedural privatization of agricultural land is the fact that although the land belongs to the family, the *Tapi* lists only the Head of Family. Furthermore, legislation assigns the right to transact business concerning the property to the Head of Family only. Concerns have been raised regarding a Head of Household who may alienate or burden the family property without knowledge nor consent of the other members or act in other ways to the detriment of the family.

The Law *On Land* gave land “in use” to the workers of the state farm enterprises. The idea behind offering use rights for state farm land was to reserve this land for foreign investment. However, after potential investors declared their intention to replace much of the existing work force through mechanization, the government realized an unacceptable level of workers would be displaced. Finally, the government granted ownership rights to the workers through Law 8053, *For Transferring Ownership of Agricultural Land Without Compensation* (December 1995). The law converts use rights to ownership rights providing the land has been used properly and is not subject to tourist development nor national experimental or scientific use. About 14,000 hectares of productive agricultural land was not distributed to families under Law 7501 and remain in state ownership. This land is currently being leased according to Law 8318. (see 2.2 below.).

The Law *On Land* initially prohibited sales of agricultural land, however, subsequent legislation provides for the transfer of ownership and other real rights. Law 8337, *On the Transfer of Agricultural Land, Meadows and Pastures* (April 1998), sets out the steps to be followed for the sale of agricultural land.⁵ The new law simplifies procedures for transactions although it still

⁵ A previous version of the law was passed in 1995, however, the procedures were too complicated to allow for efficient transfers.

prohibits foreign ownership of agricultural land. The law also attempts to protect the rights of family members by regulating the documents required for transactions. The Head of Family must present a certificate of civil status, verified by an attestation by the local government,⁶ as well as a notarized power of attorney from all adult members giving the Head of Family the right to complete the transaction on their behalf.

The debate over restitution of agricultural land continues, especially in election years. There are some villages, especially in the North, which refused to follow the legal requirements of land distribution, opting instead to distribute the land to the former owners or their heirs. However, these cases are a minority and have not had a significant impact on the main agricultural growing areas or the new land market. It has, however, delayed the process of systematic First Registration because no *Tapi* has been issued for the *de facto* distribution of land.

Although land distributed according to Law 7501 is not subject to restitution, Law 7699, *For Compensation in Value for the Former Owners of Agricultural Land* (April 1993) recognizes property claims of ex-owners for the purposes of granting compensation for the value of agricultural land. This law entitles all owners or heirs of such land at the time of Law 108: *Land Reform* (August 1945) to compensation which is calculated for land areas up to 15 hectares.

2.2 LEASING OF AGRICULTURAL LAND, FORESTS, MEADOWS AND PASTURES

In 1998, Parliament approved Law 8318, *On Leasing of State Agricultural Land, Forests, Meadows and Pastures* (April 1998). This law allows persons or legal entities, including foreign investors, to lease state-owned land for periods of 10, 30 and 99 years. District Boards are formed to oversee the leasing auctions and decision making. There is no mention in this legislation of the right of the lease holder to transfer the lease to another person, so it is assumed that this right does not exist. Should a lease holder decide to give up the lease, the Board is informed and a new auction to lease the land will be conducted.

2.3 FOREST AND PASTURES

Forests and pastures occupy more than half of the surface area in Albania and are regulated by Law 7623, *On Forests and the Forest Service Police* (October 1992) and Law 7917, *On Pasture and Grazing Land* (April 1995). Although there are both private and state ownership of forests and pastures, only a small percentage was privately owned prior to 1945. Thus, restitution claims are being processed and land returned to the ex-owners but the percentage of such land will be relatively low when compared with agricultural land.

In the framework of decentralization and delegating more authority to the local government, some pilot areas of forests have been given to village residents or associations with rights of use and administration under contractual relations with the Komuna Forest

⁶ The Civil Registry Office issues a certificate which states all registered family members at a particular address. However, due to the poor condition of the registry offices and files, family members must also obtain a confirmation of family status from the local village leaders.

Administration.⁷ The forests are owned by the state and use rights are given to the permanent residents of the village in order to fulfill their needs for wood and other forest products.

According to the law, only permanent residents in the village are entitled to receive use rights to 0.4-1.0 hectares of forest per family. Village residents organized in associations are entitled to a larger area of forests and pastures for common use. The contract signed between the Komuna and the user envisages a utilization period of 10 years, equal to the time frame for the implementation of a management plan.

About 240,000 hectares of state-owned pastures have been placed under the administration of the Komuna. No provision exists to transfer use or lease rights of these state-owned forest and pasture lands to another group or individual. Approximately 18,600 hectares of pasture land and 6,300 hectares of forest land have been restituted to the ex-owners, who hold full ownership rights over them.

2.4 STATE-OWNED HOUSING

In 1992, the government continued the privatization process by passing Law 7652, *On the Privatization of State Housing* (December 1992). The objectives of this law were to completely privatize state constructed housing, to create a free market for dwelling units and other buildings, and to improve the use and administration of buildings. During the communist era almost all new urban housing was in the form of 4-5 story multi-unit blocks. For example, in Tirana these comprise about 56 percent of all properties in the city.⁸

Rights of ownership were sold to adult occupants who had rental contracts with the state as of December 1, 1992. This has led to a problem involving those occupants who were under 18 years of age at the time. Since those who were not 18 are not included as co-owners, they have no legal right to a share in the property. Some families have tried to remedy the situation by completing a gift contract to the younger family members but this requires the payment of notary and registration fees, an official valuation and transfer taxes.

Flats with two rooms and a kitchen built prior to 31 December 1965, flats with one room and a kitchen built prior to 31 December 1970 and those flats which were considered in danger of collapse were given free of charge. In addition, former political prisoners and war invalids did not have to pay for their housing. All other state-owned housing was privatized for a nominal fee, approximately US \$100-\$400 for apartments which subsequently sold for US\$10,000-20,000. These new private owners of apartments were granted the right to sell, lease and mortgage their property.

Occupants of state-owned housing were under no obligation to become owners of their flats although the overwhelming majority chose to do so. By 1995, approximately 230,000 housing units (apartments) were privatized, and less than 10 percent remained in state ownership.

⁷ A Komuna is a local government unit generally consisting of 3-6 villages.

⁸ See Margaret Moores, Malcolm Childress, Fioreta Luli, Dritan Caro, and Llukan Puka, "Emerging Uses of the Urban Landscape in Tirana, Albania," Working Paper, June 1998.

The law provided the option to continue to rent from the state. After 1995, subsidization of rent was discontinued and every 6 months to one year the Council of Ministers can reassess state rental rates. Rental rates in the private sector are determined by the parties involved and are not regulated by the state.

The land on which the state constructed apartment building sits is evaluated as a separate item and is co-owned by the owners of the individual units. The rights and obligations of these co-owners are now governed by the Civil Code. One problem that has arisen with the current boom in building is that many new flats have been sold without indicating whether the common areas are transferred in co-ownership or whether the builder continues to own these areas. Further legislation or clarification of existing provisions is needed to determine whether the builder or the flat owners are the owners of the common areas absent specific contractual agreements. Although many buildings have informal arrangements for maintenance, repair, and cleaning of the common areas (roofs, hallways, stairs, entry ways) more formal guidance is needed when costly repairs and renovations are needed.

2.5 PRIVATIZATION OF STATE ASSETS NOT INCLUDED IN OTHER PRIVATIZATION PROGRAMS

State-owned enterprises are able to establish joint ventures with foreign capital. Both nationals and foreigners are able to engage in private economic activity. Persons who carry out economic activity are able to set their own prices unless a Council of Ministers Decision determines there is a monopoly, in situations of difficulty or scarcity of supplies, or in cases where certain commodities are a vital necessity for the general public. Foreign individuals have the right to transfer assets and foreign earnings out of Albania.

The authority to govern and organize the transfer of state-owned property rests with the Ministry of Public Economy and Privatization that establishes the methods for privatization. Transfers are conducted through auctions, private sale of shares, or free distribution of shares after an assessment of the value has been made. The National Privatization Agency (NPA) is the sole institution authorized to carry out privatization procedures, unless specified otherwise by law. The NPA is supervised by the Council of Ministers.

By the end of 1994, the NPA had transferred approximately 33,000 small scale enterprises to private ownership.⁹ A series of Decisions of the Council of Ministers, particularly No. 248, *For the Acceleration of Privatization of Small and Medium Enterprises* (May 1993) and No 510, *On the Privatization of Agricultural Enterprises* (October 1993) and a strong political support for the privatization of small scale enterprises led to the implementation of rapid privatization. In addition, approximately 4,000 retail business sites in 1991-92 were sold by municipalities to individual or corporate owners in order to stimulate the re-opening of commercial activities at the time of greatest social and economic need.

Subsequent restitution of land and buildings to ex-owners which had previously been privatized by the NPA and Municipalities has created legal requirements for the two parties to enter into lease agreements or co-ownership agreements. Needless to say there have been many

⁹ Hashi, Iraj and Lindita Xhillari. 1999, p. 106.

conflicts which are still unresolved, effectively removing these properties from the market until the conflicts and inconsistencies are resolved.

2.6 MUNICIPAL SALE OF URBAN LAND

The Municipality has the right to privatize land within its jurisdiction according to Law 7980, *On Buying and Selling of Building Sites* (July, 1995), Law 8405, *On Urban Planning* (September 1998), and accompanying regulations. The privatization procedures and corresponding documents vary depending on the year concerned and the administrative division of the city/village. There are more than 8 different procedures used and the accompanying documentation can be different for each category. In general, there are 2 steps in the process, one for the land or building site and one for the building.

The Law *On Buying and Selling of Building Sites* regulates transfers of land which are designated for building purposes. Although Albanian citizens can freely buy and sell building sites, there are some restrictions for foreigners. Foreign persons obtain the right to purchase unoccupied building sites only after they have made investments that have a value no less than three times the value of the building sites as defined by the Council of Ministers. For occupied building sites, foreigners who buy or construct objects whose value is three times more than the price of the occupied building site obtain the right to purchase the site.

2.7 RESTITUTION AND COMPENSATION

Another component in the land privatization process has been the restitution of confiscated property. In 1993, the Government of Albania decided to "recognize the right of ownership to the ex-owners or their heirs (to) properties that have been nationalized or illegally taken by the state" after the communists took power in 1944. Law 7698, *On Restitution and Compensation of Properties to Ex-owners* (April 1993), is complex and at times ambiguous. It addresses expropriation of immovable property only and depending on various factors such as the former and current characteristics of the property, former and current use, investments and current ownership, there are various options for the Restitution Commission to choose from in adjudicating claims. These include "recognition of ownership and restitution", "recognition of ownership and compensation" and, in the case of state-owned enterprises, "recognition of ownership, restitution of land and the right to purchase the enterprise".

The most important aspect of the law is that it pertains to urban land or 'land within the municipal boundaries' expropriated after 29 November 1944. Thus, there is no restitution of agricultural land distributed according to Law 7501. However, as stated in Section 2.1, some villages in the mountainous areas ignored the law and distributed agricultural land to the ex-owners or their heirs.

The principle of the law is to reconstitute urban property whenever possible. If restitution is not feasible, the ex-owner will receive compensation. In general, if the site is unoccupied or buildings unchanged as of April 1993, the ex-owner has the right to restitution. This is also true of sites that contain temporary constructions as defined by the urban planning office.¹⁰ If the site or

¹⁰ A common type of temporary structure is a kiosk, generally used for retail or office space. Temporary permits were issued on a year to year basis in order to encourage private business. However, many of these "temporary"

buildings have been privatized to third persons but remain unchanged, the property will generally be restituted and the state must compensate the third party. If the site is occupied with buildings erected after 1 January 1991, the site is restituted to the ex-owner who then has the right to collect rent from the building owners or negotiate the sale of the site. Restitution is limited to 10,000 m². Former owners with claims over that amount will receive compensation for the excess.

‘Self-help’ compensation is engaged in by individuals who justify their unauthorized occupation of land as fair compensation for expropriated property. This is especially true of the coastal areas and other areas with tourism potential. Since the state has no available cash to give to ex-owners and vouchers are worthless, especially after the fall of the pyramid schemes in 1996, the only readily available option is to accept alternative land.¹¹ However, rather than waiting for an official assignment of land, individuals eligible for compensation are occupying the beach front and building permanent structures for homes, restaurants and hotels. Not only has this hindered the plan for tourism development, but the rampant building is completed without proper zoning and infra-structure such as electricity, sewer and water lines. The coastal waters near these areas are becoming increasingly polluted and the trees adjacent to the beaches are almost completely cut down, increasing the extent of barren lands precisely in areas whose value could be maximized by preserving their natural beauty.

It is clear that the privatizations done legally and in accordance with the various privatization laws have created situations of overlapping claims to land and buildings from more than one owner. Cases have already arisen in which one applicant has a claim to a parcel based on a National Privatization Agency sale while a second claimant to the same parcel has privatization documents based on a decision from the Restitution Commission. There are also claims based on a local court decision, even though this would appear to be legally inconsistent. Restitution commissions, courts, land commissions and the National Privatization Agency have little communication and are not always thorough in their title searches before assigning rights. This has created conflicts between two sources of property rights: those that arise from the privatization of state land procedures and those that derive from the restitution process.

Aside from cases still in the court system, the re-allocation of urban immovable property is now almost complete, although a high percentage of ex-owners of urban land still have additional claims based on assertions that what they have been allocated is not full compensation.

2.8. LAND FOR TOURISM

Law 7655, *On the Development of Priority Areas Concerning Tourism* (January 1993) attempts to outline a strategy for and regulate tourism development. Tourism has great potential

structures have been improved to 1-3 story brick and cement buildings. This causes conflicts between the “temporary” building owner and the ex-owner of the land.

¹¹ Vouchers were certificates issued to former state enterprise workers that could be invested in a company during the privatization process. Many Albanians invested their vouchers as well as other savings in new companies that promised a high rate of return but in reality were part of the pyramid schemes. When the true status of the companies were exposed in late 1996 and early 1997, many Albanians lost all of their savings and a period of violent civil unrest followed.

as a major source of employment and foreign exchange in Albania. However, this law has not been implemented to any significant extent.

3. OTHER LEGISLATION

3.1 THE CONSTITUTION

The Albanian Constitution was approved on 21 October 1998. Three articles of the new Constitution reflect rights to property.

Article 11:

1. The economic system of the Republic of Albania is based on private and public property, as well as on a market economy and on freedom of economic activity.
2. Private and public property are equally protected by law.
3. Limitations on the freedom of economic activity may be established only by law and for important public purposes.

Article 41:

1. The right of private property is guaranteed.
2. Property may be gained by gift, inheritance, purchase or any other classical means provided by the Civil Code.
3. The law may provide for expropriations or limitations in the exercise of a property right only for public interests.
4. The expropriations or limitations of a property right that are equivalent to expropriation are permitted only against fair compensation.
5. For disagreements connected with the extent of the compensation, a complaint may be filed in court.

Article 42.

1. The freedom, property and rights recognized in the Constitution and by law may not be infringed without due process.

3.2 THE CIVIL CODE

The Albanian Civil Code, approved by Parliament in August 1994, defines three types of private ownership; individual, co-owner, and family.¹² Family ownership pertains to agricultural land. The family as a whole, not individual members, holds the vested ownership interest. The farm family is represented in property dealings with third parties by the Head of Family who is elected by its members.¹³ In general, the eldest male is the Head of Family. If an individual member requests his or her share in the family property, a division is made according to the

¹² Albanian Civil Code, (1994), Part II, Articles 199-232.

¹³ Articles 222-230.

amount of property owned by the family, the number of family members, and the individual's contribution to the farm economy. After the shares are calculated, the individual is paid in cash. If an individual requests property in kind for the purposes of creating another farm family and all family members agree, the land itself may be divided.

There is confusion and disagreement among state agencies, private sector parties such as notaries and even among families themselves as to who are farm family members and must therefore give legal consent for any transaction involving the farm family property. For example, there is disagreement over the interpretation of "*documents that certify the composition of the family at the moment of transfer of ownership...*"¹⁴ Some legal experts claim "at the moment of transfer of ownership" refers to the moment of privatization in August, 1991. Others claim that it refers to the moment the current transaction takes place. The Notary Association and the IPRS have attempted to clarify the situation by requiring a certificate of civil status for family members and an affidavit from the local government at the moment the current transaction takes place

A second problem arises when the Head of Family dies. It is not clear whether the family should name a new Head and, if so, the procedures for doing so or whether the family can agree to divide the property and turn it into individual or co-ownership status. This lack of clarity about ownership status is also present when agricultural land is sold. It is not clear whether the property must retain its family ownership designation or whether the owners can designate it as individual or co-ownership.

3.3. THE IMMOVABLE PROPERTY REGISTRATION

As the privatization of property proceeded, various members of ministries, agencies and enterprises met to discuss the best way to register and secure property rights. The Inter-Ministerial Land Market Working Group concluded that returning to the pre-World War II system of assigning urban properties in the Hipoteka Offices and agricultural properties to the Cadastral Offices was neither the best nor most efficient option. The group ultimately decided that an integrated mapping and registration system would best serve Albania. With the technical assistance and funding from USAID, the World Bank, the European Union and the Government of Albania, the Immovable Property Registration System (IPRS) was set up in 1994. The driving force behind the system is the Law 7843, *On Registration Immovable Property* (July 1994).

Albania has more than 3 million properties divided into 36 districts and 3,070 cadastral zones. Each district has a registration office and Registrar who oversees the mapping and registration process. The IPRS is directed by the Chief Registrar who is appointed by and directly responsible to the Council of Ministers. The Registrar's powers include: issue certificates of ownership, lease, or other interests in property; require any person to produce documents relating to the immovable property; summon any person to appear before him/her to give information or explanation respecting immovable property; suspend registration; administer and verify anything mentioned above; and, with the approval of the Chief Registrar, fine any person who presents incorrect information.

¹⁴ Law 8337, *On the Transfer of Agricultural Land, Meadows and Pastures*, Article 5.

Once First Registration has been completed, all subsequent transactions are subject to the provisions of the Registration Law.¹⁵ Priority of registration is defined according to the order in which the transaction documents are properly presented to the Registrar, irrespective of the dates of execution on the documents and notwithstanding that the actual entry may be delayed. In other words, one must properly register any document affecting the property before the owner and/or property is legally bound.

As of 31 December 2000, approximately 50 percent of immovable property (including agricultural parcels, village house plots, apartments, houses, businesses, publicly owned properties, etc) has completed the process of First Registration. Thus, ownership and other real rights attached to the property are capable of being transferred according to the Registration law.¹⁶

4. EXTENT OF LAND PRIVATIZATION

The results of agricultural and urban land privatization to date are summarized in Table 1.

4.1 AGRICULTURAL LAND

On former cooperative lands, 353,718 families have control over 439,139 hectares, divided into 1.5 million parcels. Official ownership allotment certificates (*Tapi*) have been issued for over 90 percent of the parcels. According to official Ministry of Agriculture and Food statistics, as of 30 June 2000, the percentage of families with a *Tapi* is closer to 99 percent, although that figure seems to be a bit high. Each family's allotment of parcels includes a parcel around the family's house.

- On former state farms, approximately 91,000 families have control over 123,334 hectares, divided into 300,000 parcels. The parcels were originally granted "in use" but were subsequently converted into ownership by law although in most cases, new *Tapi* have not been issued.
- On former state farms, 26,786 hectares remain in state ownership, of which 23,667 hectares of generally very productive land is leased out.
- Privatization has clearly brought about fragmentation of agricultural land, with each family holding an average of 4 parcels, usually not contiguous, averaging around 0.3 hectare per parcel.
- The farm family is the owner of agricultural land, not individuals. The *Tapi* states that the land is given in ownership to the family of X (the name of the Head of Family). The members of the family at the time of the distribution were not identified.
- About 110,000 hectares of ex-cooperative agricultural land has not been distributed in ownership or in use and is classified as "refused lands", mostly due to the low productivity of

¹⁵ First Registration includes creating the chain of title for the property and a 90-day public display when claims against ownership and other real property rights to the property can be made.

¹⁶ Project Management Unit Bulletin, July 2000, "Registration of Immovable Properties".

the land or arid conditions (about 70 percent of these “refused” lands), but also due to location and conflicts between the local residents and ex-owners.

- As of 31 July 2000, a total of 1.2 million agricultural land parcels have been registered. An estimated 30 percent, or 375,000 registered parcels, remains in state ownership.
- It is estimated that 80 percent of all land classified as agricultural in 1990 has been distributed with a *Tapi* to rural families since 1991 (See Table 1). About 50 percent of this agricultural land, or 875,000 parcels out of 1.8 million total agricultural land parcels, has been legally registered and is available for transactions. An additional 21 percent of this agricultural land has been provisionally registered,¹⁷ pending the public display and final correction. Any owner with a *Tapi* can apply for Special First Registration in order to permit the sale of an agricultural land parcel prior to the completion of First Registration.
- In some cadastral zones the District Land Commissions have not issued correct *Tapi*, delaying the process of systematic First Registration.

4.2 FOREST AND PASTURE LAND

- At present only 6,314 hectares of forest land have been privatized, although another 35,674 hectares is being managed by Komuna offices of the General directorate of Forests and Pastures through use contracts arranged with groups of villagers.
- In the case of pasture land, 18,595 hectares have been privatized and another 239,714 hectares is being managed by the Komuna through use contracts with villagers similar to those arranged for forest land. The Komuna use rights arrangements are not marketable, that is, cannot be sold or transferred.

4.3. URBAN LAND

As noted above, various privatization programs have affected urban land. However, statistics on the extent of urban land privatization are difficult to find. A special study for the ownership and use of urban land in major cities was launched in Tirana, Durres, Elbasan, Lushnja, Korca, and Gjirokaster. These six cities represent about 45 percent of the urban population of the country, with greater Tirana alone approaching 30 percent. This study used random samples of 1 hectare blocks of land within the municipal boundaries, followed by a complete census of properties (land parcels and parts of buildings such as apartments) within each block. The sample estimates were used to produce estimates of the city totals for various parameters.

- At the end of 1998, about 50 percent of the land within municipal boundaries remains in state ownership, including roads, parks, green spaces and land occupied by public buildings as well as land still occupied by state-owned commercial and industrial enterprises.
- Approximately 78 percent of vacant urban land (land between apartment buildings, parks, green spaces etc), a total of 1,153 hectares in the six cities or 15 percent of the total urban

¹⁷ Project Management Unit Bulletin, July 2000, “Registration of Immovable Properties”. We estimate that out of the 1,967,628 provisionally registered parcels, approximately 1.4 million are privately owned.

land area, is state owned. Some of this land will be privatized, but much will be maintained in public ownership and use.

- Approximately 62.4 percent of urban land parcels occupied by buildings, a total of 4,928 hectares in the six cities or 66 percent of the total urban land, is privately owned.. While some privatization of these parcels will occur, public buildings will continue to occupy state-owned land. Some efforts have been made to privatize land under public buildings, and then oblige public agencies in the buildings to pay rent to the private land owners, but this seems to be an undesirable solution at least from the public point of view.
- About 40 percent of land held by commercial/industrial enterprises remains in state ownership, 14 percent is owned by joint state/private ventures and the remaining 46 percent is privately owned. These enterprises occupy about 1440 hectares or about 20 percent of the total urban area of the six cities. It is likely that most of these enterprises will be privatized as the large scale privatization program is pushed forward.
- Urban land occupied by residential structures is 88 percent privately owned. The 2464 hectares represents about 33 percent of the total urban area in the six cities. Private ownership will probably approach 100 percent once the restitution process is completed.
- “Vertical properties”, apartments, are mostly owned by private individuals, including the state built apartments which have been privatized and the privately built apartments which have been constructed since 1992.
- A temporary deeds registry (called the Hipoteka) has been re-created in nearly all cities to record privatization and transaction documents for urban land until First Registration is complete and the documents enter the new Immovable Property Registration System. From the studies of the six cities, approximately 90 percent of the private holders of urban land and apartments have Hipoteka recorded documents attesting to their ownership of the properties.¹⁸ The documentation of ownership of state-owned land is extremely deficient.

Problems, however, resulted from the ambitious effort of privatization:

- About 3 million properties, both state and private, have been newly defined. There are approximately 1.8 million parcels of highly fragmented agricultural land and about 1.2 million urban properties, making the surveying and First Registration process difficult and time intensive.
- Agricultural land is mostly held in family ownership, but the definition of a family is imprecise in the Civil Code. Sale of family owned agricultural land is allowed for registered land, and according to the procedures established in Law. However, there are differing interpretations of these required procedures, which leads to delays in transactions and high transaction costs.
- The ownership of apartments is acquired under Law 7652 and through a sale contract between the Housing Agency and all adult occupants who had rental contracts with the State as of 1 December 1992.¹⁹ Occupants under 18 were not included as co-owners. There are no

¹⁸ Lemel, Harry (1999) “Tenure Security and Investment Patterns among Properties in the IPRS Urban Property Survey,” Land Tenure Center Report, p. 6.

¹⁹ Article 9, Article 20.

restrictions on the transfer of such properties, except in practical terms when all co-owners do not sign the transfer agreements, although most families yield to the head of family in such matters as tradition dictates.

- In urban areas, numerous conflicts exist between possessors of properties and ex-owners. In some cases, the possessors have a privatization document from the National Privatization Agency or the municipality, in other cases, the possessors built illegal constructions before the land was formally restituted.
- There are numerous errors or imprecisions which have occurred in the privatization programs, often leading to overlapping claims from different owners for a single property.
- Private owners of land believe that they can use their properties however they wish. This belief is producing chaotic urban development that will require substantial investments to assure public health and desirable future growth.
- Land remaining in state ownership has often been treated as “unowned”, leading to illegal occupation and the degradation of the natural resource base.

5. CONCLUSIONS

Although Albania is faced with political, economic and social problems, important steps have been achieved in moving the country toward a market oriented economy. The steady progress made in completing and implementing substantive and procedural privatization laws have combined to provide an entrance into the global market economy. Despite the problems with communication among the state agencies that have the responsibilities to privatize state property and numerous land conflicts which result, the fact remains that a majority of immovable property is now in the hands of private owners and the land market is functioning (see Table 2).

Table 1: Ownership Status of Land (and Apartments) in Albania

Type of Land Holding	From Ministry Statistics			From Urban Land Study in Six Cities (1999)					
	Agricultural Land (ha)	Forests (ha)	Pastures (ha)	Urban Land with Buildings (ha)	Urban Land, Vacant, (ha)	Urban Land: Houses, Villas, (ha)	Urban Land: Commercial, (ha)	Total Urban Land (ha) (4)	Urban Apartments (no.)
Privately Owned (1)	562,473	6,314	18,595	3075.4	252.3	2163.2	669.9	3366.4	149,028
	80.4%	0.6%	4.5%	62.4%	21.9%	87.8%	46.5%	44.6%	94.6%
State owned (2)	136,949	1,043,500	393,000	1633.2	899.5	288.8	571.4	3982.0	8,521
	19.6%	99.4%	95.5%	33.1%	78.0%	11.7%	39.7%	52.7%	5.4%
Mixed (3)				219.4	0.7	11.6	198.8	205.0	
				4.5%	0.1%	0.5%	13.8%	2.7%	
Total	699,422	1,049,814	411,595	4928.0	1152.5	2463.6	1440.1	7553.4	157,549
	100%	100%	100%	100%	100%	100%	100%	100%	100%

(1) Privately owned land is defined as land which is held by an individual, a family or a legal person that can be transferred through sale, gift, mortgage, etc. to another owner.

(2) State-owned agricultural land includes agricultural land that villagers refused to accept in ownership or in use, agricultural lands which have been leased to private individuals for their use and agricultural land still held by other ministries and public entities. State-owned forest and pasture lands include lands given in usufruct, lease or other use rights to private individuals or groups who do not have the right to transfer these rights.

(3) Mixed ownership refers to joint venture businesses, part state and part private ownership.

(4) Total urban land includes a residual category of land such as streets, alleyways, parks and sidewalks that are generally state-owned.

Table 2: Market Transactions in the Immovable Property Registration System

Year (1)	Property Transfer (sale, gift, exchange, lease)		Mortgage(2)	
	IPRS(3)	Urban Sector(4)	IPRS	Urban Sector
1999	4,663	22,452	144	2,565
Jan-June 2000	4,273	12,596	150	1,764

1. Accurate statistics from the IPRS for urban and rural properties exist for 1999 and 2000.

2. Mortgages include lending from banks as well as micro-credit and other projects financed by international donors.

3. The IPRS categories reflect properties that have completed First Registration. In this table, only agricultural land and properties in villages that have completed the First Registration process are included under the IPRS headings

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4. As of June, 2000, urban properties in cities have not formally entered the IPRS. The former Hipoteka recording system continues to function as a special sector of the IPRS until First Registration is complete.

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LEGAL ASPECTS OF LAND REFORM IN AZERBAIJAN¹

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LAND REFORM IN AZERBAIJAN

According to the Law “On Land Reform” of the Republic of Azerbaijan, which has been in effect since 2 August 1996, the goal of land reform is the establishment of new relations of landownership based on principles of economic freedom and social justice, the development of the market economy and business initiatives, the economic independence of the country including food security, and as a result the increase of the material well-being of the people. The objectives of land reform are to determine state land territory of the country, transfer land to municipal and private owners, and guarantee rights of owners to possession and use of land.

The land reform law states that a land parcel can be transferred into private ownership only to persons and legal entities of Azerbaijan. Only use rights or rented contracts can be given to persons and legal entities who are not citizens of Azerbaijan. One of the most important specific features of this law is the equality of all types of owner (state, municipal, private) and the protection of their rights by the state. Municipal lands are those located within the corresponding administrative territory, except those lands remaining in state ownership and lands converted into private ownership.

Lands to be transferred into private ownership are those parcels being legally used by citizens, such as land under residential houses; household parcels; individual, collective, and cooperative gardens; land under management of state-owned dachas; as well as privatized land of state and collective farms.

The implementation of land reform is based on land development projects. That is why the law’s main objectives include a purpose-oriented use of land and the protection of the environment, taking into account physio-geographical conditions of the area, density of population, local specifics of land use, and land quality.

Lands, which in the process of land reform remain in state ownership, can be transferred to other parties under use rights and lease contracts according to procedures established by legislation. Management of state-owned land is within the competence of the Cabinet of Ministers of Azerbaijan. Transformation of state-owned lands into municipal and private ownership is allowed only in special cases.

¹ Paper prepared for presentation to the Workshop on “A Land Privatization Index”, held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

The land reform law also determines how state and collective farmlands are to be privatized. Those persons who have the right to get a share of privatized state and collective farmland include persons who worked permanently in state and collective farms, lived permanently on the territory of state and collective farms until 2 August 1996, retired from state and collective farms and are living on the territory of a corresponding district (city), as well as other persons such as those recruited to military service from this territory who are temporarily absent. The law also provides the right to obtain a land share to the founders of private forms of economic activity established on state and collective farms before this law went into effect, and to persons whose main employment is connected with the given enterprise.

Land is transferred to private owners who have the right to receive a land share according to the principle of social justice and depending on the area, quality of privatized land, and the number of persons eligible to receive a land share.

After the transfer of privatized land parcels to private owners, equal conditions must be created for the establishment and functioning of various types of economic activities (including peasant farms) based on a voluntary principle.

In the process of this reform new landowners are coming into being who, in comparison to the members of public forms of economic activities, acquire the rights to possess and manage this land.

Persons who have the right to a share of privatized land, according to the Law "On Land Reform," acquire this land free of charge. This law also outlines (according to the corresponding legislation) material, civil, disciplinary, administrative, and criminal responsibilities for officials and citizens guilty of violating the legal requirements of the land reform.

LEASING OF LAND

Azerbaijan adopted the law "On Lease of Land" by Presidential Decree on 12 March 1999. This decree determines the legal foundation for the leasing of state, municipal, and privately owned lands. Based on this law, state and municipal land can be leased to persons and legal entities that are conducting activities with the purpose of making a profit.

Those who can enter into land lease relations are the Republic of Azerbaijan, municipalities, legal entities, and citizens of Azerbaijan, as well as foreigners and persons without citizenship, international organizations, enterprises belonging to foreign investors, and foreign states.

The lease contract regulates the relationship between lessors and lessees. The lease contract includes official names of lessor and lessee, their legal addresses, their rights and responsibilities, information about the size, quality category, boundaries, and purpose of the land parcel, duration of the lease, rental payment, procedures for changes, extension and cancellation of the contract.

The Presidential Decree "On Application of the Law of Azerbaijan 'On Lease of Land,'" determines that a land lease contract must be registered in the State Land Committee of Azerbaijan. As a confirmation of this procedure, lessees will receive a certificate to the right of temporary use of state or municipal land. A lease contract without state registration is not valid.

Lands can be leased to legal entities and persons for short- and long-term use. Short-term leases are for fewer than 15 years, and long-term leases for between 15 and 99 years. For a short-term lease, the lessee must pay a lease fee to the lessor. One of the most important specific

features of this law is that the lease fee may be paid either in cash or in kind (including in combined form). If the lessor pays a land tax, then this land tax will be included in the lease payment. Lease payments for lands in private ownership are determined by mutual agreement between the interested parties. Lessees determine their economic activities according to the lease contract. Lessors can independently manage their production and property. Persons and legal entities of the country (based on the permission of owner) can completely or partially buy a leased land parcel.

SALE OF STATE LAND

Procedures of sale of land parcels under privatized state enterprises and structures is given by Presidential Decree 659, "On the Determination of the 'Procedures of Sale of Land Parcels under Privatized State Enterprises and Structures,'" dated 19 December 1997. This law clearly determines the procedures for the purchase and sale of land parcels. Land parcels under privatized state enterprises and structures must be offered for sale first to the owners of these privatized enterprises and structures. Those who can purchase land parcels include both persons and legal entities of Azerbaijan: joint-stock companies established from the privatization of state enterprises after not less than 75 percent of shares have been sold; and legal entities who have up to 25 percent of state share in bylaw capital as well as all non-state legal entities.

Foreign persons, legal entities, and persons without citizenship have the right only to use and lease land parcels. The lands of privatized state enterprises and structures remain under state and municipal ownership and are leased according to the established procedures.

According to the Decree, the Cabinet of Ministers of Azerbaijan is responsible for designing the provisions that determine normative prices for land parcels taking into account location, size, social purpose, access to roads and transportation, as well as types of enterprise activities and structures located on these parcels. These provisions will also determine application of a corresponding system of coefficients for this appraisal.

LAND CODE

Emerging new property relations, regulated by various normative-legal acts, are fully reflected in the Land Code of the Republic of Azerbaijan. The Land Code was adopted on 25 June 1999 and went into effect on 8 August 1999. Presidential Decree of 4 August 1999 regulates its implementation. The Land Code of Azerbaijan deals with the regulation of property relations related to the various forms of landownership, the responsibilities of landowners, the establishment of the conditions for rational use of land and its protection, the restoration and increase of land fertility, the reclamation of damaged land, and the preservation and improvement of the natural environment.

While the previous Land Code of Azerbaijan regulated only property relations of state-owned land, the new code comprehensively covers such issues as the single land fund of Azerbaijan; lands for agricultural use; lands under settlement; lands used by industry, transportation, defense, and others sectors; protected areas; and forest lands, water, and reserve land funds. Special attention is also paid to land protection; state regulation and control of use and protection of land; state and municipal landownership rights; rights of persons and legal entities to land; conversion of state land into private ownership, use, and lease; restrictions on

property rights and cancellation of ownership; obligatory state registration of property rights to land; and the rights and responsibilities of land owners, users, and lessees. The Land Code also considers the issues of legal relations connected with the transfer of land parcels and with the determination of rules for land appraisal as well as the bases for land payments, for compensation to land owners, users, and lessees for damage to land, and for production losses in agriculture and forestry. The Land Code also includes the issues of land dispute settlements and responsibility for the violation of land legislation and international agreements.

LAND TAXATION

Land tax in Azerbaijan is applied with the purpose of rationalizing the use of land. The Law “On Land Tax” (adopted 24 December 1996) regulates the calculation and payment of the land tax. Land parcels transferred into private ownership and use can be taxed. Taxation of land parcels used by other countries or in common use by Azerbaijan and other countries is regulated by interstate agreements. Otherwise, taxation is conducted according to the general procedures.

Lands in common use are tax exempt, independent of the form of ownership, as well as lands in state ownership, including lands assigned for natural protection, reserves, recreation, cultural and historic purposes, protected areas with restrictions on economic activities, and state land, forest, and water funds involved in production activities.

Tax on land parcels is fixed, must be paid by September-October every year by owners and users irrespective of the results of economic activities. Persons and legal entities, after they receive documentation confirming their rights to ownership or use of land, must be registered in the taxation office of the district. Land tax will be collected on the basis of documentation confirming the rights to land ownership and use.

The land tax is calculated depending on purpose, area, geographical location, and quality of land. It is determined by multiplying the land quality points (established for each cadastral-pricing district) by 300 *manats*. Collected land taxes are deposited in the state budget, where they form a special article of this budget to be spent for land improvements according to state programs.

LAND CADASTRE

The Law “On State Land Cadastre, Land Monitoring and Development” (which went in effect on 22 December 1998; the Presidential Decree on its application was issued on 12 March 1999) determines the legal foundation for the regulation of the land cadastre, land monitoring, and land development works. The main goals of this legislation are the establishment of a legal basis for implementing cadastral, monitoring, and land development works based on one set of normative-technical documentation.

The state land cadastre is the information base on land use, quantitative and qualitative characteristics of land, soil quality, and economic appraisal. Land monitoring is related to the organization of the permanent system of control of the country’s land fund with the purpose of periodically determining and evaluating changes in land fertility and the avoidance and elimination of negative processes. Land development is a system of corresponding measures for the regulation of property relations and rational land use.

This law also reflects the main principles for implementing works in the field of state land cadastre, land monitoring and development, and corresponding rules. Generally works in the sphere of state land cadastre, land monitoring and development are implemented according to an obligatory, independent, and single system, which includes different legal land statutes and regimes and various forms of ownership.

The rules for implementing works in state land cadastre, land monitoring and development are approved by the Cabinet of Ministers. Based on the law, there is one single land cadastral documentation system in the Republic of Azerbaijan. This system generates the state land cadastre and consists of legal and technical cadastral documentation. Legal cadastral documentation includes state acts of rights to landownership, state acts of rights to permanent land use, and certificates on land transfer into ownership. Technical cadastral documentation includes registration books for such legal documentation and cartographic materials (including villages, settlements, districts, and cities of the Republic of Azerbaijan and Nakhchivan Autonomous Republic) that reflect size, categories, and indicators of quality and quantity of land parcels.

Other technical documentation, references, and standard forms complementing this single system of land-cadastral documentation are prepared and approved by the State Land Committee.

Regulation No. 94, “On Approval of Some Normative-Legal Acts Related to the State Land Cadastre, Land Monitoring and Development” (7 June 1999),² includes provisions for implementing the state land cadastre; rules for implementing technical land recording and for designing land-cadastral documentation; provisions for the establishment, use, and protection of the state land fund cadastre; and procedures for land monitoring and land development works. This regulation outlines the goals and functions of the State Land Committee of the Republic of Azerbaijan with regard to the implementation of these normative acts. Functions of the State Land Committee include a multipurpose methodology and the documentation for the research-technical work covering all land use aspects.

The provisions for implementing the state land cadastre determine that, in order to update the cadastral information (which is collected with assistance of land, geo-botanic, and other research), all land users regardless of type of ownership must report (according to established standards) changes in the composition of their land and submit them to the representatives of the corresponding executive body (municipality) in villages, settlements, and towns under district management.

The State Land Committee prepares the consolidated report on quantity, quality, and use of land in the country as of January 1st of the current year. This report includes:

- ◆ changes in the quantity of land parcels (including irrigated land); types of land; transfer of land into ownership, use, or lease, as well as restitution of land to previous land users; land withdrawal (not used, not rationally used, or used for different purposes); and lands designated for state and public needs which were improved during the past year;

² This regulation was adopted according to Presidential Decree No. 113, “On the Application of the Law of the Republic of Azerbaijan ‘On State Land Cadastre, Land Monitoring and Development’” (12 March 1999).

- ◆ purchase-sale of land parcels according to legislation, land transfers to authorized (share) funds, mortgaged land, replacement of parcels, transfer to other persons in form of gift, and easements and other responsibilities;
- ◆ information (every five years) needed for the calculation of land taxes, lease payments, and normative land prices.

The rules for implementing this technical recording determine that it must be conducted by designated institutes of land development of the State Land Committee for the Republic of Azerbaijan and the State Land Committee for Nakhchivan Autonomous Republic.

Technical land recording is conducted on the basis of topographic maps and plans with the purpose of correctly determining geometric parameters, boundaries, configurations (with the separation of irrigated and dry areas) of land parcels in use by all owners, users, and lessees, as well as current changes in these aspects. This will create preconditions for comprehensive and rational land use; the design of measures for the improvement of land fertility; the elaboration of a report on types of landownership reserves; the design of land reports; the organization of guidelines for land use; and the cartography of the results of land recording.

According to regulations, cadastral documentation is subdivided into legal cadastral and technical cadastral documentation. Legal cadastral documentation confirming property rights to landownership includes:

- ◆ state acts on rights to landownership;
- ◆ state acts on rights to permanent land use;
- ◆ certificates on transfer of landownership rights;
- ◆ certificates on temporary land use;
- ◆ registered lease contracts confirmed by notaries.

Technical cadastral documentation dealing with territorial-administrative units of Azerbaijan includes:

- ◆ books for registration of state acts on rights to landownership and to permanent land use, certificates of land transfer into ownership and of temporary land use as well as of lease contracts, planning, and cartographic materials, forms for annual reports, tables and journals dealing with the recording of land quality and quantity indicators;
- ◆ land-cadastral books and maps of villages, settlements, districts, and cities of the Republic of Azerbaijan and Nakhchivan Autonomous Republic reflecting sizes, categories of land parcels, and indicators of their quality and quantity based on urban planning materials and information.

The State Land Committee of Azerbaijan is responsible for general management and control in the preparation and issuing of state acts and certificates, as well as recording and storing state registration books.

Provisions for cadastral systems determine status, structure, sources, and procedures for the functioning, use, and protection of the state land cadastre. The cadastral system includes information and materials dealing with purpose-oriented use, boundaries, sizes, geographic position, legal status of land, and other indicators of quality and quantity of land parcels.

Information of the cadastre system is used for:

- ◆ design and implementation of state policy on the use and protection of land reserves;
- ◆ preparation and implementation of complex state programs for rational land use, improvement of land fertility, land protection, and other land-protective measures;
- ◆ preparation of land development projects;
- ◆ design and implementation of programs for urban planning, forest planting, construction, land improvement, irrigation, geodesic, topographic, and geologic surveying and exploration works;
- ◆ regulation of property relations, determination of normative land prices, design of land register, and formation of land market;
- ◆ determination and application of land tax and rent;
- ◆ establishment and use of land information system and information data base;
- ◆ state control over use of land, land protection, and regulation of property relations.

Provisions for land monitoring rules determine that land monitoring, as an integral part of biosphere monitoring, must be conducted on the basis of a single methodology according to territorial-administrative units within the single land fund of the Republic of Azerbaijan. This monitoring will include:

- ◆ study of erosion, salinization, desertification, bog formation, contamination of land parcels (in state, municipal, and private ownership) with dangerous chemicals, changes of purpose-oriented use of lands, parcel sizes, boundaries, and other indicators of quantity and quality based on regular monitoring of land as well as on results of field and laboratory studies on land, climate, agrochemicals, geo-botany, geomorphology, geodesic air-photography, and cartography and other types of research;
- ◆ observation of the dynamics of humus loss, improvements of land used in agriculture, other parameters characterizing natural land fertility, and improvements of land damaged by anthropologic processes.

Land monitoring will provide information for the preparation of forecasts, programs, maps, bulletins, and other information, which will be included in reports of the State Land Committee on the ecological situation of the country as of January 1st of the current year.

The State Land Committee of the Republic and other related institutions are responsible for the organization of works (according to the above-mentioned provisions and rules) connected with the land cadastre, land monitoring and development, as well as control over their implementation.

LAND MARKETS

The Law “On Land Markets” was adopted on 7 May 1999. It deals with issues of land-market relations, goals and objectives of organization and regulation, documentation of rights connected with the land market, responsibilities for violation of legislation, and dispute settlement.

According to the law, legal entities and persons of Azerbaijan can participate in the land market as owners, users, mortgage providers and mortgage keepers, participants of purchase-sale transactions and of other transactions such as leases. Foreigners, persons without citizenship, international organizations, and foreign states can also conclude transactions on the land market, except transactions for acquiring land in ownership. Corresponding executive bodies and municipalities also participate in the land market.

One of the most important features of this law is that it determines the foundation for price formation in the land market. According to this law, in the case of direct sale of private land parcels, price is determined by agreement between the parties based on the market situation. In the case of direct sale of municipal land parcels, price is determined by the municipality, taking into account market prices as long as they are not below normative prices. In the case of municipal and privately owned land parcels sold through auctions and competitive bidding, the initial price must be determined by the market prices as agreed to between the owner and the managers of sale, as long as they are not below normative land prices.

The price for use and lease rights is based on market prices as mutually agreed to at the time of the transaction, and in case of auction the initial price is determined by the owners and managers of sale.

The areas and boundaries of land, which according to the Law “On Land Reform” and other legislative acts are transferred to municipalities, are regulated by the Law “On Territories and Land of Municipalities.” This decree mandates the transfer free of charge of household land parcel with housing, which are in legal use, to the owners of these houses; the State Land Committee must issue corresponding documentation confirming the ownership rights to household land with housing.

The State Land Committee together with local executive authorities must design the necessary urban planning and land development documentation and provide them to municipalities. The President of the Republic of Azerbaijan determines the time limits for the preparation of this documentation and for the transfer of land to municipalities. Municipalities are responsible for the management of ownership rights and use of municipal lands, according to the requirements of civil and land legislation and the bylaws of municipalities

The Cabinet of Ministers Resolution No. 167, “On Some Issues Connected with Land Market” (19 October 1999), adopted in correspondence with Presidential Decree “On the Implementation of the Law of the Republic of Azerbaijan on Mineral Resources,” deals with a number of important issues related to land property rights and relations. This resolution provides “the rules for determining the upper size limits of private land parcels in administrative-territorial units.”

This upper limit for private land parcels in administrative-territorial units is determined by the volume of land resources (available for privatization), density of population, local land use conditions, purpose of land use, legal regime and land quality, prospects of land development based on city-development documentation, average land norm, and other conditions.

According to this resolution there are six upper limits for land parcels:

- ◆ in cases of purchase-sale of land under privatization in an administrative-territorial unit, up to 500 times the average land norm per capita;

- ◆ in cases of purchase-sale of household parcels and agricultural land parcels belonging to municipalities allocated for the construction of residential areas and business structures (land under privatization in the given administrative-territorial unit), 500 times the average land norm per capita; and in cases of unsuitable land parcels, 600 times the average land norm per capita;
- ◆ in cases of purchase-sale of lands from municipal reserve funds which are not suitable for agriculture, 500 times the average land norm per capita if land has limited suitability, and 600 times the average land norm per capita if the land is unsuitable;
- ◆ in cases of purchase-sale of municipal lands designated for the infrastructure of residential areas of urban planning importance, the upper limit will be determined according to the parameters indicated in specific projects.

This resolution also made some changes in the “rates of state fees and payment procedures” established according to the Cabinet of Ministers Resolution No. 156 of 29 June 1995. According to these changes, the following state fees are to be charged for notary certification of land alienation contracts:

- ◆ children, spouses, parents—1 percent of the total contract amount;
- ◆ other citizens—2.5 percent of the total contract amount;
- ◆ land transfer contracts with legal persons (regardless of ownership form or type of activity)—2.5 percent of the total amount;
- ◆ land transfer contracts with foreign legal entities and persons—2.5 percent of the total amount.

CONCLUSIONS

This brief analysis of the most important features of normative and legal acts shows the importance and global character of the land reform that the country is implementing during the transitional period. Profound changes in the economy and agriculture are occurring in the Republic of Azerbaijan, including radical transformation of all sectors of the economy, municipal elections, logical continuation of agrarian reform, and establishment of new forms of economic activity. The presence and efficiency of this legislation must help to accelerate the reforms and overcome the barriers for the transition to a market economy.

The following table contains data on land privatization in Azerbaijan.

Table 1. Some privatization indicators for Azerbaijan

Parameters	Before privatization	After privatization
Number of state and collective farms	2,005	41
State lands (% of total lands)	100	44.2
Municipal lands (% of total lands)	0	31.4
Privatized land (% of total lands)	0	24.4
Number of landowners	0	3,300,000
Number of farm enterprises with permanent use rights of land parcels	0	568
Number of farm enterprises with temporary use rights of land parcels	0	525

Table 2. Number of privatized household parcels

Parameters	Implemented	Planned
Number of privatization documents for household parcels	265	150,000
Number of privatized household parcels	22,289	950,000

Since the accomplishment of the first stage of land reform, the process of purchase and sale of agricultural land, not suitable land, and land of limited suitability is under way.

LEGAL FORMS OF PRIVATIZATION FOR VARIOUS TYPES OF LAND AND REAL ESTATE IN THE REPUBLIC OF BELARUS¹

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INTRODUCTION

The present article was prepared for the first stage of the pilot project “Land Privatization Index” initiated by the Land Tenure Center of the University Wisconsin–Madison. Two issues are discussed in this article:

- ◆ What kinds of property were privatized in Belarus after 1989?
- ◆ What are the legal concepts for the privatization of various forms of real estate and the establishment of the real estate market?

PRIVATIZED PROPERTY

There are two types of property in the Republic of Belarus: state and private. State property is subdivided into: (1) property of the Republic of Belarus (republican property), and (2) property of administrative-territorial units.

ENTERPRISE PRIVATIZATION

The Belarus model for reforming state ownership can be characterized as a centrally managed model, based on the State Privatization Program and other legislative acts, containing a number of methods, techniques, and conditions for denationalization of the economy.

As of the end of 1999, 3,028 enterprises were reformed (or 25.1% of the total number of state enterprises): 1,094 enterprises were transformed into open joint-stock companies, 676 were bought out by workers and leaseholders, 354 were sold by bidding, and 904 were sold at auctions. The partial sale of state property was conducted in 1,094 enterprises; 61 percent of commerce and food service enterprises were transferred into private ownership. The state does not have shares in 17.5 percent of 456 joint-stock companies, and in 39 percent of companies the state's share is less than 50 percent.

Of the working population, 36 percent are occupied in the nonstate sector of the economy. These nonstate enterprises are producing more than 42 percent of total industrial production and conducting more than 33 percent of all investments in the economy. The reformed enterprises in

¹ Paper prepared for presentation to the Workshop on “A Land Privatization Index”, held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

general are working more efficiently than state enterprises. As a result, the profit level of all state enterprises is 14.3 percent, and 18 percent for joint-stock companies. Average monthly wages in joint-stock companies are 27.4 percent higher than average state levels.

LAND PRIVATIZATION

Table 1. Structure of the Belarus land fund (1 January 1999)

Land category	Area (000 ha)	Share (%)
Agricultural land	9,307.2	44.8
Forests	8,366.2	40.4
Other	3,086.2	14.8
Total land	20,759.6	100.0

The Constitution of the Republic of Belarus does not anticipate the transfer of agricultural land into private ownership. So, only nonagricultural lands can participate in the land market. In addition, land legislation provides a comprehensive list of lands that may not be transferred into private ownership.

Table 2. Distribution of land according to ownership categories and users (1 January 1999)

Types of land	Total area (000 ha)	Share (%)
Collective farms	7,429.1	35.7
State agricultural enterprises	2,777.5	13.3
State farms	2,446.2	11.7
Other agricultural enterprises and organizations	13.4	0.06
Citizens	1,531.9	7.4
Ownership and temporary use of agricultural enterprises and citizens (total)	11,751.9	56.6
Land in reserve	237.0	1.1
State forestry enterprises	6,832.4	32.9
Common use	379.1	1.8
Lands belonging to industry, transportation, communication, and for other purposes	846.4	4.0
Natural protection, health, recreational, and historical and cultural purposes	678.3	3.2
Hydro-technical and other water-based structures	34.5	0.16

Table 3. Transfer of land parcels into private ownership, Belarus, 1994-1999.

Indicator	1994	1995	1996	1997	1998	1999
Number of land parcels transferred into private ownership	148,787	162,033	48,124	9,114	4,770	8,822
Area of land parcels transferred into private ownership (000 ha)	39,410	26,850	5,088	0.988	-0.207	1,076
Cumulative area of land parcels transferred into private ownership (000 ha)	39,410	65,990	71,078	72,066	71,859	72,935
Area in private ownership (%)	0.18	0.31	0.34	0.35	0.34	0.36

Table 4. Structure of land rights, Belarus (beginning of 2000)

Type of rights	Distribution of land parcels to persons according to types of rights (%)	
	Persons	Legal entities
Ownership	14.8	0
Lease and temporary use	0	2
Lifelong, heritable ownership	75.4	0
Permanent use	0	98

According to Belarus law, only ownership and lease rights can be transacted. So, only 2 percent of legal entities and 14.8 percent of physical persons have the right to market the land they possess.

PRIVATIZATION OF HOUSING

Table 5. Percentage of housing stock according to ownership forms, Belarus, 1990-1998

Ownership form	1990	1995	1998
State	46.5	32.1	26.8
Public	4.9	5.6	4.5
Cooperatives	6.3	5.3	5.4
In ownership of citizens	42.3	57.0	63.3*
Total housing stock	100	100	100

*67.9% in 1999

LEGAL CONCEPTS FOR THE PRIVATIZATION OF REAL ESTATE

PRIVATIZATION LEGISLATION

Civil legislation of Belarus does not settle the issues of denationalization and privatization of state property. It only considers that privatization must be conducted according to procedures established by legislation and determines the coordination between civil law and privatization legislation.

The Republic of Belarus adopted more than 100 legislative acts regulating the privatization of state property. The main laws are: “On Denationalization and Privatization of State Property in the Republic of Belarus” (19 January 1993), “On Housing Stock Privatization in the Republic of Belarus” (16 April 1992), and “On Individual Privatization Checks of the Republic of Belarus” (6 July 1993). The following presidential decrees are the most important legislative acts regulating privatization of state property: “On Denationalization and Privatization of State Property in the Republic of Belarus,” “On Measures for the Improvement of the Reformation of State Property,” and “On Approval of the Program of Denationalization and Privatization of State Objects, Belonging to Republican Ownership, for 1996.”

The government, the Ministry of State Property and Privatization, and other ministries and institutions of Belarus are adopting normative acts in the sphere of denationalization and privatization in order to make existing legislative acts more specific. These legislative acts regulate the privatization of state property including: state and public housing; state enterprises, institutions, organizations, structural units of unified enterprises, and structural subdivisions of enterprises; and rented state property.

The above-mentioned legislative acts do not regulate the land privatization procedure. The implementation of state land transfers are regulated by separate acts of land legislation: Land Code of the Republic of Belarus (4 January 1999), Instruction “On the Transfer of Land Parcels into the Ownership of Legal Entities,” approved by Presidential Decree No. 81 (22 February 2000), and others.

LAND PRIVATIZATION BY LEGAL ENTITIES

Agricultural lands are not transferred into individual ownership. The inventory of state properties, which in case of privatization would permit the ownership of the land parcel attached to property, is determined by the President of the Republic of Belarus. Legal entities may allocate land parcels belonging to them not to any legal entities, but only to those who have the right to own these land parcels.

The Land Code anticipates the transfer of landownership rights to legal entities in only two cases: (1) through privatization of state property, and (2) through investment projects. Legal entities have had the opportunity to acquire land in ownership since 1997. The Presidential Decree determined the transfer procedure of landownership rights to legal entities (except nonresidents of the Republic of Belarus), including enterprises with foreign participation. A fee is paid for the allocation of land parcels to legal entities during the privatization of state property, according to presidential decision. The procedure for the privatization of a land parcel is done after the privatization of state property. In other words, a legal entity that wishes to obtain a land parcel in ownership must first have rights to a piece of real estate property, and only then may acquire ownership rights to the parcel attached to it.

All privatized enterprises in the Republic of Belarus are currently land users, not owners. No legal entity has exercised the right to acquire ownership rights to land. There are several reasons explaining this situation:

- 1) First of all, the procedures for the transfer of ownership rights to a land parcel within the privatization process are complicated and time-consuming. A negotiating process and contractual obligations are not envisioned; rights to land are to be transferred according to a decision and not according to a contract. At the time an enterprise must make a decision on land privatization, it does not even know the approximate price for the parcel because urban areas do not have land appraisal maps.
- 2) Significant restrictions on ownership rights to land discourage privatization. The rights of enterprises as landowners are not exercised fully. For example, an enterprise may transfer land parcels they own not to any legal entities, but only to those who have the right to obtain ownership to such land parcels. Only those enterprises that use land parcels for production and service purposes or enterprises that conduct investment projects needed by the Republic of Belarus have such rights.
- 3) Enterprises in principle do not see concrete advantages from landownership. Land is not yet used as collateral to obtain a loan; an enterprise cannot sell surplus land and the prospects of relocation of production items from a city center, using resources from a land sale, are questionable.
- 4) Land privatization by enterprises is impossible without the support of local authorities, and local authorities do not see any benefits from land sales. They are not interested because privatization does not bring additional resources into their budgets; payments for land parcels must go to the national budget. The transfer of land into private ownership does not create a tax base because the amount of payment does not depend on land value. In general, local authorities are not sure that privately owned land will be used more efficiently.

LAND PRIVATIZATION BY PERSONS

According to land legislation, ownership of state land may be transferred to citizens of Belarus by application and decision of a corresponding executive body, and after paying for the land parcel. Citizens may own land parcels only for their personal economic use, construction of a residential house and provision of services to it, or collective construction of country houses. The provision of the Council of Ministers (31 December 1997) includes the possibility for citizens of Belarus to acquire land parcels for individual housing construction through auctions. The sellers in these auctions would be Councils of Deputies or corresponding executive authorities representing them. Only two auctions were conducted in 1999 even though they are legal and there is a normative background.

Up to 10 percent of land parcels allocated for individual housing construction and not requested by citizens who are on the waiting list for improved housing, may be offered at auction and transferred according to the compulsory procedure. Land parcels can be sold provided there is no change in their land use. The starting price of land parcels sold at auction must not be less than the normative price of land transferred in ownership to citizens of Belarus at the time of the auction.

PRIVATIZATION OF NON-LAND REAL ESTATE

Privatization of state property is conducted through transfers without charge or through sales. Real estate property listed in the law, “On Objects Belonging Only to the State” (5 May 1998), may not be privatized. Persons who can acquire state property include: citizens of Belarus, nonstate legal entities, legal entities of the Republic of Belarus that consist of not less than 50 percent of workers of collective enterprises under privatization, foreign investors, and persons without citizenship.

The share of state property is transferred free of charge during the privatization process only to citizens of the Republic of Belarus and is determined by the President of Belarus. Two quotas determine the free-of-charge portion of state property which must be transferred to every citizen: the housing quota based on the law, “On Privatization of the Housing Stock in the Republic of Belarus”; and state enterprise quota based on the law, “On Individual Privatization Checks of the Republic of Belarus.”

The main form of privatization is the establishment of open joint-stock companies on the basis of state property and the sale of state-owned shares under favorable conditions. These joint-stock companies acquire the real estate property at the moment of their establishment. In addition, privatization is conducted through sales of state property at auctions. Legal entities that according to law are economic actors, citizens of the Republic of Belarus, and foreign investors (foreign countries, international organizations, foreign legal entities and physical persons) may participate in auctions and biddings.

ACQUISITION OF REAL ESTATE PROPERTY BY FOREIGNERS IN THE PROCESS OF PRIVATIZATION

Foreigners (foreign countries, international organizations, foreign legal entities and physical persons, as well as citizens of Belarus who are permanent residents abroad) have the right to participate in the denationalization and privatization of state property. According to the provision, “On Participation of Foreign Investors in Competitive Biddings and Auctions Dealing with the Sale of Objects of State Property” (28 October 1994), foreign investors who apply for participation, pay a collateral sum, a special application fee, and a registration fee, and who provide other necessary documentation, are allowed to participate in auctions and competitive biddings dealing with sale of state property. Payment for state property acquired at auctions may be done in foreign currency or in local currency.

During the privatization of state property, enterprises with foreign investments and registered according to established procedures, have the same rights as those included in the existing legislation for legal entities established without participation of foreign capital. In practice, however, there are differences in terms of privatization between foreigners and residents.

In the case of privatization of communal property initiated by foreign legal entities and persons, the privatization agencies of local soviets are obliged to obtain permission from the Ministry of State Property Management and Privatization.

PRIVATIZATION OF UNFINISHED CONSTRUCTIONS

Legislation determines how auctions and competitive sales of unfinished construction of state property are implemented. The 10 December 1993 provision, approved by the Ministry of State

Property Management and Privatization, determines the sale procedure for unfinished construction (financed through state resources) that either did not receive financing or did not carry out construction and assembly work during the three months previous to the sale.

Auction sales of unfinished constructions include:

- ◆ constructions that are part of an enterprise under privatization as a single property complex and that the privatization commission has singled out from this complex to be auctioned;
- ◆ constructions that are impossible to continue building because the buyers cannot provide the necessary material, technical, and financial resources or due to other reasons.

Enterprises, regardless of ownership status, may buy unfinished constructions at auctions. The initial price of any unfinished construction that was not sold can be reduced by not more than 20 percent during a second sale, and by 50 percent during a third sale.

Legislation also allows for the alienation without charge of unfinished constructions by national-level state enterprises, organizations, and institutions, thus transferring these constructions to nonstate owners. Legislation also allows transfer of ownership rights of these properties to communal ownership. The alienation of national-level state property free of charge to nonstate economic persons may be conducted only by the decision of the Government of Belarus. Ministries, agencies, oblast executive committees, and the Minsk City Executive Committee can make a decision about the transfer of unfinished constructions to other state enterprises or organizations with necessary resources if the construction period did not exceed two years beyond the normative period. Unfinished constructions will be sold according to the general procedures established for auction sale if the construction period exceeded two years.

HOUSING STOCK PRIVATIZATION

The privatization of housing stock is the process of citizens' acquiring as owners the housing space they occupy in state and public buildings. Privatization of housing stock is conducted for a fee, without a charge, or on a mixed basis. Foreign citizens or persons without citizenship living in the Republic of Belarus on a permanent basis may acquire housing only through purchase.

JOINTLY OWNED HOUSING (CONDOMINIUM)

Jointly owned housing as a form of ownership is regulated by the 1998 law on joint ownership. Jointly owned housing includes the land parcel, buildings, and other structures on it. Separate parts of the property are in the state and private ownership of two or more owners, and other parts are jointly owned. The jointly owned property in this context includes parts of the property serving more than one owner (for example, apartment stairway areas, elevators, etc.) and land use rights.

Owners of jointly owned housing include the state, represented by its state agencies, and persons and legal entities who have ownership rights to residential and/or nonresidential premises, as well as a share in jointly owned real estate property. Owners of jointly owned housing may include the Republic of Belarus and its administrative-territorial units, any person and legal entity of Belarus, foreign citizens, persons without citizenship, and foreign legal entities within those rights offered to them by legislation.

The share of each owner in the jointly owned property, including the land parcel, is proportional to the share of his/her area in the total residential and nonresidential area of the jointly owned housing. The land parcel of the jointly owned housing may be allocated to owners of this property for use, possession, or as private ownership. To date, there are no condominiums with private land parcels.

Owners of jointly owned housing can agree to offer the management of the jointly owned housing to one of the owners, to hire a manager, or to establish a partnership of owners. A partnership of owners has the right to acquire land parcels only for use, to conduct development works, to improve the planning of jointly owned housing, and to control the jointly owned property.

LEGAL TRANSFER OF RIGHTS TO REAL ESTATE

TRANSFER OF RIGHTS TO LAND PARCELS

Alienation (sale, purchase, rent, gifts, collateral, as well as voluntary exchange) of land parcels that are in use or lifelong heritable possession is considered invalid. A land parcel in private ownership, verified by state act, can be alienated. In the process of alienation, land parcels must maintain their assigned land-use category.

As already indicated, legal entities of Belarus may alienate land parcels they own only to those legal entities that have the right to acquire such land in ownership. Only those enterprises that use these land parcels for managing privatized property for production and service purposes, or that are carrying out investment projects needed by Belarus, have this right. This is a significant restriction of ownership rights.

Citizens and nonstate legal entities may own residential buildings, apartments, and nonresidential structures without restriction as to quantity and size. They have the right to alienate, rent, mortgage, reconstruct, and demolish the residential premises (in its entirety or in part) they own and to conduct other activities.

According to the sale contract for buildings, structures, or other types of real estate property, the buyer acquires ownership rights only to buildings and structures. On this basis, the buyer can establish his/her rights to a land parcel. According to this rule, inherited from the Soviet Union era, land under and around a building is considered part of that property, creating an enormous “hidden” land market.

Sale of real estate property, located on a land parcel that does not belong to the seller of the property, is allowed without permission of the landowner. The buyer purchases the right to use the corresponding part of the land parcel under the same conditions the seller had. When the owner of a building or structure and the land attached to it sells only the land, the seller retains his/her rights to use the corresponding part of the land parcel. The price of the building or structure located on this land parcel must include the price of the transferred corresponding part of the land parcel. The transfer of ownership rights of a piece of real estate property must be registered in the state registry.

As to land prices, the Land Code determines that the normative price of a land parcel, when sold by the corresponding executive bodies, is determined by the Council of Ministers in coordination with the president of Belarus. In the case that legislation does not determine a

beneficial, normative, or other fixed price for land, the participants of a transaction will determine the price themselves (but not lower than the normative price).

Land legislation regulates land prices only if it is state-owned property. The price of land sold by citizens and legal entities who have the right to own it is determined on the basis of contract between the participating parties.

When a residential house, apartment, or part of house or apartment, where the persons living there will keep the right to use this residential area after its acquisition by the buyer, is sold, an important part of the sale contract is the list of the persons living in it, with indications of their rights to use the premises.

It is important to stress that real estate sale contracts were introduced in 1999 and are not yet widely applied in practice. In Belarus, the legislative acts regulating the sale and purchase of different kinds of real estate still have legal force. So, the sale and purchase of a land parcel can be performed on the basis of a contract according to the Council of Ministers' Regulation, "On Approval of the Contract Form for Sale-Purchase of Land Parcel" (28 October 1993). Alienation of housing must be conducted according to the Council of Ministers' Regulation, "On the Establishment of the Procedure of Sale and Purchase of Housing" (31 August 1993), which mandates the procedure for arranging a sale-purchase contract.

Citizens of Belarus, including persons who permanently live abroad, have the right to acquire housing on a basis of a sale-purchase contract in all settlements of the Republic of Belarus. Foreign citizens and persons without citizenship, who are permanently living in the Republic of Belarus and legally performing economic, labor, and other kinds of activities, also have this right. There are certain restrictions, however, for everyone on the acquisition of real estate in the capital, Minsk. Foreign citizens and persons without citizenship living outside of Belarus have the right to acquire apartments according to international agreements. Legal entities have the right to acquire apartments if they are registered in the territory of Belarus.

LEASING REAL ESTATE PROPERTY

Persons and legal entities sons of Belarus, persons without citizenship, foreign persons and legal entities, foreign states, and international organizations may be leaseholders (lessees) of land parcels. Owners of property or persons authorized by the owner to rent out this property may be lessors. Unitarian enterprises (the majority of enterprises in the Republic) can rent out real estate property only with permission of the owner. Land legislation indicates the specific features for the rent of land parcels in private ownership.

The lease period of a land parcel is determined by contract. This period cannot exceed 99 years, and the lease period of agricultural land cannot be less than 5 years. Each of the parties can cancel this agreement at any time by informing the other party.

Real estate, land, and other natural resources may be leased to foreign investors and enterprises with foreign investments by lessors on the basis of contracts and according to the Law "On Lease." State property may be offered for lease on the basis of permission by the state body authorized to manage this property.

The lease terms and amount of rent payment are determined by agreement between both parties and must be fixed in a lease contract. Lease agreements between citizens for a period of

more than one year (and irregardless of the period if a legal entity is involved) must be done in written form. Real estate lease contracts must be registered by the state.

Leaseholders, with the permission of the lessor, have the right to make subleases, to transfer their rights and obligations to other persons according to the lease contract, to offer the leased property for use without charge, to mortgage lease rights, and to put them into authorized funds of economic partnerships and societies or as a share contribution to production cooperatives.

Lease agreements can indicate that the leased property may be transferred into ownership of the leaseholder after expiration of the lease period, or before its expiration if the leaseholder pays all rental payments according to the contract. Lease agreements that contemplate a future transfer of ownership rights to the leaseholder must be done on a form designed for sale-purchase contracts.

REAL ESTATE PROPERTY AS A GIFT

Real estate property or rights to it may be transferred free of charge according to the gift contract. Gift contracts for real estate property must undergo state registration. A legal entity that holds real estate property for its economic and day-to-day management has the right to transfer it as a gift with the permission of the owner.

REAL ESTATE PROPERTY EXCHANGE

Citizens of Belarus may exchange land parcels by mutual contract if the parcels are in lifelong heritable possession or private ownership. This exchange is allowed if the proposed use of the land parcels will not be changed or if the citizen has the right to keep the land parcel acquired by exchange in lifelong heritable possession and ownership. The exchange of land parcels owned by legal entities is not allowed. This is one more significant restriction of ownership rights of legal entities.

MORTGAGES

Land parcels may be used as collateral only as security for the repayment of bank credit. Presidential Decree No. 17 (7 December 1999) establishes a restricted list of banks that may accept land parcels (land parcels owned by persons and legal entities as collateral in order to provide credits to these persons).

The owner or the person who has the right to manage a piece of real estate property may use the property as collateral for a mortgage. Unitarian enterprises that own property on the basis of economic management do not have the right to mortgage real estate property without the owner's permission.

The mortgaging of lease rights or of other rights is not allowed without the permission of the property's owner or its economic manager if legislation or the contract prohibits the alienation of this right without permission of these indicated persons.

The mortgaging of state-owned real estate property by legal entities that are in charge of its economic management is conducted in the following cases:

- ◆ mortgaging of enterprises and other entire property complexes is done with the permission of the Council of Ministers of the Republic of Belarus;

- ◆ mortgaging of buildings, structures, or unfinished construction is done with the permission of the Ministry of Management of State Real Estate and Privatization;
- ◆ mortgaging of lease rights of land parcels is done with the permission of a pledger based on the procedure established by the State Committee for Land Resources, Geodesy and Cartography, and in coordination with oblast Councils of Deputies. If the price of mortgaged state property exceeds 50,000 minimum monthly wages (around US\$124,000), the mortgage must be coordinated with the president of Belarus.

A pledger keeps and uses the mortgaged land parcel according to its land use purpose during the entire period of the land mortgage contract.

The mortgaging of a building or structure should be done only with the parallel mortgaging within the same contract of the land parcel on which the building or structure is located. This requirement appears in the Civil Code of 1999 and in practice is not implemented. Buildings and structures are mortgaged without a parallel mortgage of the land parcels.

When a land parcel is mortgaged, the mortgage does not generally apply to the pledger's existing buildings and structures or buildings and structures under construction located on this land parcel. So, unless the mortgage contract stipulates otherwise, the pledger retains restricted use rights (servitude, easement) to that part of the land parcel necessary for the proposed use of the building or structure if the land parcel is recovered. Parts of divisible land parcels in private ownership to legal entities or citizens of Belarus may be mortgaged.

Real estate property belonging to an enterprise with foreign investments may be used by this enterprise to secure a mortgage. Property rights, transferred by participants as a contribution to the capital fund of this enterprise, may also be considered as security.

Only that property which an investor has on the basis of ownership may be mortgaged. But in the majority of cases, citizens and legal entities have restricted rights to land that cannot be mortgaged. Most citizens (75.4%) have rights to lifelong heritable possession of land; this right cannot be mortgaged. Legal entities (98%), as a rule, have the right to permanent land use; mortgaging of land use rights is not allowed.

Banks in Belarus do not want to issue mortgage credits using land parcels as collateral because land parcels and rights to them have low liquidity. In the majority of cases the price for a land parcel or to the right to use it is unknown. If a debtor does not fulfill the obligation secured by mortgage, it is very difficult for the creditor to sell the right to this land parcel because there is no guarantee that the creditor would be able to sell it at the market price to repay the credit. As a result of the conflicts between laws and the inefficiency of the land market, no land mortgage has yet been registered.

SECONDARY MARKET

The country has been not keeping statistics on the real estate market. But it is possible to get a certain understanding of its structure by taking Minsk, capital of Belarus, as an example.

Transactions in Housing

In 1998, 41,548 transactions involving individual residential houses and apartments were registered in Minsk. According to sale-purchase contracts, rights to housing were transferred in 34,723 transactions (83% of all transactions), including 19 residential houses. According to

exchange contracts, rights were transferred in 2,299 transactions (5.5% of all transactions), including 10 residential houses. Only 45 apartment mortgages were registered in 1998.

Transactions in Non-residential Buildings and Premises

In 1998, 147 transactions in total were registered in Minsk involving nonresidential property. According to sale-purchase contracts, rights were transferred in 132 transactions (89% of all transactions). A total of 189 mortgages were also registered in 1998.

Transactions in Land Parcels

In Minsk (with a total area of 25,583 hectares), 1,182 land parcels are in private ownership, with a total area of 72.4 hectares, or 0.283 percent of the total area of the city. There are no legal entities with ownership rights to land. In 1998, 43 transactions involving privately owned land parcels were registered. According to the sale-purchase contracts, rights were transferred in 18 transactions. There were neither lease transactions nor mortgage transactions registered.

COST OF TRANSACTION SERVICES

The cost for transaction services consists of fees for notaries, registration, technical inventory, surveying agencies, land development, licensed surveyors, and realtors. For example, transaction services for a three-bedroom apartment (\$30,000) purchased with the assistance of a realtor may total \$300 to \$400, or 1-2 percent of the apartment's market price.

In Belarus, we have two cadastral/right registration systems: the land cadastral and land rights registration system (National Cadastral Agency), and the building registration system (BTI). After the Land Register Law is adopted by Parliament, one Immovable Property Cadastre/ Register system will possibly be established in 2001.

Table 6. Transaction Costs

Service provider	Activities	Form of payment	Cost (in US\$)
Notaries	verification of contracts of property alienation and mortgage; design of project documentation; and preparation of documentation	fixed	0.25-10.00, depending on type of work; varies
Bureau of Technical Inventory	technical inventory registration of rights to buildings and structures and of mortgage contracts on buildings and structures; provision of information	on basis of a contract and according to prices determined by the state fixed	depending on size of building or structure 0.70-10.00
Land Surveying Agency	determination of parcel boundaries, state cadastral count; state registration of rights; issue of state act on land parcel or certificate for right to use land parcel permanently ♦ for physical persons ♦ for legal entities ♦ provision of cadastre information	on basis of a contract and according to prices determined by the state	 • 10.00-15.00 • up to 500 • no charge
Realtors	intermediary services	on basis of a contract	1-3% of price

ANNEX: SUMMARY STATISTICS ON PRIVATIZATION (PROVIDED AFTER AUGUST 2000 MINSK WORKSHOP)

Table 1: Percent of real estate with marketable titles (ownership with right to sell) for various types of real estate in Belarus

Types of real estate (%)				
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
Ø*	100	1	Ø	25

*Cannot legally convert into private ownership.

Table 2: Percent of real estate with registered-marketable ownership titles for various types of real estate in Belarus

Types of real estate (%)				
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
Ø*	100	1	Ø	25

*Cannot legally convert into private ownership.

LAND PRIVATIZATION IN GEORGIA¹

David Arsenashvili

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1. LAND PRIVATIZATION

In Georgia, land is classified into two categories: agricultural land and nonagricultural land. Agricultural land includes arable land, land covered with perennial plants, pastures, hayfields, and all other lands used for producing agricultural goods. Lands not used for agricultural purposes, among them industrial and urban lands, are considered nonagricultural.

Special laws determine the function and privatization regulations for these lands: “Law on Agricultural Landownership,” “Civil Code of Georgia,” “Law of Georgia on Administration and Disposition of State-Owned Nonagricultural Land,” and “Law of Georgia on Declaration of Private Ownership of Nonagricultural Land in Use by Physical and Private Legal Persons.”

In the course of land privatization, the law on land registration was effectively applied allowing land parcels to be transferred into private ownership and to enter the land market. In other words, legislation allows for land purchase and sale, lease, mortgage, and all related transactions that expedite land market development.

Agricultural land privatization in Georgia began in 1992 and the country managed to privatize land at the same time it gained its independence. The first normative act addressing land privatization was Resolution No. 48 of the Government of Georgia dated 18 January 1992. This resolution entitled citizens of Georgia to receive 0.75 hectare of land in ownership. Resolutions No. 128 and No. 290 of the same year determined 1.25 hectares as the maximum area of agricultural land parcels to be transferred into ownership in the lowlands and up to 5 hectares in the highlands. At present, approximately 1 million citizens have privatized 3 million agricultural land parcels.

On 22 March 1996, the Parliament of Georgia legitimized the acts issued by the Government of Georgia and issued the “Law on Private Ownership of Agricultural Land.” According to this law all governmental resolutions granting private land ownership rights to the citizens of Georgia were considered legitimate.

Although the privatization laws proved to be successful, there was no registration system in place that would allow for the comprehensive exercise of ownership rights such as purchase and sale, lease, mortgage, servitude, usufruct, and construction. Therefore, the Parliament of Georgia issued the “Law on Land (Immovable Property) Registration” in 1996, and the new Civil Code in 1997 legalized land transactions.

¹ Paper prepared for presentation to the Workshop on “A Land Privatization Index”, held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

The problem was that since 1992 while agricultural land was being privatized, the transfer of rights to land was not being registered. The existing system only recorded owners and this was not sufficient for recording subsequent transactions. Also, the existing recording system failed to meet the requirements of the new laws adopted during 1996-1999. This situation was complicated by the circumstance that certain authoritative powers decided to implement land registration over a ten-year period, during which time land transactions would have been limited or impossible. Georgia could not afford to wait ten years to put a land market in place. Therefore, it became necessary to develop a project that would apply inexpensive technologies and register agricultural lands in a timely and effective manner in compliance with existing legislation.

After analyzing the above stated problem, the government initiated several significant projects supported by the U.S. Agency for International Development (USAID). In 1999, Presidential Order No. 327, which established inexpensive and sufficient criteria for registering rights, was decreed. The key points of this order include:

- ◆ the initial registration of agricultural land is permitted throughout the entire country;
- ◆ initial land registration is conducted free of charge for farmers, increasing interest in registering rights to land;
- ◆ local private companies and private entities conduct initial registration, simplifying the registration process;
- ◆ the initial registration process is comprehensible for farmers and is free of useless bureaucratic steps;
- ◆ the initial registration of land parcels permits the recording of land transactions subsequent to privatization at the time of registration;
- ◆ the initial registration process is transparent and all interested persons have access to the information they seek;
- ◆ initial registration is inexpensive and its results are effective: from 1999 until now, almost one million land parcels have been registered and subsequent transactions have been held on tens of thousands of land parcels.

Thus, the problem accompanying the privatization of agricultural land in Georgia during the past ten years was resolved in a timely, simple, inexpensive, and reliable manner via initial registration that also expedited formation of a land market in Georgia.

The registration of nonagricultural land covers urban land and industrial land privatization. Private ownership did not exist on nonagricultural land prior to 25 November 1997. Land parcels possessed by private persons were deemed owned by the state. Those who possessed land were considered land users and paid a land usage tax.

The initial phase of privatization of nonagricultural land included land parcels with apartment buildings and individual houses. The Civil Code establishes that nonagricultural land parcels under individual houses and apartment buildings are owned by their residents. Thus, the problem related to residential (urban) land privatization was quickly solved.

The second phase of privatization covered industrial land. Parliament issued a special law in 1998, "Declaration of Private Ownership of Nonagricultural Land in Use by Physical and Private Legal Persons," which declared private ownership of nonagricultural lands possessed by

entrepreneurs. The law did establish a one-time symbolic payment for obtaining ownership rights that was equal to the annual land tax.

Initial registration accompanied the process of privatizing industrial land. Enterprises were required to submit certain documents to the registrar in order to have land privatized: documentation of registration of a legal entity, a land sketch or a land usage document issued and certified by the governmental body, documentation evidencing ownership of buildings and structures, and the receipt of the one-time payment. These documents were sufficient to register land into ownership. This process proved to be successful, and in a few months 5,000 enterprises owned privatized lands.

The conditions that allowed such successful results included:

- ◆ a transparent privatization procedure,
- ◆ effective use of already existing documentation,
- ◆ absence of useless bureaucratic steps,
- ◆ the correct registration of rights,
- ◆ establishment of an affordable fee for land privatisation,
- ◆ initial registration that allows for alienation of land,
- ◆ the right of an entrepreneur using a land parcel to become its owner, recognizing its existing boundaries and disregarding the norms established by the state.

2. TRANSACTIONS OF PRIVATIZED LAND

Transactions in immovable property in Georgia are regulated by two basic laws: the Georgian Civil Code, and the Law on Land Registration. According to the Civil Code, land parcels can be alienated, sold, inherited, or granted. However, according to that same legislation, such transactions acquire legal status only after they are registered, and this fact magnifies the role of registration in order to conduct transactions.

The registration system covers the entire country, which is divided into registration zones, sectors, quarters, and land parcels. Transactions are registered at the zone registry. The whole registration system represents a public registry where entries are made on land (immovable property) and rights related to the land. According to the Land Registration Law, each land parcel has a registration card, which is divided into four sections. The first section contains data on parcel location and identification:

- ◆ name and code of the registration zone,
- ◆ name and code of the sector,
- ◆ quarter number,
- ◆ parcel number,
- ◆ land parcel area,
- ◆ land parcel address,
- ◆ tenure status.

The second section includes the following data on ownership:

- ◆ entry number,
- ◆ application registration number and date,
- ◆ the document certifying ownership right (agreement or other legal document),
- ◆ name of owner and his/her address,
- ◆ registration note.

The third section records encumbrances such as:

- ◆ leases,
- ◆ right to build,
- ◆ servitudes,
- ◆ usufruct rights.

The fourth section contains a special column for registering:

- ◆ mortgages,
- ◆ leases.

According to legislation, in order to undertake subsequent transactions, the seller and the buyer of a land parcel must draw up a contract, obtain an extract from the registration card, and have it notarized. It is also necessary to pay taxes and fees (the registration fee established for land transactions does not exceed US\$14). After taxes and fees are paid, the sale/purchase contract is registered in the owner's section of the land parcel's registration card. For the further stimulation of subsequent transactions, Parliament is considering reduction of the registration fee from US\$14 to US\$7 for 1 land parcel.

Data on land transactions in two regions of Georgia for different land categories show that transactions are mostly sales and mortgages. We selected two regions, Kakheti located in the east and Imereti in the west. These data show that in the course of land privatization and initial registration, land transactions were successfully developed (see Table 1). There are also mortgages and leases, as well as the transfer of usufruct and building rights.

Table 1. Land sales in Kakheti and Imereti

Region	Land sales			
	Non-agricultural land		Agricultural land	
	Number of transactions	Area (in ha)	Number of transactions	Area (in ha)
Kakheti	105	41.23	366	196.93
Imereti	77	5.68	106	33.34

3. STATISTICAL DATA ON LAND PRIVATIZATION

3.1 RESULTS OF PRIVATIZATION FOR AGRICULTURAL AND NONAGRICULTURAL LAND

Land is divided into two categories in Georgia, agricultural and nonagricultural, all lands belonging to either category were subject to privatization.

Table 2. Privatized agricultural land by tenure category and by use (in 000 ha)

Tenure category	Arable	Perennial cropland	Hayfields	Pastures	Residential & industrial	Total
Private ownership	433.9	182.3	41.5	85.0	19.4	762.1
Leased	270.4	32.8	59.1	592.2	-----	957.5

Table 3. Privatized nonagricultural land by use

Type of use	Area
Industrial	2,882.79
Apartment buildings	1,574.4
Individual houses	7,871.7

3.2 REGIONAL RESULTS OF PRIVATIZATION

To demonstrate regional differences, we present statistical data from two regions of the country which differ from each other: Kakheti is located in the east, and Imereti in the west of Georgia. The data show successful results of privatization along with some deficiencies:

Successes:

- ◆ significant part of agricultural and nonagricultural land has been privatized,
- ◆ lands with apartment buildings are privatized,
- ◆ urban lands, except for roads, state institutions, and territories of public necessity, are transferred into private ownership.

Deficiencies:

- ◆ majority of agricultural land parcels are still owned by the state and are leased out,
- ◆ majority of pastures are not privatized.

Recommendations:

- ◆ A law on privatization of agricultural lands remaining in state ownership needs to be drafted to transfer remaining agricultural lands to citizens as private property,

- ◆ It is essential to transfer hayfields and pastures into private ownership when privatizing agricultural land.

Table 4. Privatized land rights by land use in Kakheti

Land rights	Land-use categories (in hectares)						
	Agriculture	Agricultural buildings	Pastures	Forests	Housing	Urban land	Industrial land
Possession (with right to sell)	—	—	—	—	—	—	—
Leasing (without right to sell)	302,400	420	193,600	—	—	—	—
Private ownership (with right to sell)	153,900	1,680	6,900	—	59,940	55,035	252.48
Total	456,300	2,100	200,500	344,283	59,940	55,035	252.48

Table 5. Privatized land rights by land use in Imereti

Land rights	Land-use categories (in hectares)						
	Agriculture	Agricultural buildings	Pastures	Forests	Housing	Urban land	Industrial land
Possession (with right to sell)	—	—	—	—	—	—	—
Leasing (without right to sell)	29,200	319	183,000	—	—	665	21.36
Private ownership (with right to sell)	109,300	2,900	78,000	—	110.96	54,498	227.25
Total	565,600	3,219	271,000	321,751	110.96	55,163	248.61

ANNEX: SUMMARY STATISTICS ON PRIVATIZATION (PROVIDED AFTER AUGUST 2000 MINSK WORKSHOP)

Table 1. Percent of real estate with marketable titles* (ownership with right to sell) for various types of real estate in Georgia

	Types of real estate (%)			
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
30	85	100?	60	68.75

* According to the legislation in force, only real estate registered in the Real Estate Register may be subject to transactions.

Table 2. Percent of real estate with registered-marketable ownership titles for various types of real estate in Georgia*

	Types of real estate (%)			
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
33	3.5	2.8	60	24.83

*Unfortunately separate statistical data on registration of land under residential apartments and individual residential houses do not exist. We obtained the existing data from the Public Registry and therefore rely on the registrations made in the Public Registry. We also used some statistical evaluations conducted by a non-governmental organization (NGO).

LAND PRIVATIZATION AND LAND MARKETS IN LITHUANIA¹

Bronislovas Mikuta
State Land Cadastre and Register

1. LAND PRIVATIZATION

On 11 March 1990, after the restoration of independence of Lithuania, the Basic Temporary Law of the Republic of Lithuania was adopted stating that state ownership by the Republic of Lithuania is one basis of the Lithuanian economic system. Private ownership is another type of ownership.

The Seimas of the Republic of Lithuania has passed laws that provide for the restoration of ownership rights of existing real property to the citizens of the Republic of Lithuania, and if restoration is not possible, to compensate justly. The restoration of ownership started in 1991. Recently the process of restoration of ownership to land and forests has speeded up. The attitude of Lithuanian citizens toward ownership is very important and is reflected in Article 23 of the Constitution: "Ownership is inviolable. Law protects ownership rights. Ownership can be taken for public needs only following the procedures prescribed by laws and must be justly compensated."

The Constitution of the Republic of Lithuania was adopted on 25 October 1992. The Constitution proclaims that land, internal bodies of water, forests, and parks may belong by right of ownership only to the citizens of the Republic of Lithuania and to the state. Municipalities and other national subjects, as well as those foreign states engaged in economic activity in Lithuania, included in Constitutional Law according to the criteria of selected European and transatlantic integration, may be allowed to acquire ownership rights to nonagricultural land parcels needed for the construction and use of buildings and facilities for their immediate activity.

As well as other countries in transition, Lithuania has been implementing economic and land reform programs. The process of land reform and restoration of landownership rights begun in principle in 1991 accelerated during recent years when the Seimas and the Government of the Republic of Lithuania passed legislation necessary for the implementation of those tasks. The Law on Restoration of Citizens' Ownership Rights to Existing Real Property fulfilled the constitutional principles on protection of ownership and established certain guarantees for persons.

¹ Paper prepared for presentation to the Workshop on "A Land Privatization Index", held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

LEGISLATION REGULATING LAND AND REAL PROPERTY PRIVATIZATION

The following laws set forth the basic procedures and conditions for restoration of ownership rights to land, forests, buildings, and other structures and for regulation of real property privatization and market:

- ◆ The Law on Restoration of Citizens' Ownership Rights to Existing Real Property,
- ◆ The Law on Land Reform,
- ◆ The Law on Land Leasing,
- ◆ The Constitutional Law on Entities, Procedures, Terms, and Restrictions of Acquiring Land Parcels in Ownership (Provided for in the Second Part of Article 47 of the Constitution of the Republic of Lithuania),
- ◆ The Law on Land,
- ◆ The Law on Privatization of State and Municipal Assets,
- ◆ The Law on Real Property Register.

INSTITUTIONS

The following institutions participate in the process of land restitution, real property privatization, and registration:

- ◆ Ministry of Agriculture, Land Management and Law Department,
- ◆ State Land Survey Institute,
- ◆ Land Management Departments of County Manager's Administration,
- ◆ municipalities,
- ◆ State Land Cadastre and Register,
- ◆ private companies.

METHODS AND TYPES OF PRIVATIZATION

The Law on Restoration of Citizens' Ownership Rights to Existing Real Property regulates the restoration of ownership rights to land, forests, bodies of water, buildings for economic-commercial purposes, residential houses, and apartments.

Restoration of ownership rights for land in rural areas

- ◆ Ownership rights are restored to persons who previously owned land, for a maximum area of 150 hectares including forests and bodies of water.
- ◆ Land is restituted in kind.
- ◆ The granted land parcel is of equal value to the previously owned one.
- ◆ Upon request, it is possible to get compensation in cash or securities for previously owned land.

Restoration of ownership rights for land in urban areas

- ◆ Ownership rights to land are restored to persons having houses and other buildings by granting them rights to the land they are using free of charge;
- ◆ If the urban parcel granted in ownership is substituted for a previously owned parcel, the former should be in the same location as the latter.

Restoration of ownership rights for forests and bodies of water

- ◆ Ownership rights to forests and bodies of water are restituted in kind in the same location as the previously owned;
- ◆ Citizens' ownership rights to forests and bodies of water are restored following the procedures established by the government and according to land management projects.

Restoration of ownership rights to buildings for economic-commercial purposes and for housing

- ◆ Ownership rights to buildings for economic-commercial purposes are restored by restituting them in kind;
- ◆ Ownership rights to residential houses and apartments are restored by restituting them in kind.

TYPES OF LANDOWNERSHIP AND ACQUISITION OF LAND

The Land Code, the Law on Land, the Law on Land Reform, and bylaws provide for types of landownership and regulate the acquisition of land.

Types of land ownership are:

- ◆ private ownership;
- ◆ state ownership.

The right to private landownership can be acquired by:

- ◆ citizens of the Republic of Lithuania;
- ◆ national and foreign subjects according to the procedures and conditions established by Article 47 of the Constitution of the Republic of Lithuania and Constitutional Law.

Ways for acquiring land include:

- ◆ restoration of ownership rights to land by restitution in kind or by transferring or granting the land parcel into ownership free of charge;
- ◆ granting state-owned land into private ownership free of charge;
- ◆ sale of state-owned land;
- ◆ land transactions concluded by citizens.

SALE OF STATE-OWNED LAND TO CITIZENS

Agricultural land, forests, and bodies of water in rural areas are transferred to former owners or their heirs according to land (forests, bodies of water) management projects.

The size of state-owned land parcels to be sold is determined as follows:

- ◆ Persons wishing to acquire land (including forests and bodies of water) for agricultural purposes can buy state-owned land during the land reform. The total area for one family cannot exceed 150 hectares including land restituted in kind, transferred, granted free of charge into ownership, and bought from the state.
- ◆ Persons who own buildings and other constructions can buy the land parcels attached to them with the area and boundaries determined in the documents on regional planning.
- ◆ Household land parcels in rural areas and in those areas that were attached to cities after 1 June 1995 cannot be bigger than 2 hectares;
- ◆ In Vilnius, Kaunas, Siauliai, Klaipeda, Panevezys, Alytus, Marijampole, Druskininkai, Palanga, and Birstonas, land parcels cannot be bigger than 0.2 hectare, and not bigger than 0.3 hectare in other cities.

PRIVATIZATION OF BUILDINGS AND APARTMENTS:

- ◆ Citizens have the right to acquire buildings and other structures for commercial-economic activities as well as residential houses and apartments;
- ◆ Citizens of Lithuania and of foreign countries have the right to acquire buildings and other structures necessary for economic-commercial activity and enterprises of different purposes;

The legal activities of foreign investors in Lithuania are regulated by the Law on Foreign Capital Investment in the Republic of Lithuania and by other laws and bylaws, such as laws on taxes and their administration, laws on enterprises, commercial banks, competition, and bankruptcy, and laws on free economic zones and concessions.

RIGHTS AND RESTRICTIONS TO ACQUISITION OF LAND FOR NATIONAL AND FOREIGN PERSONS

National and foreign persons may be allowed to acquire ownership rights to nonagricultural land parcels for the construction and use of buildings and facilities needed for their immediate use. Subjects of foreign states employed in economic activity in Lithuania shall be included in the Constitutional Law according to selected European and transatlantic integration criteria. During the restitution process, national and foreign entities do not have the right to acquire agricultural land in private ownership.

Foreign countries may acquire ownership rights to land parcels for the purpose of establishing their respective diplomatic and consular institutions according to the procedures and under the conditions established by laws.

STATE PROPERTY THAT CANNOT BE PRIVATIZED

The following state-owned land, forests, and bodies of water cannot be privatized:

- ◆ land occupied by state or municipal roads, airports, and military units dedicated to the defense of state borders, or where natural resources are exploited;

- ◆ land areas used for public needs such as streets, squares, graveyards, and watering-places;
- ◆ land granted for educational and science institutions, state social care and guardianship institutions, state institutions and organisations, and specialized farms;
- ◆ national reserves, national and regional parks, area of Kuršių Nerija national parks;
- ◆ the coastal zone of the Republic of Lithuania;
- ◆ land owned by churches.

TRANSFERRING AND SUBDIVIDING PRIVATE REAL PROPERTY

Privately owned land parcels, forests, buildings, and apartments may be transferred to other citizens. Transfer contracts shall be certified by a notary and, following established procedures, registered in the State Land Cadastre and Register. To pursue economic-commercial activities, land may be acquired by those citizens who have registered permission to engage in this activity.

Private parcels of agricultural land and forests may be subdivided or portions thereof may be separated for the purpose of transferring or leasing only upon co-ordination with the land-use plan or regional planning document.

Private land parcels may be divided into two or more parcels, intended for residential, public, or economic-commercial construction, provided this type of construction has been included in the regional planning documents and the prescribed size of parcels and density of buildings are chosen.

INHERITANCE OF PRIVATE REAL PROPERTY

Private land, private forests, and buildings and apartments can be inherited according to the procedures established by law and the Civil Code. When a parcel of land, a building, or an apartment has been inherited by several persons, the property shall be registered in the name of all heirs, specifying the individual shares in the common property.

MORTGAGES

Private land, forests, buildings, and apartments may be mortgaged according to procedures established by law. Contracts for mortgaging real property shall be concluded in writing, certified by a notary, and registered within the Mortgage Institution according to established procedures. When a portion of landed property is being mortgaged, it must be registered as a separate land parcel within the State Land Cadastre and Register.

LAND LEASES

The lessor of private land is the owner of that land; the lessor of public land is the county manager or the local municipal institution. Lessees of land may be persons and legal entities of the Republic of Lithuania and foreign states. The lease term for private land shall be established by mutual agreement between the lessor and the lessee; the lease term for public land shall be established by mutual agreement between the lessor and the lessee, but may not exceed 99 years.

According to established procedures, state land shall be leased by auction to the person who bids the highest rental rate. The right to take part in the auction shall not be restricted. If the state

land is occupied by buildings owned or leased by natural or legal persons, such land shall be leased without an auction.

REGISTRATION OF REAL PROPERTY

Registration of rights to real property shall be carried out by the State Land Cadastre and Register, observing the Law on the Real Property Register and other bylaws adopted by the government.

LAND STOCK

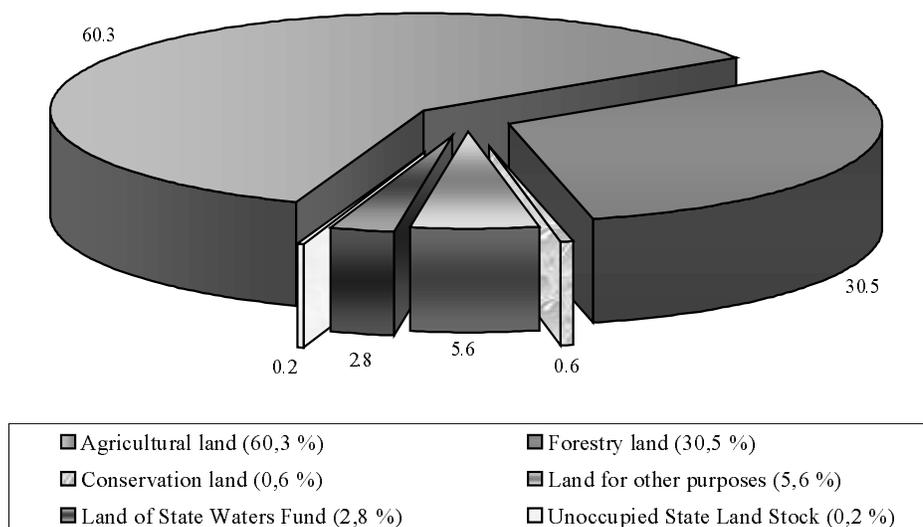
The land stock in Lithuania is mainly agricultural land covering more than 60 percent of the area. Forests cover 31 percent, and other land uses such as housing, 9 percent.

According to the Law on Land, the land stock consists of the following types of land:

- ◆ agricultural land;
- ◆ forest land;
- ◆ conservation land;
- ◆ land for other purposes;
- ◆ unoccupied state land;
- ◆ land with state-owned bodies of waters.

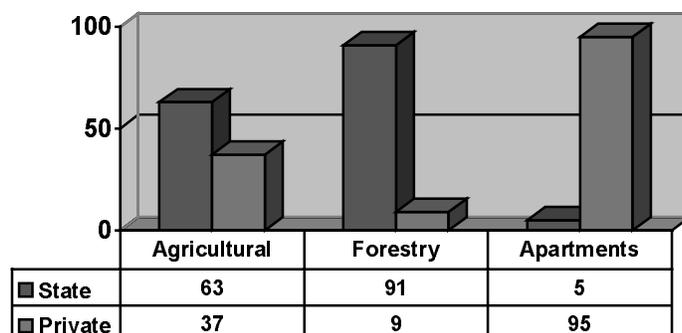
Figure 1 shows how this land stock is distributed across these use categories.

Figure 1. Distribution of land according to principal land uses (percent as of 1 January 1999)



More than 25 percent of all land stock is privatized. The rest of the land belongs to the state and municipalities (see Figure 2).

Figure 2. Distribution of the land, forests, and apartments according to types of ownership (percent as of 1 January 1999)



RESTORATION OF OWNERSHIP RIGHTS TO LAND

County managers, following the functions delegated by law, implement the land reform and make decisions regarding the restoration of ownership rights to land or the selling of land, and investigate complaints concerning the suitability for farming of land distributed during the land reform. There are 1,286 agricultural cadastral areas, and more than 1,000 surveyors prepare land management projects.

The restoration of ownership rights and the land reform process has accelerated during the past year. By 1 November 1999, land management projects for land reform were prepared and approved for 245 cadastral areas, and 385 projects were prepared for parts of cadastral areas. The level of land restitution is highest in those counties and districts where land productivity is high. In those counties ownership rights were restored for more than two-thirds of the land area indicated in the applications.

Table 1. Restoration of ownership and privatization for different types of land (percent as of 1 January 1999)

Type of right	Agricultural land	Agricultural buildings	Pastures	Forests	Apartments	Urban land	Industrial land
Ownership	37	21	*	9	95	13	2
Lease/use	63	79	*	91	5	87	98

* Pastures included in agricultural land.

The restoration of landownership rights and the land reform process is most complicated in eastern Lithuania, especially in the Vilnius region. At present, 35 percent of the citizens in Vilnius county have not yet submitted the documentation to prove ownership rights or kinship with a previous landowner. Many of important archival documents have not survived; therefore,

the citizens are forced to address the court to establish legal facts for proving existing ownership rights.

2. DEVELOPMENT OF LAND MARKET

During the years 1990-1999, Lithuania made great strides in stabilizing the economy: gross domestic product (GDP) began to increase, inflation was not only reduced but stopped (inflation in 1996 was 13.1 percent, in 1999, 0.3 percent), the foreign trade balance and state debts were controlled, and the banking sector had recovered.

A lot of effort was made in establishing the market economy: prices and trade were liberalized, liberal conditions were established for investments, large-scale privatization of real property was realized, important market institutions were established, and the stability of local currency was ensured. The government is seeking to make better legal, economic, and organizational conditions for the development of the real property market by implementing the Action Program for 1997-2000.

This paper will give some statistical data that estimate the level of restoration of ownership rights for real property and privatization of various types of immovable properties in all of Lithuania and separately in two counties. Data on the development of the real property market are also presented, as well as other indicators affecting the economic growth rate and dynamics of the land market.

ECONOMIC, LEGAL BACKGROUND

Lithuania is one of the states on the eastern shore of the Baltic Sea. The territory of Lithuania covers an area of 65.3 thousand square kilometers divided into 10 counties. The area of Vilnius county is 9,650 km² (15 percent of national territory) and Taurage county is 3,874 km² (6 percent). The county of Vilnius is the largest county and is situated in eastern part of Lithuania. The city of Vilnius is the capital of Lithuania and the center of Vilnius county. The county of Taurage is the smallest county and is situated in the southwestern part of Lithuania, with the city of Taurage as the county center.

The rates of unemployment, employment, population by economic activity, and average monthly gross earnings show great differences in Vilnius and Taurage counties (see Tables 2 and 3, and Figures 3, 4, and 5).

Figure 3. Population at beginning of year (in thousands)

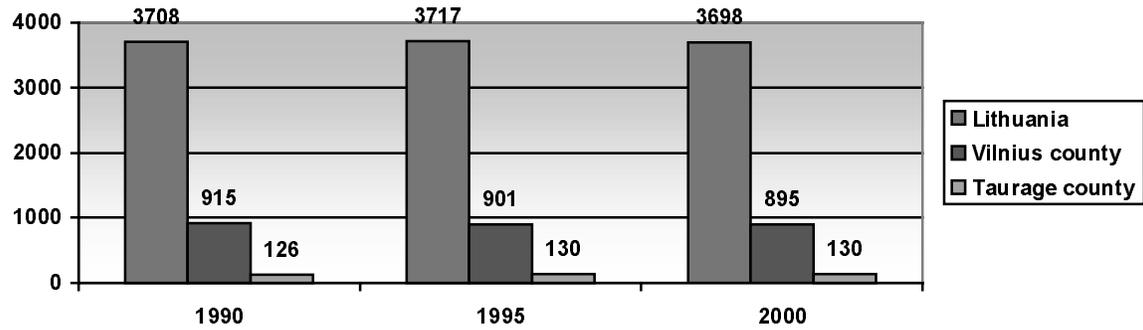


Figure 4. Unemployment rate in percent, 1993-1998

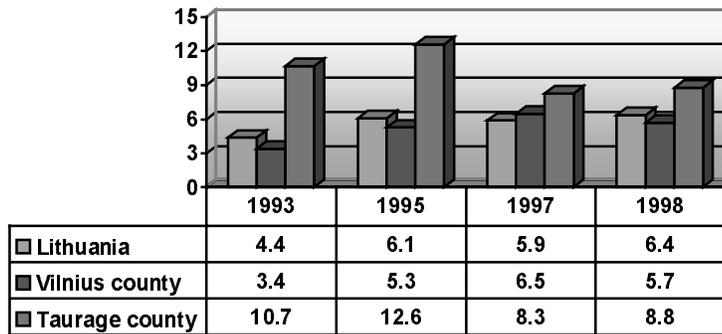


Table 2. Gross domestic product (GDP), 1996-1998

	1996		1997		1998	
	GD P (%)	GDP per inhabitant (thousand US\$)	GD P (%)	GDP per inhabitant (thousand US\$)	GD P (%)	GDP per inhabitant (thousand US\$)
Lithuania	100	2.1	100	2.6	100	2.9
Vilnius county	28.5	2.5	29.3	3.1	32.0	3.8
Taurage county	2.6	1.6	2.3	1.7	2.1	1.8

Table 3. Employed population by economic activity, 1997-1998 (average annual percent)

	Total		Agriculture, hunting, and forestry		Industry		Construction		Services	
	1997	1998	1997	1998	1997	1998	1997	1998	1997	1998
Lithuania	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Vilnius county	26.0	26.0	2	2	5.0	5.0	2.0	2.0	17.0	17.0
Taurage county	3.0	3.0	1	1	*	*	*	*	1.3	1.3

* Less than 0.5%.

Figure 5. Average monthly gross earnings (in US\$/month)

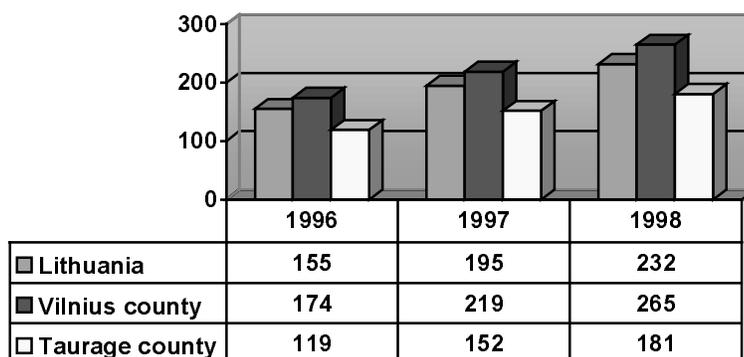


Table 4. Foreign direct investment (as of 1 January, in percent)

	1996	1997	1998	1999
Lithuania	100.0	100.0	100.0	100.0
Vilnius county	38.0	43.0	53.0	61.0
Taurage county	0.7	0.6	0.3	0.3

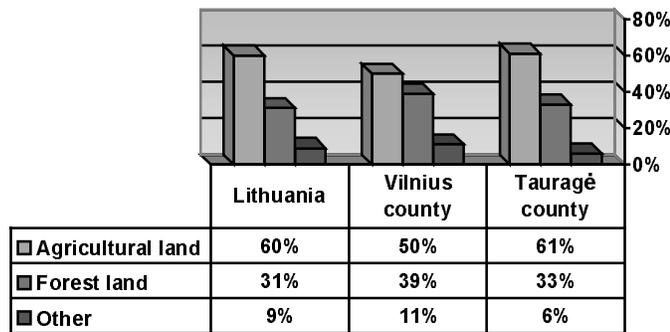
The distribution of direct foreign investments across counties is very uneven. More than half is made in the county of Vilnius and this rate is increasing every year compared with other regions (see Table 4).

The legal conditions for market development are the same for the whole country, for Vilnius county, and for Taurage county. Land, buildings, apartments, and rights to them as well as property transactions are registered in the Real Property Register kept by the State Land Cadastre and Register. Laws and bylaws necessary for promoting the development of the real property market have been adopted, and state institutions and private companies have been established.

STRUCTURE OF LAND STOCK

Agricultural land covers the major part of Lithuania (60 percent) and forests cover 31 percent. The distribution of agricultural land varies across counties. While there is proportionally more agricultural land in Tauragė county than in Vilnius county, the forest area is larger in Vilnius than in Tauragė county. (See Figure 6.)

Figure 6. Structure of land stock



TYPES AND DISTRIBUTION OF BUILDINGS

The housing stock varies across cities and counties. The urban dwelling stock in Vilnius county is high—about 75 percent of the housing in that county is in urban areas. In Taurage and Marijampole counties, only 43 percent of the housing is in urban areas (see Figures 7 and 8).

Figure 7. Types of buildings

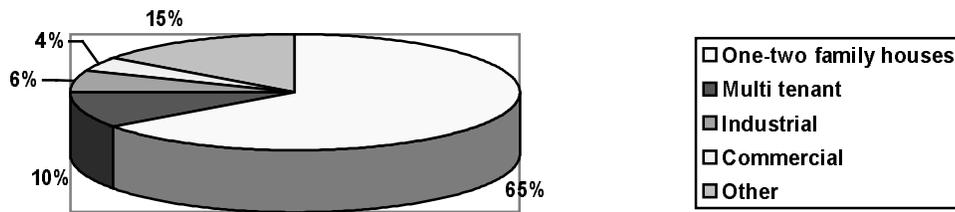
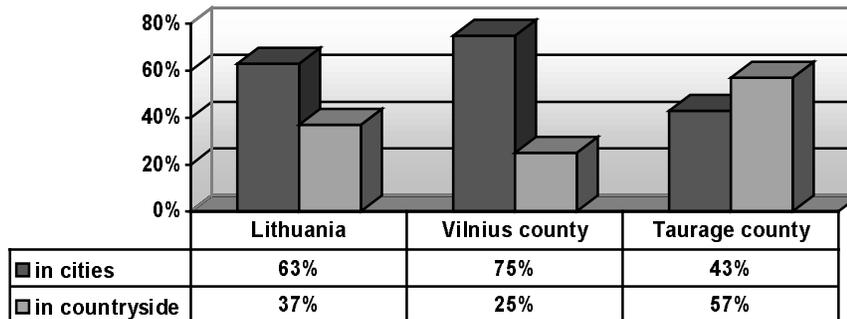


Figure 8. Housing stock in cities and countryside



RESTORATION OF OWNERSHIP RIGHTS AND PRIVATIZATION

By 1 January 2000, the citizens of the Republic of Lithuania had submitted 682,000 applications to restore ownership rights for a land area of 3.99 million hectares. Along with the land privatization, transactions for selling-buying, gifting, and leasing of private land also occurred. The levels of restoration of ownership rights and privatization of different types of immovable properties vary across regions (see Table5). The level of apartment privatization, however, is similar in different counties; most apartments are now privatized. The rate of restoration of ownership rights to rural and urban land is increasing.

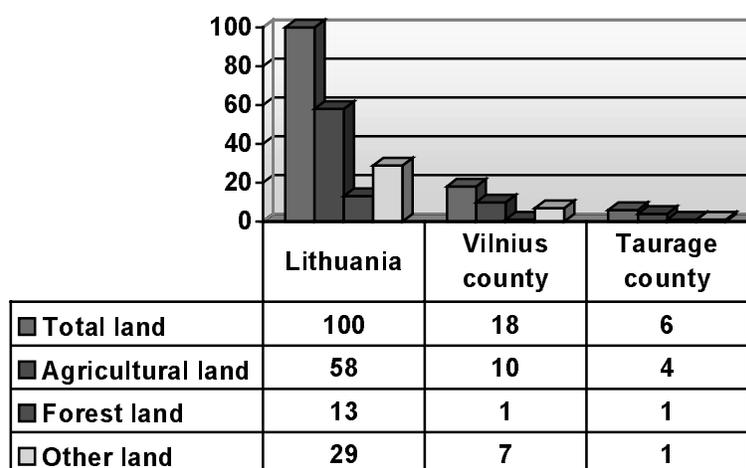
Table 5. Restoration of ownership rights and privatization of different types of real property (in percent, 1 January 2000)

	Lithuania		Vilnius county		Tauragė county	
	Ownership	Lease/use	Ownership	Lease/use	Ownership	Lease/use
Agricultural land	43	57	28	72	46	54
Agricultural buildings	25	75	31	69	30	70
Forests	14	86	9	91	13	87
Urban land	15	85	13	87	16	84
Apartments	96	4	96	4	97	3

LAND MARKET

The annual land market activity in Lithuania is about 4 percent; that means that 4 percent of the land parcels change owners each year. The land market activity in Vilnius county is about 5 percent, and in Taurage county, about 3 percent.

Figure 9. Land market transaction by type of land (%)



The land market is most active in Vilnius county, especially in the city and district of Vilnius. Land market transactions in Vilnius county represent 18 percent of the whole Lithuanian land market (see Figure 9). The number of land market transactions in Taurage county is low and represents only 6 percent of the land market in all of Lithuania.

Residential, industrial, and commercial land prices

In 1999, the average price per square meter of residential land in the city of Vilnius varied between 10 and 40 EURO; in Klaipeda and Kaunas, between 5 and 25 EURO; and in Siauliai and Panevezys, between 3 and 10 EURO.

Industrial land is obtained in auctions arranged by municipalities or acquired from private persons. Industrial land prices in cities range between 9 and 15 EURO for 1 square meter depending on the location. The price for private parcels in the best places for commerce in Vilnius exceeds 150 EURO per square meter.

Agricultural and forest land

The most active land market in Lithuania is that of agricultural parcels. Agricultural parcels represent more than 58 percent of all land parcels transferred in Lithuania per year. Agricultural parcels in Vilnius county make up 54 percent and in Taurage county 69 percent of all land transactions in those counties per year. The highest prices for agricultural land are in Vilnius county, where 1 hectare costs 730 EURO, and the lowest prices are in Taurage and Telsiai counties, at 230 EURO per hectare.

The transfer of forest land is becoming more active. Across the country, 6 percent of forest lands have changed owners, registering slightly lower levels in Vilnius county (4 percent) and in Taurage county (5 percent). Forest land prices are almost the same over the whole territory of Lithuania and depend on amount, age, and quality of wood. Generally, prices range between 0.7 and 2.5 thousand EURO per hectare for natural forest.

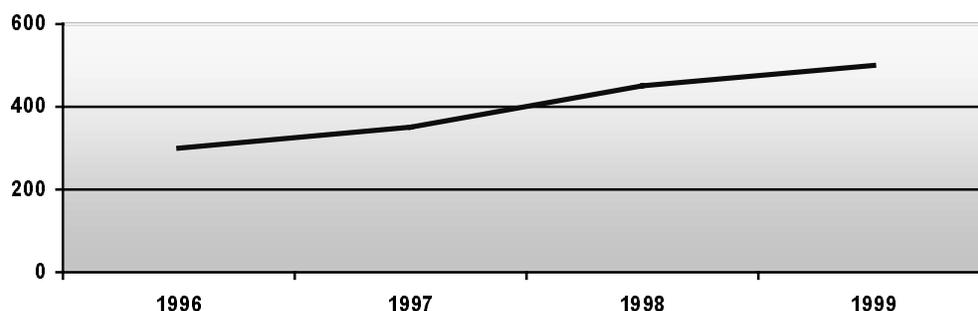
MARKET OF BUILDINGS AND APARTMENTS

The market for buildings can be divided into residential (1-2 family houses and apartments) and nonresidential (commercial and industrial). The market for 1-2 family houses is higher in Vilnius county than in Taurage county, and is especially low in small towns and settlements. Prices for 1-2 family houses mostly depend on location and are related to the price of land for residential houses. Figure 10 shows an increase in the average price over the last few years. The market price of medium-sized and quite new houses in a good location is close to or a bit higher than construction costs.

The apartment market is the most active in Vilnius county, especially in the city. In 1999, the sale and gifting of apartments in Vilnius county made up 27 percent of the apartment market in the whole country; in Taurage and Telsiai counties, they represented only 4 percent and 3 percent, respectively. Two- or three-room apartments are most common and make up almost 60 percent of the total number of apartments on the market. The living area of new apartments is 70-120 square meters and is larger than average.

It is difficult to judge the average price for industrial buildings and premises. Prices vary over a very wide range, depending on location, area, and condition. Average prices for industrial premises vary in range from 15 to 30 EURO per square meter.

Figure 10. Price of two-room apartments in Vilnius (EURO/m²)



LEASE OF PRIVATE LAND

The leasing of private land is not common in Lithuania and occurs almost exclusively in the agricultural sector. At present private land rentals represent about 6 percent of private land.

Table 6. Private land lease in counties as of 1 April 2000 (%)

	Total	Agricultural land	Forest land	Other land
Lithuania	100	99	*	1
Vilnius county	2	2	*	*
Taurage county	3	3	*	*
Siauliai county	38	38	*	*
Panevezys county	22	22	*	*

* Less than 0.5 percent.

The leasing of private agricultural land in Vilnius and Taurage counties is low, reaching its highest levels in Siauliai and Panevezys counties, where it represents 38 percent and 22 percent, respectively, of all land leased in Lithuania (see Table 6).

RENT OF RESIDENTIAL AND NONRESIDENTIAL BUILDINGS

Purchase and sale of apartments is more common than renting. The monthly rent for one- to four-room apartments in Vilnius ranges from about 100 to 150 EURO per month. An additional payment is calculated for public utilities. In the center of Vilnius and Old Town the rental prices are highest, ranging from 10 to 15 EURO per square meter per month, excluding costs for public utilities.

The rental of nonresidential space is most active in the center of Vilnius and in Klaipeda. Buildings for industrial, office, and commercial activities and warehouses in Taurage county and

other parts of the county of Vilnius are available for very low prices. Table 7 presents rental rates for nonresidential space.

Table 7. Rents of nonresidential space

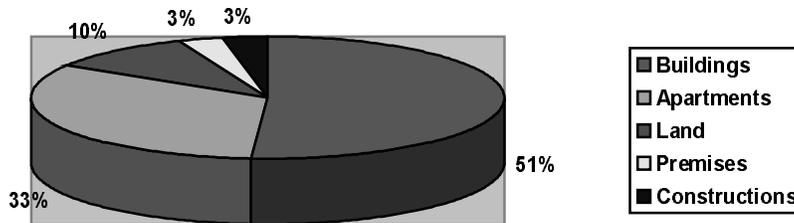
	Office (EURO/m²/year)	Retail (EURO/m²/year)	Industrial/warehouses (EURO/m²/year)
Center of Vilnius	240-300	300-480	60-120
County of Vilnius	80-180	95-240	15-60
County of Taurage	40-80	45-110	5-25

REAL PROPERTY MORTGAGE

Legislation regulates the mortgaging of movable and immovable properties. Local courts register mortgages.

The annual interest rate for mortgaging real property is usually between 9 and 12 percent. The mortgage loan amount is less than 70 percent of the property's value. The annual interest rate varies and depends on the period and purpose for which the loan is taken. The annual interest rate also varies according to the US dollar rate granted by the London Interbank. Figure 11 shows the distribution of mortgaged real estate by type of property. The number of registered real property mortgages in Vilnius county is six times that of Taurage county.

Figure 11. Types of mortgaged real estate in percent



REAL PROPERTY TAXATION SYSTEM

Currently, persons in Lithuania pay taxes on land and land leases. Other real property such as buildings and apartments are not taxed. Legal entities pay taxes on land and other real properties. At present a law to restructure the taxation system is under discussion in the Seimas of the Republic of Lithuania. The law envisages a tax on all real property.

SUMMARY

The legal framework is of fundamental importance in determining how the real property market operates as well as its transparency and efficiency. All necessary laws and bylaws regulating real property privatization and market have been passed in Lithuania. Ownership rights to existing real property have been restored and, where it was not feasible, compensation given by restituting with another land parcel, granting a land parcel free of charge in the city, or compensating in bonds or cash. Privatization of real property is also taking place.

The economic importance of real property in general and of establishing functioning real property markets for Lithuania's economic development should be properly understood. In order to make the real property market more active it is important to accelerate the restoration of ownership rights and to complete the privatization process. The speed of the restoration and privatization processes has varied across regions.

The market for land and other real property varies across regions. The analysis has shown that the dynamics of the real property market are influenced by the following main economic and other factors:

- ◆ number of privatized real properties,
- ◆ employed population by economic activity,
- ◆ unemployment rate,
- ◆ average monthly gross earning,
- ◆ direct foreign investment,
- ◆ population density,
- ◆ development of infrastructure,
- ◆ property crediting system..

The activity of the real property market is increasing every year. The market of apartments is the most active of all real properties. The sale and purchase of apartments is especially active in Vilnius, Klaipeda, and Kaunas counties. The leasing of private real property, especially of residential houses, apartments, and land, is not common in Lithuania. Recently, however, there has been a tendency for levels to increase.

Persons and legal entities can secure loans from banks and other credit institutions by mortgaging real property. However, high annual interest rates prevent the acquisition of housing and the development of the real property market and of small and medium businesses.

Persons pay taxes only on land and land leases, not on other real property such as buildings and apartments. Such a situation does not promote the effective use of real property since, for example, small families are not interested in selling apartments or houses with large areas.

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ANNEX 1. SUMMARY STATISTICS ON PRIVATIZATION (PROVIDED AFTER AUGUST 2000 MINSK WORKSHOP)

Table 1. Percent of real estate with -marketable titles (ownership with right to sell) for various types of real estate in Lithuania

Types of real estate (%)				
Agricultural land	Apartments	Land under houses*	Land under commercial & industrial buildings**	Average percent
73	96	99	97	91.3

*Legally, and under houses is available for sale but all the documents for marketable titles are not yet complete.

**Legally, land under commercial/industrial objects is available for sale but all the documents for marketable titles are not yet complete

Source: Statistics, Land Management and Law Department, Real Property Central Databank. Data as of 1. 9. 2000

Table 2. Percent of real estate with registered-marketable ownership titles for various types of real estate in Lithuania

Types of real estate (%)				
Agricultural land*	Apartments	Land under houses	Land under commercial & industrial buildings	Average percent
49	96	43	7	48.9

*Includes pasture land

Source: Statistics, Land Management and Law Department, Real Property Central Databank. Data as of 1. 9. 2000

PRIVATIZATION OF PROPERTY IN THE REPUBLIC OF MOLDOVA¹

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When the Law on Privatization, No. 627, was adopted on 7 April 1991, the process of transformation of state property into private ownership was started. Privatization in Moldova is allowed in all sectors of economic, cultural, and social spheres.

State property in all sectors and branches of the economy can be privatized, except for those items that according to legislation are not liable to privatization. Thus, property liable to privatization includes property of enterprises, organizations and associations, their structural subdivisions representing single property complexes, leased state property, nonresidential property and unfinished constructions, housing, state shares in enterprises liable to privatization, land parcels within settlements as well as land parcels attached to enterprises liable to privatization, land parcels attached to private enterprises, and land parcels of agricultural partnerships. Property not liable to privatization includes objects for storage of material values of state reserve, mobilization reserve, wine collections of wineries, objects of national and cultural heritage, as well as religious objects.

Those who may acquire state property are citizens and legal entities of the Republic of Moldova, foreign legal entities and persons, as well as persons without citizenship. It is necessary to mention that foreign persons and persons without citizenship may not acquire ownership rights to agricultural land, except in cases of inheritance. Land parcels are not liable to restitution in Moldova. State property may be obtained in exchange for national property bonds, personal savings, or bank credits.

As per Article 7 of the Law on Privatization, the Department for Privatization and Management of State Property, under the Ministry of Economy and Reforms, is the implementing authority for state property privatization. Land parcels are privatized on behalf of local administration authorities. Privatization is conducted by auction, bidding, or direct negotiations; sale of shares of enterprise liable to privatization; transfer free of charge into private ownership; sale/purchase or transfer free of charge of residential housing into ownership.

PRIVATIZATION OF ENTERPRISES

The privatization of enterprises is carried out by sale of property complexes or their reorganization into open joint-stock companies with a subsequent sale of shares. A privatization commission determines the initial price of an enterprise, but the final price is determined through

¹ Paper prepared for presentation to the Workshop on "A Land Privatization Index", held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

contract negotiations. Preferences given to a buyer under bidding may not be revised and changed when the sale/purchase contract is signed.

The sale price of a property being privatized is paid by the new owners in a lump sum or in installments during a period of up to 5 years. If payment is made in installments, the initial payment at the time of signing of the contract should be not less than 25 percent of the price. Installments are paid quarterly in equal parts; if installments are paid before the appointed time, their indexation depends on the inflation rate at the time of payment. Foreign persons and legal entities pay for privatized property in a lump sum.

In spite of the fact that one of the privatization principles is “equality of citizens in obtaining a share of state property liable to privatization,” some preferences are given to employees of the privatized enterprises. According to part 4 of Article 11, employees who are permanent workers, whether full-time or part-time, at a privatized enterprise have the right to acquire up to 20 percent of state property at the nominal value. This right is also given to former employees who have worked at the enterprise not less than 10 years and who have served in the army for a fixed period or have an alternative military service. A 50 percent share in state property, free of charge, is established for suppliers of agricultural raw materials when agricultural-industrial processing industries are privatized.

The purchase-sale contract documents ownership of a privatized enterprise when sold by auction or investment bidding. The transfer of state enterprise property in the process of reorganization into a joint-stock company is confirmed by documentation certifying the reorganization of the enterprise,

Selling a privatized enterprise or using it as collateral may be done only after payment in full of its price and after registration in the real estate register. Property rights to an enterprise are acquired at the moment of registration according to the procedure established by the Law on Real Estate Cadastre.

PRIVATIZATION OF AGRICULTURAL ENTERPRISES

The property of an agricultural enterprise is divided on the basis of shares of the participants in the privatization. Share value is determined at the general meeting of employees and pensioners of the agricultural enterprise. Property shares are transferred to persons without charge within 30 days of submission of an application. These shares allow an owner to receive a private ownership certificate, signed by the director of the territorial agency of the Department for Privatization and Management of State Property. Determination of share values of citizens in all agricultural enterprises was to be finished by 1 December 1997.

Employees of an enterprise, including those employed after 1 January 1992, as well as the pensioners of the enterprise regardless of the retirement date, have the right to a share in the property of an agricultural enterprise. Former workers of the enterprise, teachers, medical staff, and representatives of cultural and social institutions living on its land also have a right to a certain share in the property. Transactions with these property shares are permitted only after registration of the right according to the established procedure for sale, mortgage, lease, or exchange.

PRIVATIZATION OF HOUSING

Privatization of housing is carried out in accordance with the Law on Privatization of Housing, No. 1324, of 10 March 1993. According to Article 2, privatization of housing is done voluntarily in exchange for national property bonds or money, and free of charge in those cases stipulated in Article 17.

If an apartment is purchased with money, the cost must be paid in a lump sum or in equal monthly installments (plus the minimal bank interest) during 5 years and with a minimum initial payment of 40 percent of the apartment price. The sale/purchase or free-of-charge acquisition of an apartment into private ownership is done with the consent of all adult family members living together. The apartment is acquired in common or shared ownership.

Common places, infrastructure, and utilities are transferred free of charge into common shared ownership to the owners of the apartments, in proportion to the occupied residential space in the apartment building.

Only one apartment may be sold or transferred free of charge into private ownership to a family. Additional residential space is acquired at commercial prices (the normative provision for residential space in the process of privatization is 20 square meters per person plus 10 square meters per family).

Transfer of state enterprise apartments into private ownership within the limits of the above-mentioned norms is free of charge for disabled workers, contracted military personnel (who served at least 15 years), former owners of private houses demolished without compensation, citizens permanently living in these apartments provided the total amount of time worked by family members is over 35 years, and families with 5 or more children (Article 17 of the Law on Privatization of Housing).

The transfer of housing must be conducted on the basis of sale/purchase contracts, which must be notarized. Private transactions (subsequent sales, donations, leases, exchanges, etc.) may be performed only after registration of the above-mentioned transactions in the state real estate register.

Foreign citizens have the right to buy apartments and houses as investments in accordance with the Law on Foreign Investments, No. 998-XII, of 1 April 1992. Foreign citizens and persons without citizenship living permanently in Moldova also have the right to buy housing (Article 18 of the Law on Migration, No. 418-XII, of 19 December 1990).

PRIVATIZATION OF LAND

Privatization of land is conducted in accordance with the Land Code, No. 828-XII, of 25 December 1991; Law on Normative Price and Methods of Sale and Purchase of Land, No. 1308, of 25 July 1997; Government Decree No. 562, of 23 October 1996, On Approval of the Regulations on Purchase and Sale of Land Parcels under Privatized or Liable to Privatization Objects and Private Enterprises; and Government Decree No. 984, of 21 September 1998, On Some Measures for Acceleration of the Privatization Process.

In accordance with the above-mentioned legislation, the following lands can be privatized: lands belonging to agricultural enterprises (collective farms or kolkhozes, state farms or sovkhozes, interdepartmental unions), lands under privatized and private enterprises, lands for

urban development, lands attached to residential houses in rural and urban areas, and garden parcels. Currently the legislation of Moldova does not provide for the privatization of mineral resources, forests, pastures, and natural monuments.

The first stage of privatization began with the transfer into private property of parcels of land attached to houses in rural areas. Before 1 April 1996, local public administration authorities privatised and transferred parcels attached to houses free of charge:

- ◆ to pensioners, disabled workers, and other persons living in rural areas who were not working in respective communities or were not working at all, the amount of 0.15 hectare to families consisting of one person, and 0.3 hectare to families with more members;
- ◆ to persons living in rural areas and working in the social sector and having a family with more than 3 members, the amount of 0.1 hectare per family member, but not more than 0.7 hectare per family.

These persons received documents confirming ownership rights (called “Titlu de autentificare a dreptului detinatorului de teren”). In accordance with the Provision of the Government, No. 1030, of 12 October 1998, they will be entered in the real estate register free of charge during mass registration of real estate property.

These privatized land parcels with structures on them currently make up a unique real estate property. They may be sold, serve as collateral, or leased together with structures (if land and structures are in private ownership, then structures may not be alienated separately from the land). If sanitary and technical norms allow, a land parcel may be used to create new real estate properties.

As of the year 2000, almost all owners of residential houses in rural areas became owners of the land attached to their houses. In 1999, in accordance with the Regulation on Transfer into Private Ownership of Land Attached to Houses in Urban Areas, approved through the Government Decree No. 984, of 9 September 1998, mass transfer of land parcels in urban areas began and is planned to be finished by 2002. Currently about 80 percent of land parcels attached to houses in urban areas have been transferred into private ownership (transfer is not finished in the capital, Chisinau, and in the three biggest cities of the republic). It is very important to note that transfer into ownership in accordance with this regulation is carried out concomitantly with the registration of ownership rights, without any costs incurred by the population. Owners who have documentation certifying their ownership rights may enter into any private property transactions.

Law No. 528-XIV, of 22 July 1999, added amendments to Article 11 of the Land Code. These amendments provide that local administration authorities shall transfer (within the limits of urban construction norms or, if this is not possible, the actual real size of the land parcels attached to a structure) land parcels under and attached to privatized multi-apartment buildings (which are not multi-storied houses) into common shared ownership of apartment owners proportionally to the area privatized to each of them. Implementation of these norms presumes difficulties since this requires additional technical measures and financial means. With reference to multi-storied houses in accordance with the Law on Condominiums (currently under promulgation), lands attached to houses will be transferred into common shared ownership to owners of apartments.

AGRICULTURAL LANDS

The privatization of agricultural lands is carried out in accordance with Article 12 of the Land Code. Each administrative territorial unit has a land fund for privatization. Privatization commissions determine (based on this land fund) the size of equal land shares transferred into private ownership to kolkhoz members, to employees and pensioners of sovkhoses and other agricultural enterprises, as well as to other categories of persons (Article 12 of the Land Code provides a comprehensive list of persons having the right to acquire land as property).

Ownership rights to land shares are confirmed by a provisional document. On the basis of this document it is not possible to determine the specific location of a parcel or its precise area. Legislation does not permit the sale of these land shares. In order to be able to conclude property transactions it is necessary to obtain a "Title certifying rights of landholder," that is, a document confirming ownership rights to a specific land parcel with a specific area. This document also includes a cadastral plan of the land parcel.

Mass issuance of "titles" began, free of charge, in Moldova in October 1998 with support of the Land Project financed by the U.S. Agency for International Development (USAID). Starting in July 1999 with support of the Cadastre Project, mass registration of rights to land parcels has been carried out. Following an application from an owner, local administration authorities in accordance with Article 13 of the Land Code are obliged to establish physical boundaries.

The right of ownership to a certain parcel is established with the issuance of the document "Title," but private property transactions may be undertaken only after registration of the land parcel in the real estate register. About 96 percent of villagers became owners of land shares, and currently there are more than 1 million titles registered in the real estate register.

The privatization of garden parcels is carried out in accordance with Article 7 of the Law on Normative Prices and Methods of Sale and Purchase of Land. Privatization of these lands is voluntary, carried out on the basis of sale/purchase contracts. The local administration authority plays the role of seller and the member of a horticultural association is the buyer. These parcels are sold at normative prices with the right to buy in installments. An owner has the right to sell a garden parcel at market price (including auction) to another citizen of Moldova or to the state.

LAND ATTACHED TO ENTERPRISES

Privatization of land attached to privatized or private enterprises is carried out through sale/purchase. As per Article 9 of the Law on Normative Prices and Methods of Sale and Purchase of Land, owners of enterprises (persons and legal entities, foreign investors) have the right to buy the land attached to the enterprise for a normative price. The method of purchase is determined by this law and by the Regulations on Sale and Purchase of Land Parcels Attached to Privatized Industrial Properties or Properties under Privatization (23 October 1996). In accordance with these normative acts the price of land parcels liable to privatization depends on location, parcel size, access to roads, and land development. For example, the normative average price of 1 hectare of agricultural land in Moldova is about 5,066.8 Lei (US\$405.30). One hectare of land attached to privatized buildings or buildings liable to privatization in Chisinau costs about 194,564.10 Lei (US\$15,565.18); in other municipalities, 64,954.7 Lei (US\$5,196.48); in urban areas, about 32,427.35 Lei (US\$2,594.28); and in villages, about 12,970.54 Lei (US\$1,037.60).

As a result of the 1998-1999 economic and financial crisis in Moldova, many enterprises do not have the financial capability to buy the land attached to their enterprise. During 1998-1999, only 416 privatized enterprises and 1,010 private enterprises acquired the attached lands, for a total of 4,077,298 square meters and a total price of 33,783,226 Lei (US\$2,702,658).

State policy is directed toward the creation of favorable conditions for the procurement of lands by enterprises. Thus, in December 1998 some modifications were made to the Law on Normative Prices and Methods of Sale and Purchase of Land, reducing prices on land attached to privatized or liable to privatization property, private enterprises, as well as unfinished buildings. The same law provides for the possibility of purchase of land in installments. At the time of signing the sale/purchase contract in installments, the initial payment of 25 percent of land price is made. The balance is paid over ten years in equal quarterly installments with indexation depending on the inflation rate. Foreign investors pay the price of privatized property in a lump sum.

A main problem of the enterprise privatization process is related to attracting foreign investors. In spite of the fact that legislation provides for the purchase of state property by citizens of other states, foreign investors rarely participate in this process. We think this is due to political and economic instability in the country. In the private sector, citizens of Moldova do not always have enough resources to buy privatized property, resulting in the situation where the majority of properties are privatized almost without competition.

CONCLUSIONS

In conclusion, one can note that the interest in privatization is high in the Republic of Moldova. The state through legislation creates favorable conditions for the privatization of real estate property. The notion of ownership rights is treated in Moldova in its classical meaning and includes the right to use, possess, and dispose of property in ownership. The right to acquire real estate property is given to citizens of Moldova as well as to foreign persons and persons without citizenship (except for agricultural lands).

The privatization process has significantly influenced the creation of a real estate market. A primary real estate market was established. Now there are active processes of sale/purchase, exchange, mortgage, subdivision, lease, and the like.

The real estate market has developed quite irregularly with respect to territories and types of real estate property involved in transactions. Most transactions involve apartments, individual residential houses, and small commercial enterprises. Annually on average about 10 percent of the total number of individual residential houses in the cities, about 8.5 percent of apartments, and 3 percent of commercial enterprises participate in transactions. Big industrial enterprises as well as agricultural land parcels are rarely bought and sold.

It is worth mentioning that when Law No. 1543, On Real Estate Cadastre, of 25 February 1998, was adopted, a new single system for registration of real estate property transactions was established in the country. It covers both land parcels and buildings, and will serve as an additional guarantee by the state for the protection of owners' property' rights.

STATISTICAL DATA ON PRIVATIZATION IN THE REPUBLIC OF MOLDOVA

The Republic of Moldova systematically promotes policies for the privatization of property and for the establishment, strengthening, and further development of market relationships. During the first stage of privatization in Moldova, housing was privatized, and during the following stage, commercial and industrial properties were privatized. Small enterprises were sold by ordinary auction, and large enterprises were reorganized into joint-stock companies.

The process of privatization of land began after adoption of the new Land Code (1992). During the subsequent eight years, Moldova managed to achieve significant success in this field. By 1 January 2000, 2,014.8 thousand hectares of agricultural land were in private ownership, constituting 96.5 percent of the total amount of agricultural land (the total amount of land in Moldova is 3,384.5 thousand hectares). Within this total, 1,837.1 thousand hectares are owned by agricultural enterprises, including 576.4 thousand hectares owned by farmers. Of all distributed agricultural land parcels, 99.94 percent were transferred into private property free of charge.

Another situation concerns the lands attached to privatized and private enterprises where the percentage of privatized land is much lower. As of 14 July 2000, only about 8.22 thousand hectares out of a total of 58.6 thousand hectares attached to enterprises were transferred into private ownership.

Of the area under human settlement (299 thousand hectares), approximately 200 thousand hectares of land attached to individual residential houses were transferred in private ownership to owners of these houses. While the land attached to enterprises in accordance with the legislation is transferred only via sale and purchase, most of the lands attached to residential houses were transferred free of charge. Lately, there are also cases of acquiring land via sale and purchase, for example, to acquire an area of land that exceeds the normative area for the acquisition of more than one parcel (only one parcel is given into ownership for free).

Statistics show that as of 14 July 2000, 130 hectares for construction and servicing of houses, 1,250 thousand hectares of agricultural parcels, and about 8,22 thousand hectares of lands attached to enterprises were transferred through sale/purchase contracts. A significant increase of the level of land privatization is observed during recent years: in 1996, the area of privatized agricultural lands constituted only 1,927 thousand hectares. By 1999, the area of these parcels increased to 2,014.8 thousand hectares.

At the beginning of the privatization process, emphasis was put on free-of-charge transfers of parcels into ownership. But after 25 July 1997, when the Law on Normative Prices of Land and Methods of Sale and Purchase of Land was approved, the sale market of land started to develop. A significant influence in the development of the real estate market was the reduction of normative prices of lands attached to private and privatized enterprises. (The Law on Modifications and Amendments to Some Legislative Acts, of 23 December 1998, provided for the right to buy land in installments over 10 years; at the same time, the law provided for reduction of costs of land by applying a coefficient of 0.30-0.02 depending on the location of the property.)

In 1998, 45.8 hectares of agricultural land, 3.6 hectares of land attached to one-family residential houses, and 1,090 hectares of land attached to enterprises were privatized via sale/purchase. In 1999, a growth in the real estate market was noticed: about 68 hectares of lands

attached to one-family houses, 522 hectares of agricultural land, and 2,838 hectares of land attached to enterprises were privatized via sale/purchase. In 2000, the market has become more active: by 14 July 2000, about 680 hectares of agricultural lands, 55.5 hectares of land attached to residential houses, and 3,922 hectares of lands attached to enterprises were privatized via sale/purchase.

The volume and price of transactions in Moldova depend on the geographic location of lands. The majority of transactions were registered in northern districts of the country (about 70%). The lowest percentage of land transactions was recorded in southern districts (about 5%).

If one analyzes 1998-1999 transactions, in 1998 the largest numbers of transactions were made in Soroca (27), Orhei (25), and Nisporeni (12) districts, and the smallest numbers of transactions, in Falesti and Singerei districts (only 1 transaction in each district). During 1999, the majority of transactions were concluded in Anenii-Noi (78), Balti (56), Briceni (56), and Chisinau (54), from a total amount of 986 transactions.

One tendency which deserves attention is the acquisition of large parcels, as a rule from neighboring owners. For example, in 1999, 41 transactions with land were registered in Cahul district, but only 17 transactions in Calarasi district. The areas of sold parcels, however, were nearly equal: in Cahul district, 50.099 hectares of land, and in Calarasi district, 48.607 hectares. Land was divided into very small pieces when it was privatized, so this tendency to consolidate land parcels may lead to more intensive development of agriculture.

Table 1. Privatization of different types of real estate property

Category of property	Amount privatized
Agricultural lands	96.53%
Land within built-up areas	66.7%
Industrial lands	14.03%
Housing fund	90%
State enterprises	2,000 units

To date, 2,000 state enterprises have been privatized. The majority of enterprises were concentrated in the central region of Moldova. Almost 100 percent of residential houses are in private ownership. Privatization of apartments was conducted evenly throughout the territory of the country. For example, in the Chisinau municipality, apartments make up 90 percent of housing. At this moment, about 7,000 apartments are privatized (6,034 apartments were privatized in 1999, and 812 apartments in 2000).

The number of mortgage transactions involving apartments is 800, and the number of apartments sold during a year is 3,124. The standard sale price of an apartment is about US\$16 thousand.

When the Real Estate Cadastre Law was adopted (25 December 1998), a single system of real estate registration was established in Moldova. The same officials in territorial cadastral offices register real estate properties, both land and buildings. It is important to note that the

registration of property rights is linked to the registration of a property and is carried out concomitantly. Each territorial cadastre office keeps the real estate register. Since information on real estate is accumulated only at the local level, the Central Information Office, "Cadastru," was created for more efficient centralization of information on real estate property at the national level. Establishment of the Cadastru will ensure the collection and storage of information on real estate property and on property rights in a single databank, providing a broad range of services and information for state authorities and private persons.

ANNEX: SUMMARY STATISTICS ON PRIVATIZATION (PROVIDED AFTER AUGUST 2000 MINSK WORKSHOP)

Table 1. Percent of real estate with marketable titles* (ownership with right to sell) for different types of real estate in Moldova

Types of real estate (%)				
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
91	90	80	15	69

* According to the legislation in force, only real estate registered in the Real Estate Register may be subject to transactions.

Table 2. Percent of real estate with registered-marketable ownership titles for different types of real estate in Moldova

Types of real estate (%)				
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
47	15	5	14	20.25

DEVELOPMENT OF PRIVATE LANDOWNERSHIP IN RUSSIA¹

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1. LEGAL CONCEPTS OF PRIVATE MARKET RIGHTS TO IMMOVABLE PROPERTY IN THE RUSSIAN FEDERATION

1.1 BACKGROUND INFORMATION

The Russian Federation is a country with 149 million people over a total area of 17 million square kilometers. Following the Socialist Revolution of 1917 all land in the Russian Federation was nationalized and has remained in state ownership until the 1990s, when the country began market-oriented reforms. Historic traditions and culture have a great influence on the attitude to land in any country. Russian land tenure traditions are heavily influenced by common land-use practices that have existed since before the 1917 Revolution and collective land-use practices during the Soviet era.

The question of land purchases and sales is probably the most discussed issue concerning land tenure in the Russian Federation. It is one of the main reasons for an ongoing debate for over five years in the Russian Federation State Duma (Federal Parliament) over the adoption of the Draft Land Code, which is expected to settle this issue. The only remaining obstacle is the issue of the right to sell farmland.

1.2 PRIVATE PROPERTY

The concept of land as private property was first introduced in the Russian Federation in the Law on Land Reform (23 November 1990) and the Law on Property (24 December 1990). Those two legislative acts broke the state property monopoly on land and introduced the idea of private landownership. Article 6, Paragraph 2, of the Law on Property says: “Parcels of land can be in private, state or municipal ownership as well as in the ownership of public associations (organizations) or can be provided to be held by individuals, legal entities....”²

This was further supported by the 15 December 1990 amendment made in Article 12 of the old Constitution, and the new Constitution of the Russian Federation which was adopted on 12 December 1993 as the result of nationwide referendum. In Chapter 9, Fundamentals of the Constitutional System, Article 9, one finds the following statements: “1. Land and other natural resources are used and protected in the Russian Federation as fundamentals of life and activities

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² All translations of laws and regulations in this paper are made by the author and are not official.

of people living in the corresponding area. 2. Land and other natural resources can be held in private, state or municipal property.”

Chapter 2, Rights and Freedoms of an Individual and a Citizen, Article 35, further states that: “Law protects private ownership right.” Article 36 further states that: “1. Citizens and their associations have the right to hold land in private property. 2. Holding, enjoyment and disposal of land and other natural resources is freely carried out by their owners, provided they are not harming the environment and do not interfere with rights and lawful interests of other persons.”

Russian law identifies three main types of property:

- ◆ property of citizens and legal entities,
- ◆ state property (federal and regional government property within the Russian Federation), and
- ◆ municipal property

For reasons of this study we will only describe the property rights of citizens and legal entities, which is private property. The Civil Code of the Russian Federation (CCRF) defines private property rights in Article 209, The Content of Property Rights:

1. The owner possesses the rights to hold, to use, and to dispose of his property.
2. The owner at his own pleasure may take any actions with respect to the property in his possession as long as they do not conflict with laws and other legal acts and do not harm the rights and interests of other persons as they are protected by the law; he (the owner) may alienate his own property as property to other persons or transfer to them rights to hold and to use and to dispose of the property while remaining its owner, or to use the property as collateral or to exchange in any way or to dispose of it in any other way.
3. Holding, use, and disposal of land and other natural resources is carried out freely by the owner to the extent their transfer is allowed by law (Article 129) and as long as it does not harm the environment and lawful interests of other persons.
4. The owner may transfer his property into trust management to another person (trust administrator). The transfer of property into trust management does not consequently effect the transfer of ownership rights to the trust administrator who must manage the property in the interests of the owner or other persons as requested by the owner.

Article 213, The Ownership Right of Citizens and Legal Entities, states what can be held as private property:

1. Any kind of property can be held as property by citizens and legal entities with exclusion of certain types of property which according to law may not belong to citizens or legal entities.
2. The quantity and value of property belonging to citizens and legal entities is not limited with the exclusion of cases where limitations are set by law for purposes described in Paragraph 2, Article 1, of this Code.

Limitation of property can only be applied for reasons of:

- ◆ protection of fundamentals of Constitutional rule,
- ◆ morality,

- ◆ health,
- ◆ rights and lawful interests of other persons,
- ◆ defense, and
- ◆ state security.

The rightful means for acquiring property rights are also described in Article 218, Basis for Acquiring Property Rights, of the Civil Code. The property right may only be acquired through a set of defined legal actions by individuals, legal entities, or governments of different levels:

- ◆ sale/purchase,
- ◆ exchange,
- ◆ gift,
- ◆ inheritance, and
- ◆ other forms of alienation.

In the case of death of a citizen, the ownership rights to property that belonged to him are passed on as inheritance to other persons in accordance with a will or the law. In the case of reorganization of a legal entity, the ownership rights to property that belonged to it is transferred to those legal entities that are legal followers of the reorganized legal entity.

The Civil Code also specifies that any person (individual or legal entity) who is openly using a property for more than fifteen years has the right to obtain ownership rights of such property (Article 234) and also has the right to claim his right in court before the expiration of the fifteen-year term.

Article 235, Basis for Termination of Ownership Rights, describes voluntary and forced loss of property rights:

1. Ownership rights are terminated in cases of alienation of property by the owner to other persons, the owner's refusal to ownership rights, loss or destruction of property, or loss of property rights in accordance with law.
2. Enforced alienation of property is not allowed with the exception of the following cases:
 - ◆ enforcement penalty in cases of property commitment,
 - ◆ alienation of property which in accordance with law cannot belong to such person,
 - ◆ alienation of property in connection with alienation of a parcel,
 - ◆ buy-out of objects of cultural value and pets which are not well taken care of,
 - ◆ requisition,
 - ◆ confiscation, and
 - ◆ alienation of property in cases described in Paragraph 4, Article 252, paragraph 2 (a participant in shared property has the right to claim his share out of joint property), Article 272 (consequences of loss of the right to use the land parcel by the owner of immovable property), and Articles 282, 285, 293.

The conversion of property belonging to citizens and legal entities into state property (nationalization) is carried out on the basis of the Law on Property with value compensation defined according to the rules set in Article 306 of this code.

Article 236, Self-Refusal of Ownership Rights, describes the right to refuse ownership rights: A citizen or a legal entity may refuse ownership rights to a piece of property by a declaration or other action that clearly demonstrates his/her or its alienation from possession, use, and disposal of property and without the intention to maintain any right to it whatsoever. The self-refusal of ownership rights does not entail the termination of rights and obligations of the owner with respect to the property concerned until ownership rights to it are acquired by another person.

Article 239, Alienation of Immovable Property in Relation to the Alienation of the Land Parcel to which it is Attached, describes the state's right to confiscate real estate property attached to land: In cases when the alienation of a land parcel for state or municipal needs or in connection with improper use of land is not possible without the termination of ownership rights to buildings, structures, or other immovable property attached to the land, such property may be alienated from the owner through purchase by the state or a public bidding sale procedure according to rules specified in Articles 279-282 and 284-286 of this Code.

The request to alienate the immovable property is not approved if the state or municipal body which has made the request does not prove that the use of the land is not possible without the termination of ownership rights to the buildings and structures.

Article 242, Requisition, describes the circumstances for requisitioning property: In cases of natural disasters, accidents, epidemics, animal epidemics, or any other circumstance of emergency character, property may be alienated from its owner in the interests of society by the decision of the government authority according to procedures and on conditions set by the law with compensation of the value of property paid to him. The value of requisitioned property may be appealed in court, and the person whose property was requisitioned has the right following the emergency circumstances to appeal in court for the return of the remaining property.

Article 243, Confiscation, describes methods of property confiscation:

1. In cases set by law, property may be alienated from the owner without compensation through a court decision in the form of a sanction for a crime or other law offense (confiscation).
2. In cases described by law the confiscation may be carried out in accordance with administrative procedure. The decision on confiscation by administrative procedure may be appealed in court.

1.3 IMMOVABLE PROPERTY

The legislative basis for the description of private marketable rights to immovable property is defined in the Part 1 of the Civil Code of the Russian Federation. This description is based on specific features of the immovable property. Paragraph 1, Article 130, of the Civil Code defines immovable property as follows: Immovable property includes land parcels, parts of mineral deposits, separate bodies of water, and everything tightly attached to land, that is, objects whose movement is impossible without causing considerable damage to them including forests, perennial crops, buildings, and structures. Immovable property also includes items subject to

state registration such as aircraft and sea vessels, boats, and space vehicles. The law may define other objects as immovable property.

Article 129 of the Civil Code defines the transfer of immovable property:

1. Property rights in land may be freely alienated or conveyed from one person to another in a form of universal legal chain (inheritance, reorganization of a legal entity) or by other means, provided that they are not removed from transfer or limitations are not enforced on their transfer.
2. The types of immovable property that are not allowed to be transferred must be directly specified in law.
3. Land and other natural resources may be alienated or transferred from one person to another by other means to the extent their transfer is allowed by laws on land and other natural resources.

1.4 LAND TRANSACTIONS

The transfer of immovable property in a broad sense is understood as the opportunity to freely dispose of property through its transfer to other persons. The transfer of land parcels is carried out on a contract basis in accordance with the Civil Code and related land legislation. Paragraph 3 of Article 129 of the Civil Code specifies that the transfer of land parcels is subject to limitations as described by corresponding laws. In terms of market accessibility land is subject to three levels of limitations:

- ◆ land withdrawn from transfer,
- ◆ land with limited transfer, and
- ◆ land not withdrawn from transfer.

Individuals and legal entities are not allowed to take part in transactions involving lands with limited transfer, such as:

- ◆ cultural and historic sights;
- ◆ state natural reserves, monuments, national parks, botanical gardens, nature parks, botanical gardens, and areas reserved for similar purposes;
- ◆ areas used for defense purposes;
- ◆ wildlife reserves;
- ◆ recreational lands;
- ◆ areas with mineral deposits;
- ◆ areas contaminated by radiation, chemical or biological poisoning;
- ◆ state science and research institutions, educational institutions, breeding and producing farms; and
- ◆ secured areas, military, and civil cemeteries.

A land parcel cannot be placed on the market in cases when there is an existing dispute, or when the property is contested.

In cases of land transfers where third-party interests are involved, transactions can take place according to special procedures and only with approval from the third parties involved (landlords, mortgage holders, etc.). All transactions with immovable property may take place only on a contractual basis. A contract describes the transaction and is signed by the parties involved in the transaction or by someone who has power of attorney to act on their behalf. A contract contains the following information:

- ◆ type of transaction (exchange, purchase/sale, donation, mortgage, etc.),
- ◆ description of the parties involved in the contract,
- ◆ description of the land parcel including its legal characteristics (easements and servitude, registration number, location, total area, information about immovable property attached to the land parcel, etc.),
- ◆ existence or nonexistence of limitations on transactions with a land parcel and attached immovable property,
- ◆ basis for acquisition of rights to land parcels and attached immovable property (purchase, inheritance, exchange, etc.),
- ◆ description of the rights of third parties that may apply to the land parcel (mortgage, lease, servitude),
- ◆ date the transfer of rights becomes effective,
- ◆ contractual price,
- ◆ duration of contract (in cases when a parcel is provided to be used or leased by other persons),
- ◆ rights and obligations of parties, and
- ◆ responsibilities of parties.

According to Paragraph 3, Article 4333, of the Civil Code, the transfer of rights in immovable property is considered valid only after it has been registered according to the “Law on State Registration of Rights to Immovable Property and Transactions” (21 July 1997). Article 6 of this law recognizes rights to immovable property that have existed before the law became effective on 1 February 1998.

Land transactions are taxed by the government. The tax amount depends on the type of transaction (gift, inheritance, sale, etc.). According to the Law on State Duty, the notary collects the tax at the time the real estate contract is concluded. The minimum tax should not be lower than the minimum monthly personal income, which is established by the government and adjusted according to inflation. According to Presidential Decree No. 2118 (7 December 1993), the individual who sells the land parcel pays personal income tax. Legal entities pay a profit tax according to the law “On Profits of Enterprises and Organizations.”

Land sale procedures from one individual to another are well defined. The Goskomzem (State Land Committee) of Russia approves the form of a land sale contract. There is still a legal vacuum concerning the sale of land from an individual to a legal entity or between legal entities. Those kinds of transactions are neither allowed nor disallowed. A legal analysis of such transactions concludes that they are not illegal. The Civil Code describes the conditions of

contracts of any kind, and Article 8 states that civil rights and obligations derive from actions whether described or not described by law. This means that civil rights and obligations can develop on the basis of contracts that do not contradict laws. This leaves only one case when a land sale contract may be recognized as illegal: when the sale of a land parcel results in a change in the parcel's land use as set by the authorities.

1.5 TRANSFER OF LAND FROM STATE TO PRIVATE PROPERTY

In the Russian Federation there has been neither restitution nor compensation of the loss of immovable property to previous owners or their descendants. The Russian government has made the decision to introduce private property to land mostly through distribution of land to Russian citizens free of charge. This decision was influenced by two considerations:

- ◆ the policy to create a new class of landowners as the support basis for economic and political reforms; and
- ◆ the Revolution, the Civil War, World War II, and seventy years of communist rule had wiped out any traces of the existence of immovable property rights.

As of 1 January 1999, there were about 38 million landownership certificates issued in the country. The transfer of land from state to private property started in 1990 is still continuing. During the years of reforms different types of land were gradually introduced into privatization. In the beginning of economic and political reforms, Russian society was mostly open to the idea of introducing private property in the agricultural land sector. However, many people at that time did not understand that private property included such rights as sale and mortgage.

Initially the primary goal of the land reform was the improvement of farm production efficiency. In the Soviet Union, state and collective farms used most farm inputs, but with most farms being inefficient they were heavily criticized by society. It was believed that the introduction of private family farming would reverse the situation and create an environment for the free development of agriculture and rural areas.

The land tenure transformation process was started in March 1990 when the law "On Legislative Basis of the USSR and Union Republics on Land" became effective. One month later, on 25 April 1990, the Presidium of the Supreme Soviet of the Russian Federation adopted this resolution, which took land in rural areas from state and collective farm administration and put it under the authority of local governments. Local administrations were ordered by the federal government to provide land parcels to individuals for construction of private housing, personal household land plots, gardening, pasture, and hay production.

The development of land tenure continued with amendments made to Articles 11 and 12 of the old Constitution and the adoption of the following federal laws: "On Land Reform," "On Peasant (Farm) Business," "On Social Development of Rural Settlements," and "On Revival Program of the Russian Village and Development of Agri-Industrial Complex." These legislative acts permitted private property of farmland for individuals who were using land as individual farmers, whose private house was standing on the land parcel, or who had gardens and orchards, as well as for collective and cooperative farms and large farms where property was divided into shares. These laws did not cover other types of land users.

The early 1990s can be also characterized by serious limitations on the right to sell land. The Supreme Soviet (Parliament) imposed a ten-year moratorium on the sale of land parcels that

were privatized free of charge, and a five-year moratorium for land parcels that were purchased by the owner. However, these moratoriums did not last as long as they were intended. Other essential ownership rights at that time were also seriously limited. Mortgaging, donations, exchange, leasing, and transfer of land shares into company stock were only allowed in cases where owners were not able to exercise their rights due mostly to absentee ownership because of temporary inability to work for health reasons, army draft, entry into college or university, or inheritance by under-age persons. Such limitations on landownership rights resulted from political debates and compromises between different groups in Parliament acting in favor of or against private landownership.

Presidential Decree No. 323, “On Urgent Measures for the Implementation of the Land Reform” (27 December 1991), and Federal Government Resolution No. 86, “On the Order of Reorganization of Collective and State Farms” (29 December 1991), aimed at dealing with this situation. Collective and state farms in Russia were ordered to reorganize. Within one year they were supposed to be transformed into stock companies owned by employees or members of collective farms and retired people who used to work on those farms. These population groups were given land shares which could be used to establish a private family farm, transferred into company stock of a newly reorganized farm, or sold to or exchanged with other members of collective or state farms or the farm itself. In most cases, however, very few real changes occurred. The people who at that time were brave enough to leave large farms and start individual farming became the most successful private farmers in the country. Those who did it later were not so fortunate.

Initially teachers, physicians, social workers, and service sector workers were not given access to land shares. This was corrected when the President of the Russian Federation issued Decree No. 708, “On the Order of Privatization and Reorganization of Enterprises and Organizations of Agri-Industrial Complex” (4 September 1992). If land shares had already been distributed, these population groups had the opportunity to claim land through land redistribution funds administered by local governments. Those funds were also used to distribute land free of charge to people who lived outside rural areas but who wanted to become involved in private farming or other similar activities.

Presidential Decree No. 213, “On the Order of Establishing Quotas for the Free Transfer of a Land Parcel into the Property of a Citizen” (2 March 1992), gave local district administrations the right to set quotas on land that could be transferred to citizens free of charge. This quota was calculated according to the formula, “the total area of farmland within farm enterprises in a district, with the exclusion of land areas transferred under the administration of the rural Council of People’s Deputies, divided by the total number of people working in agriculture (including retired people who previously worked in agriculture and those engaged in social services in rural areas).”

As changes in ownership patterns in rural areas became more and more visible and as private businesses were established in other sectors of the economy, the demand to create opportunities for private landownership outside the agricultural sector was growing.

The Executive Government attempted to create landownership opportunities for all population groups. Presidential Decree No. 301, “On Sale of Land Plots to Individuals and Legal Entities at the Time of Privatization of State and Municipal Enterprises” (25 March 1992), provided individuals and legal entities with the right to buy land parcels as property at the time

of privatization of state and municipal enterprises or at the time of expansion or additional construction. This decree also specified that such parcels could be leased. It also stipulated that land parcels provided to individuals and their associations for entrepreneurial activities might be transferred to them as property if they so wish.

The development of the land market was further strengthened by Presidential Decree No. 1767, “On Regulation of Land Tenure and Development of Agrarian Reform in Russia” (27 October 1993), which gave strong support to the idea of private property in land, simplified the land registration process, underlined the right to mortgage and lease land, and lifted the then-existing moratorium on land resale.

Presidential Decree No. 485, “On Guaranties to Owners of Immovable Property to Purchase into Ownership Land Parcels under such Property” (16 May 1997), stated that the minimum purchase price of a land parcel (shares of land parcels) occupied by privatized buildings and structures be not less than five times the amount of the land tax existing at the time of application. The land tax was really a nominal figure.

The law “On the Right of the Citizens of the Russian Federation to Own and Sell Land Parcels for Personal Subsidiary Farming, Dachas, Gardens, and Private Housing” (23 December 1992) made possible the transfer of land in cities, settlements, and rural areas to individuals as private property for such specific use as private household farming, gardening, construction of private housing, and the privatization of land under existing private housing and structures. The individuals who fell under this category were also given the right to sell their land parcels to other citizens of the Russian Federation regardless of when they acquired private property rights. The amount of land they could sell was limited to the size of a parcel that could be transferred free of charge into private ownership in each particular administrative district.

The specifics of privatization of land parcels occupied by orchards, gardens, and dachas are set in Article 28 of the federal law, “On Orchard, Garden, and Dacha Noncommercial Associations of Citizens” (15 April 1998). Russian citizens and their associations that received parcels from the state or from municipalities on the basis of perpetual-inherited use right, lease, or time-limited use right have the right to acquire ownership rights for such land parcels in accordance with legislation of the Russian Federation. This law provides for land privatization by garden, orchard, or dacha associations as well as by an individual using an individual land parcel within such associations. Individuals are given the right to privatize a land parcel separately from the association and without permission. The permission to privatize land is given by the local administration within one month after an individual has submitted the application. The resolution of the local authority serves as legal grounds for registration of ownership rights.

Russian law also provides the right to buy a land parcel on a competitive basis through tendering a bid or auction with the assistance of the local office of the Russian Federation State Committee for Land Policy, the agency of the Russian federal government responsible for land administration with a vertical administrative structure that covers the whole country. This procedure is described in Council of Ministers Resolution No. 503, “On the Approval of the Order of Sale and Purchase of Land Parcels by Citizens of the Russian Federation” (30 May 1993). Whether to sell through tendered bid or auction is decided by the owner.

Resolution No. 2, “On the Order of the Procedure for Organization and Execution of Bidding Procedures (Auctions, Tenders) for Sale of Land Parcels to Citizens and Legal Entities Located in Urban and Rural Settlements or their Lease Rights” (5 January 1998), describes land

sale procedures when government or a local authority is acting as the seller of state or municipal property to citizens or legal entities.

The sale of a land parcel into private property to be used for private household agricultural production, dacha, garden, orchard, or for construction of individual housing and support structures in cities, towns, and rural areas is done individually by an owner on the basis of a contract with a buyer or with the assistance of the local office of the Russian Federation State Committee for Land Policy through an auction or tender.

1.6 LAND AND ATTACHED IMMOVABLE PROPERTY NOT HELD BY THE SAME PERSONS

Russian law allows separate ownership of buildings and parcels. This is in part a historical legacy of the time when land was public and houses could belong to individuals. Cases where the owner of a land parcel and the owner of immovable property are not the same person are described in Article 552 of the Civil Code, that deals with land rights in case of sale of a building, structure, or other attached immovable property:

1. According to the sale contract for a building or other immovable property, rights to the part of the land parcel occupied by the immovable property needed for its use are transferred to the buyer.
2. When the seller is the owner of the land parcel attached to the immovable property being sold, the buyer is provided ownership rights, lease rights, or other rights to the corresponding part of the land parcel as specified in the contract. If the contract does not specify rights to the corresponding land parcel for the buyer of immovable property then the ownership rights to that part of the land parcel occupied by the immovable property and necessary for its use are transferred to the buyer.
3. The sale of immovable property attached to a land parcel not owned by the seller without the consent of the landowner is allowed, provided it does not conflict with use conditions to part of the parcel as set by law or the contract.
4. The buyer of buildings and structures receives the right to use the corresponding part of the land parcel under the same conditions as the seller.

Article 553 of the Civil Code deals with rights to attached property at the time of sale of the land parcel: When a land parcel with attached buildings, structures, or other immovable property owned by the seller is transferred to the buyer without the transfer of these attached structures to the buyer, the seller maintains the right to use that part of the land parcel which is occupied by the buildings and is necessary for its use, in accordance with the conditions set in the sale contract.

If the conditions of use of the corresponding part of the land parcel are not specified in the sale contract, the seller retains the right of limited use (servitude) in that part of a land parcel which is occupied by the immovable property and is necessary for its use in accordance with its purpose.

The noneffective Chapter 17 of the Civil Code also deals with issues of the owner of immovable property who is not the owner of the land to which the property is attached (Article 271). The owner of the immovable property attached to the land parcel has the right to use that

part of the land parcel unless it is otherwise described in law or in a resolution of local authority on the granting of the land parcel or in a contract with the parcel owner.

1.7 LANDOWNERSHIP BY FOREIGNERS

Although the idea of foreign landownership brings out a negative response in all groups of Russian society, current legislation does not clearly limit the right of foreign citizens or stateless persons to have land parcels in private property. Articles 35 and 36 of the Constitution of the Russian Federation do not make any exclusion based on citizenship for anyone to have property in the Russian Federation.

Presidential Decree No. 2287, “On Bringing Land Legislation in Correspondence with the Constitution of the Russian Federation” (24 December 1993), terminated Article 7 of the Land Code and Article 4 of the Law on Land Reform. Those two articles gave foreigners only the opportunity to lease land, and their termination has opened the way for them to have land in ownership. It is expected, however, that the new Land Code after it is adopted will only give foreigners the right to lease land on a long-term basis.

The most common case of land owned by a foreigner is when a foreign company decides to buy land under a business it has purchased. The Land Law in Russia uses the term “foreign investor” rather than “foreign legal entity.” It is common for a foreign investor in Russia to act as a Russian registered legal entity. According to Presidential Decree No. 631, “On the Order of Sale of Land Parcels at the Time of Privatization of State and Municipal Enterprises, their Expansion, and Additional Construction and also Provision of Land to Citizens and their Associations for Entrepreneurial Activities” (14 June 1992), foreign individuals and legal entities may become owners of land parcels occupied by privatized state and municipal enterprises.

Russian law does not allow Russian legal entities with foreign capital participation to own land parcels which were used as a contribution to company stock. According to Paragraph 2 of Presidential Decree No. 1767, “On Regulation of Land Tenure and Development of Agrarian Reform in Russia” (27 October 1993), citizens and legal entities with private ownership rights have the right to sell, to pass on to heirs, to donate, to mortgage, to lease, to exchange, or to transfer a land parcel or its part as a contribution into the capital stock of a corporation, partnership, or cooperative including those with foreign investors.

There is no clarity in Russian law as to whether a Russian legal entity with 100 percent foreign capital may be the owner of a land parcel when a land parcel is purchased through means other than privatization of an enterprise, that is, purchased from another owner such as the state or municipality. A procedure commonly used in cases of 100 percent company ownership by foreign capital is to provide such businesses with land parcels on a long-term lease basis where the right to lease land would be purchased from a local authority on a competitive basis.

There is only one law in the current legal system that indirectly disallows foreigners from ownership of land in Russia. It is the Federal Law No. 66FL, “On Orchard, Garden, and Dacha Noncommercial Associations of Citizens” (15 April 1998), Article 18: Foreign citizens and stateless individuals may become members of orchard, garden, or dacha noncommercial associations if land parcels are provided to them on lease or temporary use basis.

The issue of acquisition of a land parcel by a foreign individual for construction of a family residential home is not well specified by the Land Law. However, legal analysis of the existing Land Law does give such opportunity.

2. SOME RESULTS OF THE DEVELOPMENT OF PRIVATE LANDOWNERSHIP IN RUSSIA

During the last ten years Russia has actively implemented its land reform. At the beginning of the 1990s, this reform was clearly characterized as agrarian. During the 1990-98 period, significant amounts of land areas were taken from agricultural enterprises and transferred to local authorities for distribution among the citizens in order to establish peasant (farmer) enterprises and to develop private household plots, garden and orchard associations, and rural housing. Land was also transferred for the development of livestock raising. This reform envisioned the distribution of land shares among the workers of agricultural enterprises, retired persons (who were living in the territory of those enterprises), and social service workers. The main objective was to increase agricultural production through the transfer of land to more efficient owners. By the end of the 1990s, there were about 40 million landowners in the country. But these changes did not achieve the objective.

The sharp decrease in agricultural production during the 1990s only inflamed the land issue debate in the country. However, the approaches for resolution of the land problem differ: either to continue land privatization (including the improvement of redistribution mechanisms in favor of efficient owners) or to conduct “socialization” of land with strict control over its use (further land transfer to producers on the basis of limitless use or lease).

Land privatization in urban areas was developed more slowly compared to rural areas. Nevertheless, measures were carried out in cities to transfer land plots to citizens and legal entities in ownership. Available data can give us an idea about the proportions of land owned by citizens and legal entities as well as by the state and municipalities. It is possible to make general conclusions about the continuation of land transfer into private ownership.

There are various point of views on the existence of private landownership in Russia including radically different ones. Some people think that private landownership does not exist in Russia; others think that everything has already been sold.

According to the State Report on the Situation of Land and Land Use in the Russian Federation in 1999 (M.: Открытые системы, 2000. — 116 p.), as of 1 January 2000, citizens, associations, and legal entities owned 129.6 million hectares (7.6% of the land in the country). As Figure 1 shows, the share owned by citizens and associations made up 6.2 percent (105.7 million hectares), and the share owned by legal entities, 1.4 percent (23.9 million hectares). The area of land owned by citizens and legal entities in 1999 decreased by 0.4 million hectares, and the area of land in private ownership, by 0.3 million hectares (mainly agricultural land).

It is interesting that in Russia the total amount of land area owned by citizens and legal entities is approximately equal to the territories of France, Germany, Greece, Austria, Switzerland, Netherlands, Belgium, and Luxembourg taken together, but the combined population of these countries exceeds the population of Russia.

An analysis of the geographical distribution of lands owned by citizens and legal entities according to regional units of the Russian Federation shows that the share of private ownership is

increasing in a north-south direction and in a northeast-northwest direction (Figure 2). Such distribution mainly reflects the availability of agricultural land in the different regional units of the Russian Federation.

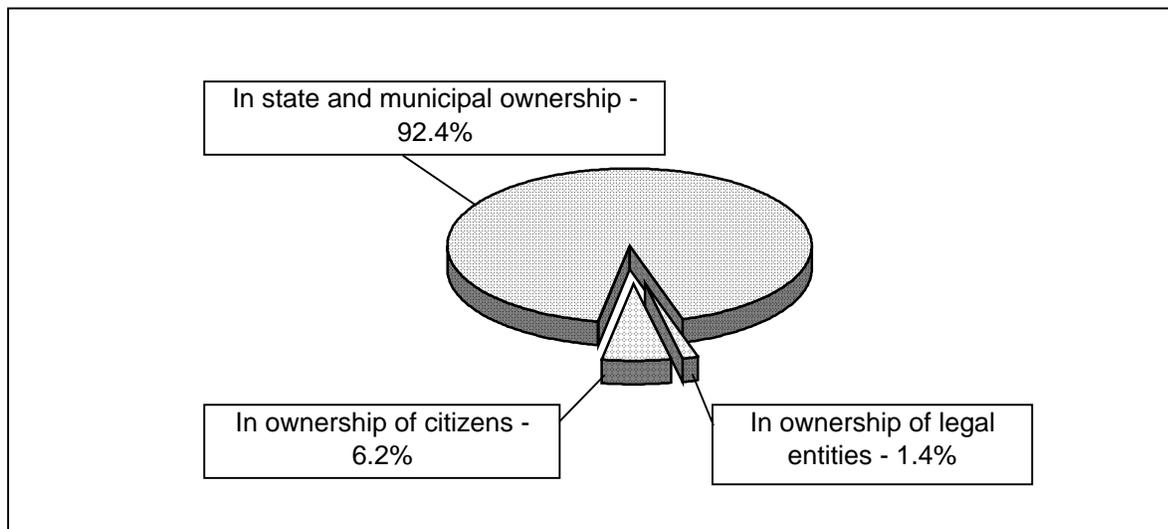


Fig. 1. Distribution of land in the Russian Federation according to ownership forms



Fig. 2. Share of lands owned by citizens and legal entities in the total land area of the Russian Federation (1 January 2000)

According to the Land Code of the Russian Federation the system of land recording divides the land fund into seven categories based on land use:

- ◆ agriculture,
- ◆ towns and settlements,
- ◆ industry, transportation, etc.,
- ◆ protected areas,
- ◆ forest fund,
- ◆ water fund, and
- ◆ reserve.

Lands owned by citizens and legal entities are concentrated in following categories:

- ◆ agricultural land;
- ◆ towns and settlements (cities, rural communities);
- ◆ industry, transportation, communication, radio broadcasting, television, defense, informatics and space services, energy sector, and the like.

The transfer of lands in other categories into private ownership by citizens and legal entities would create a conflict with existing legislation, because these categories include protected areas, forests, bodies of water, and reserves. It is necessary to keep in mind that it is not allowed to transfer the lands for transportation, communication, radio broadcasting, television, defense, and space industry to citizens and legal entities as private property. The total area of land in these categories (excluding the redistribution area fund) makes up around 72 percent of the territory of the country.

These calculations based on statistical data of Goskomzem provide only a general impression of the scale of land redistribution in Russia.

2.1 AGRICULTURAL LANDS

Agricultural lands are lands provided or intended for agricultural needs. Of those lands owned by citizens and legal entities, the share of agricultural lands is high, 97.3 percent, because of the agrarian character of the land reforms and the specifics of agricultural production which requires large land areas. In estimating the prospect of possible further transfer of agricultural land from state and municipal ownership into ownership by citizens and legal entities, the following factors should be considered:

- 1) Russia is a northern country, where pasturelands for reindeer raising make up 30 percent of agricultural lands. The transfer of these lands into private ownership is rather problematic because of natural resource protection and maintenance of the living environment and cultural traditions of northern peoples. That is why 99.9 percent of reindeer-breeding territory and community-patrimonial farms in the northern regions is in state and municipal ownership and is used by them on the basis of use and lease rights.
- 2) According to existing legislation, forestlands cannot be privately owned. Their share of agricultural land is 13.5 percent.
- 3) Agricultural lands also consist of bodies of water (3.0%), roads (0.5%), and bogs (4.6%), which are not suitable for agricultural production and potential owners are not interested in them.
- 4) Lands involved in reclamation and fertility improvement programs (0.07%), lands with bushes which are not part of forests, destroyed lands (0.04%), and other lands like glaciers, sands, and waste accumulation places (13.2%) are of low interest as well.
- 5) Lands used by research and educational agricultural institutions cannot be transferred into ownership of citizens and legal entities.

These calculations show that more than two-thirds of agricultural lands either cannot be transferred to citizens and legal entities or potential owners are not interested in them. But it is necessary to stress that there is at present little significant demand for land to be privatized in Russia.

The process of landownership transfer to citizens and legal entities within the framework of land reform during the 1990s can be divided into two components. The first component dealing with the largest land areas in the country was based on the reorganization of large agricultural enterprises through the distribution of land shares. In Russia there are now 11.9 million owners of land shares (117.6 million hectares). This most numerous group of owners owns the most

valuable land in the country. Almost 92 percent of these owners received legal documents dealing with their land shares. More than two-thirds of land-share owners transferred their shares to large agricultural enterprises on the basis of use and lease rights.

The second component consisted of the transfer of land free of charge to citizens in order to establish, on a voluntary basis, peasant (farmer) enterprises or individual household plots, gardens, and orchard associations, as well as for the construction of dachas and individual housing. According to Goskomzem data the quantitative growth of peasant farm enterprises slowed down and stabilized in 1995-1996 and, starting in 1998, there has been a reduction in their number. Changes in areas under these forms of economic activity also stabilized at the end of 1990s (Figure 3). There are cases of the voluntary refusal by citizens of land plots they owned in all regional units of the Federation.

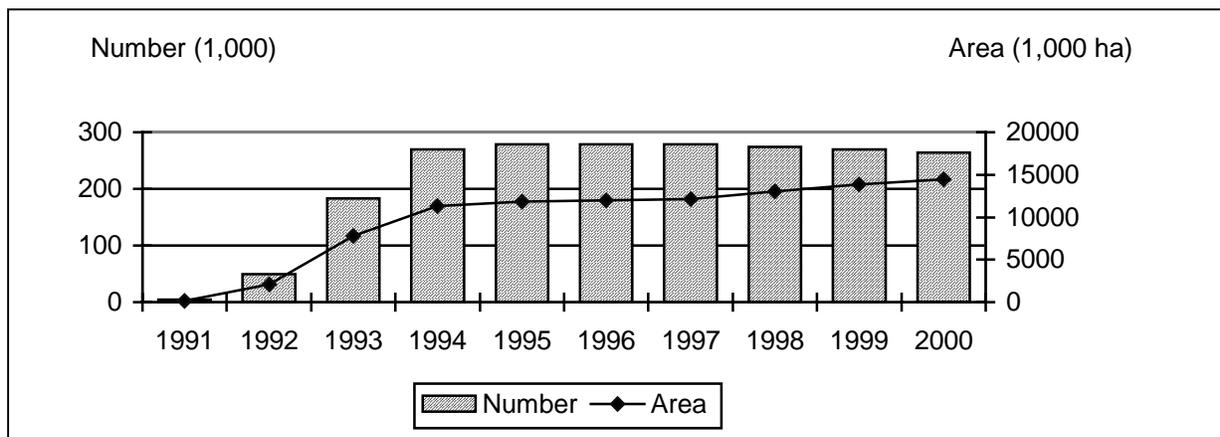


Fig. 3. Changes in number and area of peasant (farmer) enterprises during 1990-1999

Interest remains for only one form of land use: land for the construction of private houses (Figure 4).



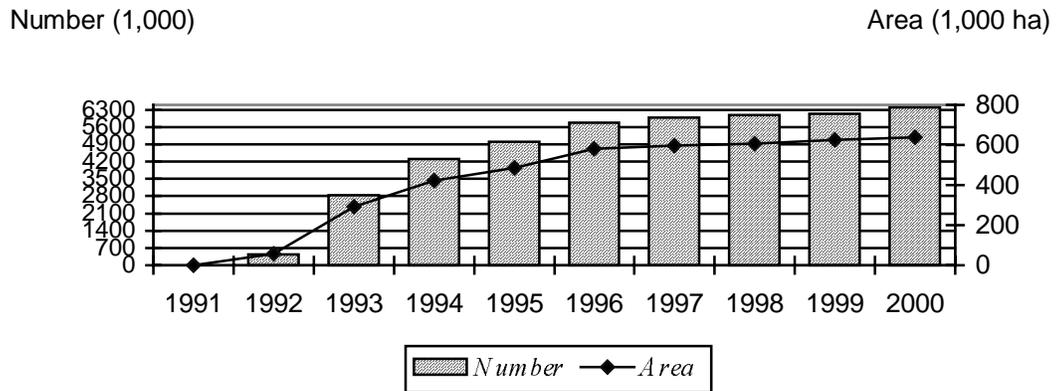


Fig 4. Changes in number of citizens dealing with individual housing construction and in area allocated for this purpose during 1990-1999

Applications by citizens for land plots, recorded by Goskomzem of Russia, show a decrease in demand for land plots (Figure 5).

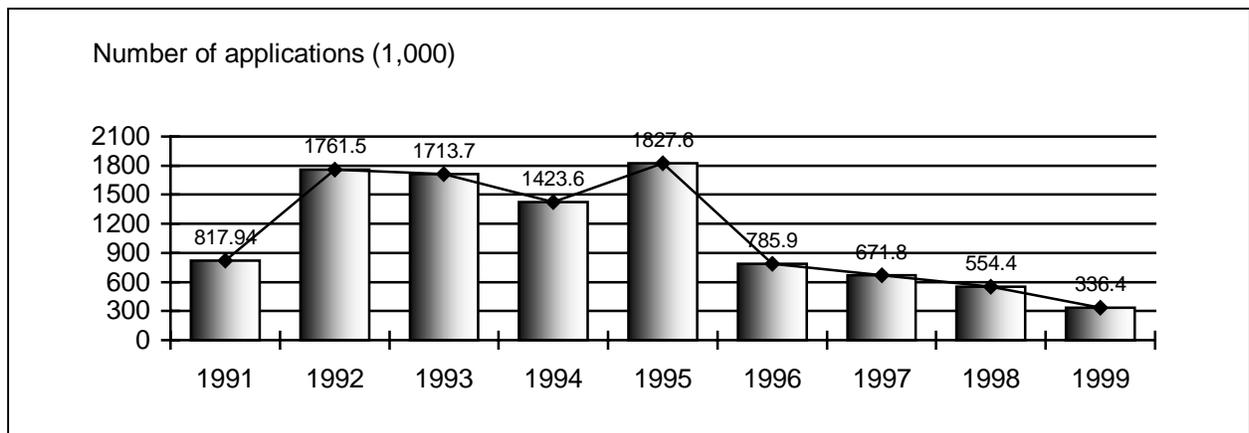


Fig. 5. Number of applications by citizens for land plots (1,000)

An analysis of the transfer process of agricultural land to citizens and legal entities allows us to come to following conclusions:

- ◆ Most of the valuable agricultural lands were transferred to citizens and legal entities and available lands for further transfer into private ownership are **practically** exhausted.
- ◆ The demand by citizens for agricultural land is largely met, and there has been a reverse trend, that is, transfer of land back into state ownership.
- ◆ Further reforms in the agricultural sector must be conducted through the establishment of legal and economic mechanisms of the redistribution of property in favor of more efficient

owners; in addition, land must not be considered separately from other main assets of farms, regardless of legal forms and sizes of enterprises.

2.3 HUMAN SETTLEMENT LAND

Lands for human settlements are the most profitable lands for state and private owners. Their share of the country's area is 1.08 percent. In the initial stage of land reform, the transfer of human settlement land into ownership was very slow. Only 18.5 percent of land in this category was transferred to citizens and legal entities during ten years of land reform.

The main reason for this slow rate is that the amount of land tax that owners had to pay was lower than rental payments, which are determined by local authorities. Consequently, these authorities for financial reasons created obstacles for the transfer of urban land to citizens and legal entities during the entire period of land reform. The majority of human settlement lands is in state and municipal ownership. Only 37.0 percent of these lands were transferred to citizens and legal entities on the basis of possession, use, and lease rights. The rest is used by federal and local authorities or is not used at all, or is used without corresponding rights.

About 22 percent of human settlement lands either cannot be transferred into private ownership or potential owners are not interested in them. An analysis of the transfer of human settlement lands to citizens and legal entities allows us to come to the following conclusions:

- ◆ A significant share of land for residential, industrial, commercial, and communal storage sectors, as well as land used in agriculture, can still be transferred to citizens and legal entities.
- ◆ The further transfer of lands of this category to citizens and legal entities is possible if changes are made in land taxation and leasing, if an inventory of these lands is made, and if ownership by the Federation, by regional units of the Federation, and by municipal bodies is distinguished.

2.3 LAND FOR SECTORS OTHER THAN AGRICULTURE AND HOUSING

Problems with the transfer of lands for industry, transportation, radio broadcasting, television, informatics, space industry, energy, and defense to citizens and legal entities are largely similar to those of lands for human settlement. The total area of lands in this category makes up 1.02 percent of the country's land fund. Some of these types of land use cannot be transferred to citizens and legal entities; they include lands used for transportation, communication, radio broadcasting, television, defense and security, and the space industry. Their share of land in this category is 81.46 percent.

Lands of industrial enterprises are more interesting from the point of view of potential transfer to citizens and legal entities. At present only 0.39 percent of the lands in this category are owned by citizens. The majority of industrial lands in state and municipal ownership are used by citizens and legal entities on the basis of different types of rights: 0.12 percent of such lands are in possession, use, and lease by citizens, and 95.8 percent are in use and lease by legal entities.

These data allow us to come to the conclusion that the further transfer of industrial lands to citizens and legal entities is possible on the basis of the simultaneous alienation of buildings and structures and the attached land parcel, and through changes in land taxation and leasing.

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ANNEX 1: LEGISLATIVE BASIS FOR LAND TRANSFER INTO PRIVATE PROPERTY

The legislative basis for the privatization of land and for land transactions in the Russian Federation is laid down in the following acts and regulatory documents:

FEDERAL LAWS

1. Constitution of the Russian Federation
2. Civil Code of the Russian Federation
3. Land Code of the Russian Federation
4. Federal Law on the Right of the Citizens of the Russian Federation to Own and Sell Land Parcels for Personal Subsidiary Farming, Dachas, Gardens, and Private Housing (23 December 1992)
5. Federal Law on General Guidelines of Organization of Local Self Administration in the Russian Federation (25 August 1995)
6. Federal Law on Orchard, Garden, and Dacha Noncommercial Associations of Citizens (15 April 1998)

DECREES OF THE PRESIDENT OF THE RUSSIAN FEDERATION (IN ABSENCE OF CORRESPONDING FEDERAL LAWS, PRESIDENTIAL DECREES ACT AS LAWS):

1. Presidential Decree No. 323, "On the Urgent Measures for Implementation of the Land Reform," 27 December 1991
2. Presidential Decree No. 213, "On the Order of Establishing the Quota for the Free Transfer of a Land Parcel to Citizens," 2 March 1992
3. Presidential Decree No. 301, "On the Sale of Land Parcels to Citizens and Legal Entities at the Time of Privatization," 25 March 1992
4. Presidential Decree No. 631, "On The Order of Sale of Land Parcels at the Time of Privatization of State and Municipal Enterprises, their Expansion, and Additional Construction and Provision of Land to Citizens and their Associations for Entrepreneurial Activities," 14 June 1992
5. Presidential Decree No. 708, "On the Order of Privatization and Reorganization of Enterprises and Organizations of Agro-Industrial Complex," 4 September 1992
6. Presidential Decree No. 1767, "On Regulation of Land Tenure and Development of Agrarian Reform in Russia," 27 October 1993
7. Presidential Decree No. 1767, "On Bringing Land Legislation in Correspondence with the Constitution of the Russian Federation," 24 December 1993
8. Presidential Decree No. 337, "On Implementation of Constitutional Rights of Citizens to Land," 7 March 1997
9. Presidential Decree No. 485, "On Guaranties to Owners of Immovable Property Objects to Purchase into Ownership of Land Parcels under Such Objects," 16 May 1997

10. Presidential Decree No. 1263, “On the Sale or Lease of Land Parcels to Citizens or Legal Entities Located in Urban and Rural Settlements for Construction Purposes,” 26 November 1997

FEDERAL GOVERNMENTAL RESOLUTIONS

1. Federal Government Resolution No. 86, “On the Order of Reorganization of Collective and State Farms,” 29 December 1991
2. Resolution of the Council of Ministers of the Russian Federation, “On the Approval of the Order of Sale and Purchase of Land Parcels by Citizens of the Russian Federation,” 30 May 1993
3. Resolution of the Russian Federation Government No. 2, “On the Order of the Procedure for Organization and Execution of Bidding Procedures (Auctions, Tenders) for Sale of Land Parcels or Lease Rights to Citizens and Legal Entities Located in Urban and Rural Settlements,” 5 January 1998

ANNEX 2: NOTES ON AGRICULTURAL LAND IN RUSSIA

(by D. Stanfield and A. Overchuk)

The privatization of agricultural land in the Russian Federation³ has evolved from the initial emphasis on the distribution of land shares in corporatized farms, to the formation of individual and family-owned farms and the organization of associations, cooperatives, and informal entities which contain land contributed by the holders of land shares who have been able to extract demarcated parcels from the corporatized farms.

Approximately 117.6 million hectares⁴ have been transferred to 11.9 million workers, retired persons, and other residents on most of the ex-collectives and ex-state farms in the form of negotiable land shares; most of these persons have also been issued ownership certificates. Neither the land shares nor the certificates refer to specific, demarcated parcels of land in the initial stage of privatization.

Issuing land shares showed people that they had rights to land. The certificates are intended to start the people down the road to understanding that their land right has value, and that it can be utilized to improve their lives.

The affected ex-collectives and ex-state farms, converted into joint stock companies and other enterprise forms (agricultural production cooperatives, limited liability societies, etc.), can lease land shares from the shareholders, or they can accept land shares as the contributions of the shareowners as capital for acquiring an ownership interest in the company. A few of these companies have acquired the ownership rights of the land shares of individuals (about 3.3% of all land shares has been so converted). Once this land is demarcated, legally linked with the individuals holding the shares, and by deed transferred to the companies, it should be marketable by the companies. Very few transactions, however, have been carried out (only 79 such transactions were reported in the Russian Federation in 1999).

The “shared out” ex-collectives and ex-state farms (those which have not received land from the shareholders to form legal entities) do not have legal ownership of the land they use and over which they had control previously. These “shared out” entities cannot dispose of land or mortgage it. They lease land from the land shareholders.

Some of these enterprises simply continue to use the land even if it has been “shared out,” without leases and without payment to the owners of the shares. In some cases, while the land has been “shared out,” the holders of the shares are locked into the converted ex-collective. The shareholders are dependent on the farm management for receiving benefits from the farming operations, for receiving land parcels to organize their own individual or group farming operations, and for being able to sell or mortgage the land or transfer it to heirs. In such instances, which are difficult to quantify, while theoretically the shares are negotiable, in practice such a right has little meaning at the moment. However, the basis has been laid for developing more secure and negotiable tenure forms.

³ The concept of agricultural land refers to land used for farming, arable and nonarable, and does not include swamps, deserts, rivers, lakes, forests, roads, etc.

⁴ Source is a paper by Professor Vasily Uzun, prepared in 1999, provided by Leonard Rofles, Rural Development Institute.

From a purely legal perspective, then, since the holders of the land certificates can sell or otherwise transfer their ownership of these shares, the affected land can be considered privately owned with marketable title. However, an unknown and constantly changing proportion of this land is in practice locked into the control of the managers of the ex-collectives and ex-state farms.

Another process is the piecemeal carving of demarcated parcels out of the ex-collectives and their transfer to private ownership as private farms, peasant farms, and legal entities which the holders of land shares join and to which they contribute the land they manage to control. In such cases, patents from some public entity define the boundaries of the parcels, the rights being transferred, and to whom they devolve.

One type of patent used to grant lifetime use, and which is inheritable, does not include the right to sell or otherwise alienate the land so patented. In these cases the ownership of the land remains in the hands of the state.

While there is some variation in the available statistics, about 62 percent of the agricultural land either has been “shared out” or has gone through the parcelization process (that is, land parcels have been demarcated and given out to individual owners).

The 38 percent of the remaining agricultural land is held in specialized state owned enterprises such as seed companies and cattle-breeding companies, or is part of the state land reserve, the land redistribution fund, or protected areas, or has been granted to individual users in lifetime use, with the right to give to heirs, but without the right to sell.

Considering only the 222.6 million hectares of agricultural land, then, we have the following tenure structure for agricultural land in the Russian Federation as of 1 January 1998:

- 1) Publicly owned agricultural land, 84.5 million hectares⁵ (about 38% of agricultural land):
 - ◆ land in specialized enterprises not affected by the land share distribution, or in the state land reserve, the land redistribution fund, or the protected areas (not marketable);
 - ◆ land given in lifetime inheritable use to individuals (not marketable).
- 2) Privatized agricultural land, marketable, 138.1 million hectares (about 62%):
 - ◆ group farmed lands (117.6 million hectares, 52%):
 - ◆ land affected by land share distributions, but being leased in or otherwise used by the converted ex-collectives and ex-state farms (something less than 50% is marketable);
 - ◆ land affected by land share distributions, and which has been incorporated as capital contributions of the shareholders into joint-stock companies (about 2% is theoretically marketable);
 - ◆ privatized, individual private farms (11.7 million hectares, 5.3%)
 - ◆ household plots (10.2 million hectares, 4.5%).

⁵ Ibid.

ANNEX 3: SUMMARY STATISTICS ON PRIVATIZATION (PROVIDED AFTER AUGUST 2000 MINSK WORKSHOP)

Table 1: Percent of real estate with marketable titles (ownership with right to sell) for various types of real estate in Russia

Types of real estate (%)				
Agricultural land	Apartments	Land under houses*	Land under commercial or industrial buildings	Average percent
62	46	30*	2	35(?)

*In Russia, the privatization of land parcels on which houses have been built is moving slowly in urban areas (about 21% of the housing parcels are privately owned), but somewhat more quickly in rural settlements (55% privatized). Overall we estimate 30% of such parcels are privately owned by the end of 1999.

Table 2: Percent of real estate with registered-marketable ownership titles for various types of real estate in Russia

Types of real estate (%)				
Agricultural land	Apartments	Land under houses	Land under commercial or industrial buildings	Average percent
62	?	?	?	?

COMPARATIVE STATISTICAL BACKGROUND INFORMATION

LAND PRIVATIZATION INDEX PROJECT¹

Andrey Kutozov

This paper was prepared to provide comparative background information on land resources in the various countries whose representatives participated in the Minsk Workshop.

1. DEMOGRAPHIC INDICATORS

1.1 TOTAL, URBAN, AND RURAL POPULATION IN 1999

Country	Total (1,000)	Urban (1,000)	Rural (1,000)	Share of urban population (%)
Albania	3,113	1,206	1,907	38.7
Azerbaijan	7,697	4,383	3,314	56.9
Belarus	10,274	7,576	2,698	73.7
Georgia	5,006	3,015	1,991	60.2
Lithuania	3,682	2,729	953	74.1
Moldova	4,380	2,384	1,995	54.4
Russia	147,196	113,821	33,375	77.3

According to the level of urbanization, the countries can be grouped into:

- 1) *Highly urbanized countries (>70%): Russia, Lithuania, Belarus*
- 2) *Urbanized countries (50-61%): Georgia, Azerbaijan, Moldova*
- 3) *Rural countries (<50%): Albania*

1.2. DENSITY OF TOTAL POPULATION IN 1999

Country	Area in sq km	Population Density (pers/sq km)
Albania	28,748	108.3
Azerbaijan	86,600	88.9
Belarus	207,600	49.5
Georgia	169,000	29.6
Lithuania	65,300	56.4
Moldova	33,700	130.0
Russia	17,075,400	8.6

Calculated. Source: World Almanac, 1998; FAO, <http://apps1.fao.org>

¹ Paper prepared for presentation to the Workshop on "A Land Privatization Index", held in Minsk, Belarus, 21-23 August, 2000, and organized by The National Land Agency of the State Committee for Land Resources, Geodesy and Cartography of the Republic of Belarus and the Land Tenure Center, University of Wisconsin-Madison.

2. MACROECONOMIC INDICATORS

2.1 ANNUAL PERCENT CHANGE OF REAL GDP

Country	1992	1993	1994	1995	1996	1997	1998	1999
Albania	-7.2	9.6	9.4	8.9	9.1	-7.0	8.0	8.0
Azerbaijan	-22.7	-23.1	-19.7	-11.8	1.3	5.8	10.0	7.4
Belarus	-9.7	-7.0	-13.2	-10.4	2.9	11.4	8.3	3.0
Georgia	-44.9	-29.3	-10.4	2.6	10.5	10.8	2.9	3.0
Lithuania	-21.3	-16.2	-9.8	3.3	4.7	7.3	5.1	-3.3
Moldova	-29.7	-1.2	-31.2	-1.4	-7.8	1.3	-8.6	-5.0
Russia	-19.4	-10.4	-11.6	-4.2	-3.4	-9	-4.5	3.2

Source: World Economic Outlook, May 2000, IMF, p. 213.

2.2 YEARS OF ECONOMIC GROWTH DURING 1992-99 PERIOD

Country	Number of Years
Albania	6
Azerbaijan	4
Belarus	4
Georgia	5
Lithuania	4
Moldova	1
Russia	1

2.3. ANNUAL PERCENT CHANGE OF CONSUMER PRICES

Country	1992	1993	1994	1995	1996	1997	1998	1999
Albania	225.2	85.0	22.6	7.8	12.7	33.2	20.6	-0.5
Azerbaijan	912.6	1,129.7	1,664.4	411.7	19.8	3.7	-0.8	-8.5
Belarus	969.0	1,188.0	2,200.0	709.0	53.0	64.0	73.2	293.8
Georgia	887.4	3,125.4	15,606.5	162.7	39.4	7.1	3.5	19.1
Lithuania	1,021.0	410.4	72.1	39.5	24.7	8.8	5.1	0.8
Moldova	1,276.0	788.5	329.6	30.2	23.5	11.8	7.7	39.3
Russia	1,734.7	874.7	307.4	197.4	47.6	14.7	27.7	85.9

Source: World Economic Outlook, May 2000, IMF, p. 221.

2.4 AVERAGE ANNUAL GROWTH (%) OF MAIN ECONOMIC SECTORS, 1990-1998

Country	GDP	Agriculture value added	Industry value added	Services value added
Albania	1.8	8.1	-9.7	4.7
Azerbaijan	-10.7	-2.7	4.2	9.9
Belarus	-6.1	-5.9	-7.8	-3.8
Georgia	-16.3	...	...	...
Lithuania	-5.2	-1.4	-10.1	-0.4
Moldova	-14.1	-7.1	-13.0	-19.9
Russia	-7.0	-6.9	-8.1	-4.7

Source: World Development Report 1999/2000, World Bank 2000, pp. 251-252

MAIN STRUCTURAL FEATURES OF THE ECONOMY

3.1. CHANGES IN STRUCTURE OF THE ECONOMY 1980-1998 (VALUE ADDED AS % OF GDP)

Country	Agriculture		Industry		Services	
	1980	1998	1980	1998	1980	1998
Albania	34	63	45	18	21	19
Azerbaijan	...	19	...	44	...	36
Belarus	...	14	...	44	...	42
Georgia	24	32	36	23	40	45
Lithuania	...	14	...	40	...	46
Moldova	...	31	...	35	...	34
Russia	...	9	...	42	...	49

Source: World Development Report 1999/2000, World Bank 2000, pp. 252-253

3.2 SHARE OF LABOR FORCE IN AGRICULTURE

Country	Agricultural labor force	% of total labor force
Albania (1995)	778,000	58.7
Azerbaijan (1994)	899,000	34.4
Belarus (1996)	804,000	17.3
Georgia (1995)	90,000*	8.6*
Lithuania (1995)	391,800	22.4
Moldova (1994)	767,000	45.1
Russia (1998)	8,282,000	11.4

*State sector only.

Source: Encyclopedia Britannica, 2000 Book of the Year, 1999.

4. LAND RESOURCES

4.1 LAND RESOURCES PER CAPITA (HA/PERS)

Country	Land area	Agricultural area	Annual and permanent crops	Permanent pastures	Forests
Albania	0.88	0.36	0.22	0.14	0.32
Azerbaijan	1.13	0.57	0.25	0.32	0.12
Belarus	2.02	0.91	0.61	0.29	0.70
Georgia	1.39	0.60	0.21	0.39	0.60
Lithuania	1.76	0.95	0.82	0.13	0.54
Moldova	0.75	0.58	0.50	0.10	0.10
Russia	11.47	1.48	0.87	0.61	5.20
Ratio of largest/smallest (without Russia)	2.7 Belarus/ Moldova	1.6 Lithuania/ Albania	3.9 Lithuania/ Georgia	3.9 Georgia/ Moldova	7.0 Belarus/ Moldova
Ratio of Russia with smallest	15.3 Russia/ Moldova)	4.1 Russia/ Albania	4.1 Russia/ Georgia	6.1 Russia/ Moldova	52 Russia/ Moldova

Classification of countries according to total area per capita:

- 1) >10: Russia
- 2) 1-2: Belarus, Lithuania, Georgia Azerbaijan
- 3) <1.0: Albania, Moldova

Classification of countries according to agricultural area per capita:

- 1) >1.0: Russia
- 2) 0.9-1.0: Lithuania, Belarus
- 3) 0.5-0.9: Georgia, Moldova, Azerbaijan
- 4) <0.5: Albania

Classification of countries according to cropland:

- 1) > 0.8: Russia, Lithuania
- 2) 0.5-0.8: Belarus, Moldova
- 3) < 0.5: Azerbaijan, Albania Georgia

Classification of countries according to permanent pastures:

- 1) > 0.6: Russia
- 2) 0.25-0.40: Georgia, Azerbaijan, Belarus
- 3) <0.25: Albania, Lithuania, Moldova

Classification of countries according to forest area:

- 1) >5.0: Russia
- 2) 0.5-1.0: Belarus, Georgia, Lithuania
- 3) <0.5: Albania, Azerbaijan, Moldova

5. INDICATORS OF GENERAL LAND USE STRUCTURE

5.1 MAIN LAND USE CATEGORIES IN 1998 (1,000 HA)

Country	Total area	Land area	Agricultural area	Annual and permanent crops	Permanent pastures	Non-crop land
Albania	2,875	2,740	1,128	699	429	2,041
Azerbaijan	8,660	8,660	4,414	1,935	2,479	6,725
Belarus	20,760	20,748	9,307	6,311	2,996	14,437
Georgia	6,970	6,970	3,000	1,070	1,930	5,900
Lithuania	6,520	6,480	3,496	3,004	492	3,476
Moldova	3,370	3,297	2,556	2,182	374	1,115
Russia	1,707,540	1,688,850	217,155	127,827	89,328	1,561,023

Source: FAO, <http://apps1.fao.org>

5.2 PERCENTAGE OF MAIN LAND USE CATEGORIES

Country	Total land area	Agricultural land	Annual and permanent crops	Permanent pastures	Non-crop land
Albania	100.0	41.17	25.51	15.66	74.49
Azerbaijan	100.0	50.97	22.34	28.63	77.66
Belarus	100.0	44.86	30.42	14.44	69.58
Georgia	100.0	43.04	15.35	27.69	84.65
Lithuania	100.0	54.00	46.36	7.59	53.64
Moldova	100.0	77.53	66.18	11.34	33.82
Russia	100.0	12.86	7.57	5.29	92.43

Source: FAO, <http://apps1.fao.org>

5.3 STRUCTURE OF LAND USE (RATIOS)

Country	arable land/ non-arable	agricultural land/ non-agricultural	arable land/ pastures	non-agricultural/ total land
Albania	0.34	0.44	1.63	58.83
Azerbaijan	0.29	1.04	0.78	49.03
Belarus	0.44	0.81	2.11	55.14
Georgia	0.18	0.76	0.55	56.96
Lithuania	0.86	1.17	6.11	46.05
Moldova	1.96	3.45	5.84	22.48
Russia	0.10	0.15	1.43	87.14

Source: calculated on the basis of: FAO, <http://apps1.fao.org>

5.4 TYPOLOGY OF COUNTRIES BASED ON ARABLE/NON-ARABLE INDICATOR (SEE TABLE 5.3)

Indicator: arable/non-arable use	Countries
Dominance of arable lands (>1.0)	Moldova
Slight dominance of non-arable lands (0.5-0.1)	Lithuania
Strong dominance of non-arable lands (<0.5)	Russia, Georgia, Albania, Azerbaijan, Belarus

5.5 TYPOLOGY BASED ON AGRICULTURAL/NON-AGRICULTURAL INDICATOR (SEE TABLE 5.3)

Indicator: agricultural/non-agricultural use	Countries
Strong dominance of agricultural use (>3.0)	Moldova
Dominance of agricultural use (1.0-3.0)	Lithuania, Azerbaijan
Slight dominance of non-agricultural use (0.5-1.0)	Belarus, Georgia
Strong dominance of non-agricultural use (<0.5)	Russia, Albania

5.6 TYPOLOGY OF COUNTRIES BASED ON ARABLE/PASTURE INDICATOR (SEE TABLE 5.3)

Indicator: arable/pasture use	Countries
Strong dominance of arable use (>3.0)	Lithuania, Moldova
Dominance of arable use (1.0-3.0)	Belarus, Albania, Russia
Slight dominance of pasture use (0.5-1.0)	Azerbaijan
Strong dominance of pasture use (<0.5)	Georgia

5.7 DISTRIBUTION OF COUNTRIES ACCORDING TO AGRICULTURAL USE AND ARABLE USE (SEE TABLE 5.3)

agricultural/non-agric use arable/pasture use	>3.0	1.0-3.0	0.5-1.0	<0.5
>3.0	Moldova	Lithuania		
1.0-3.0			Belarus	Albania, Russia
0.5-1.0		Azerbaijan		
<0.5			Georgia	

5.8 FORESTED AREA IN 1994

Country	Forest and Woodland Area	
	(1,000 ha)	Percent
Albania	1,048	38.2
Azerbaijan	950	11.0
Belarus	7,200	34.7
Georgia	2,988	42.7
Lithuania	1,983	30.6
Moldova	358	10.9
Russia	765,912	45.4

Source: calculated on a basis of: FAO, <http://apps1.fao.org>

For a majority of these countries, forests are the major types of land use:

>40% Russia, Georgia

30-40% Albania, Belarus, Lithuania

<30% Azerbaijan, Moldova

5.9 FORESTED AREA PER CAPITA

Country	Population, 1999 (1,000)	Forest area per capita (ha)
Albania	3,113	0.32
Azerbaijan	7,697	0.12
Belarus	10,274	0.70
Georgia	5,006	0.60
Lithuania	3,682	0.54
Moldova	4,380	0.10
Russia	147,196	5.20

Source: calculated on the basis of: FAO, <http://apps1.fao.org>

5.10 DISTRIBUTION OF COUNTRIES BY % OF FORESTED AREA & FOREST PER CAPITA

% Forested area Forests per capita (ha)	>40%	30-40%	11%
>5	Russia		
0.5-1.0	Georgia	Belarus, Lithuania	
<0.5		Albania	Azerbaijan, Moldova

TABLE 5.11 NATIONALLY PROTECTED AREAS (1996)

Countries	1,000 sq. km.	% of total land area
Albania	0.8	2.9
Azerbaijan	4.8	5.5
Belarus	8.6	4.1
Georgia	1.9	2.7
Lithuania	6.5	10.0
Moldova	0.4	1.2
Russia	516.7	3.4

World Development Report 1999/2000, World Bank, 2000, p.246

6. SOME INDICATORS OF THE DEVELOPMENT OF FARMS AND AGRICULTURAL PRODUCTION

6.1. FARMLAND IN HECTARES AND PERCENTAGE OF TOTAL LAND AREA

Country	Farmland (1,000 ha)	% of total land area
Albania (1990)	1,126*	41.2*
Azerbaijan (1996)	4,200*	48.5*
Belarus (1996)	9,346	45.0
Georgia (1990)	3,011	43.2
Lithuania (1994)	3,519	54.3
Moldova (1996)	2,614*	79.3*
Russia (1996)	209,600	12.4

*cultivated area only. Source: Encyclopedia Britannica, 2000

6.2 MAIN FARM ACTIVITIES

Country	Activity (% of farms)	
	Mainly crops	Mainly livestock
Albania (1990)	48.9*	51.5
Azerbaijan (1996)	...	...
Belarus (1996)	73.2	26.8
Georgia (1990)	...	...
Lithuania (1994)	...	...
Moldova (1994)	67.4*	32.6*
Russia (1996)	52.1	47.9

*Based on value of output by sector. Source: Encyclopedia Britannica, 2000

6.3 NUMBER OF FARMS AND AVERAGE SIZE OF HOLDINGS

Country	Number of farms (1,000)	Average size of holdings (ha)
Albania (1989)*	0.5	1.18
Azerbaijan (1996)**	3.2	19
Belarus (1996)**	3.0	20
Georgia (1992)**	17.0	...
Lithuania (1992)**	5.9	16
Moldova**	16.1(1996)	3(1995)
Russia (1996)**	280	43

*cultivated land only

**private farms only

6.4 INDICATORS OF APPLIED TECHNOLOGY IN AGRICULTURE

Country	Tractors (per 1,000 ha)	Irrigation (% irrig. land)	Chemical fertilizer (kg/ha)
Albania (1990)	15.6	61	158
Azerbaijan (1996)	20.6	62	...
Belarus (1996)	38.0	6	91
Georgia (1990)	22.9	59	...
Lithuania (1994)	28.6	...	...
Moldova (1996)	30.5	18	...
Russia (1996)	8.8	4	17

6.5 NET AGRICULTURAL PRODUCTION INDICES FROM 1992 TO 1999 (1989-1991=100)

Country	1992	1993	1994	1995	1996	1997	1998	1999
Albania	89.6	102.6	110.6	126.7	128.0	118.6	122.9	123.4
Azerbaijan	76.8	65.5	57.9	54.3	59.1	54.5	56.2	56.2
Belarus	82.1	83.4	64.9	63.0	66.1	63.1	65.8	60.8
Georgia	74.8	71.4	66.6	73.8	72.9	72.9	68.4	74.3
Lithuania	91.3	81.3	66.2	65.5	70.5	70.1	65.5	67.9
Moldova	73.4	82.4	58.6	65.6	56.6	59.2	47.2	43.4
Russia	87.5	82.7	70.5	64.2	67.2	67.6	59.1	59.4

Source: FAO, <http://apps1.fao.org>

6.6 PRODUCTION OF GRAINS

Country	Production (1,000 metric tons)		Yield (kg/ha)	
	1992-94 average	1998	1992-94 average	1998
Albania (1989-91 average)	793	637	2,609	2,679
Azerbaijan	1,130	1,009	1,733	1,712
Belarus	6,749	4,584	2,610	2,007
Georgia	457	657	1,823	1,725
Lithuania	2,319	2,862	1,974	2,464
Moldova	2,274	3,172	3,019	2,857
Russia	92,890	46,800	1,612	927

6.7 PRODUCTION OF LIVESTOCK

Country	Cattle stock (1,000 heads)		Hog stock (1,000 heads)		Chicken stock (1,000 heads)	
	1992-94 average	1998	1992-94 average	1998	1992-94 average	1998
Albania (1989-91 average)	657	780	183	98	4,864	4,600
Azerbaijan	1,726	1,843	84	21	21,267	13,000
Belarus	6,216	4,801	4,397	3,682	47,573	40,000
Georgia	1,051	1,027	525	330	15,113	13,500
Lithuania	1,767	1,068	1,579	1,205	10,860	7,000
Moldova	962	485	1,468	762	17,767	12,000
Russia	51,939	31,700	31,820	17,305	582,667	405,000

7. CONTRASTS IN LAND RESOURCES INDICATORS

7.1 CONTRASTS IN LAND RESOURCE INDICATORS AMONG ALL COUNTRIES REPRESENTED

	Indicator	Countries
Population,		
Total	47.3	Russia/Albania
Urban	94.4	Russia/Albania
Rural	35.0	Russia/Lithuania
% rural	2.7	Albania/Russia
Density, total	15.1	Moldova/Russia
Area		
Land area, total	616.4	Russia/Albania
Agricultural land	192.5	Russia/Albania
Arable land	182.9	Russia/Albania
Permanent pastures	238.8	Russia/Moldova
Non-arable land	1400.0	Russia/Moldova
Non-agricultural land	1986.1	Russia/Moldova
Land resources per capita		
Land area, total	15.3	Russia/Moldova
Agricultural land	4.1	Russia/Albania
Arable land	4.1	Russia/Georgia
Permanent pastures	6.1	Russia/Moldova
Forests	52.0	Russia/Moldova
% of different types of land		
Agricultural land	6.0	Moldova/Russia
Arable land	8.7	Moldova/Russia
Permanent pastures	5.4	Azerbaijan/Russia
Non-arable land	2.7	Russia/Moldova
Structural characteristics		
Agricultural/Non-agricultural land	23.0	Moldova/Russia
Arable/Permanent pastures	11.1	Lithuania/Georgia

7.2 CONTRASTS IN LAND RESOURCE INDICATORS AMONG COUNTRIES (WITHOUT RUSSIA)

	Indicator	Countries
Population		
Total	3.3	Belarus/Albania
Urban	6.3	Belarus/Albania
Rural	3.5	Azerbaijan/Lithuania
% rural	2.4	Albania/Lithuania
Density, total	4.4	Moldova/Georgia
Area		
Land area, total	7.6	Belarus/Albania
Agricultural land	8.3	Belarus/Albania
Arable land	9.0	Belarus/Albania
Permanent pastures	8.0	Belarus/Moldova
Non-arable land	12.9	Belarus/Moldova
Non-agricultural land	15.4	Belarus/Moldova
Land resources per capita		
Land area, total	2.3	Lithuania/Moldova
Agricultural land	2.6	Lithuania/Moldova
Arable land	3.9	Lithuania/Georgia
Permanent pastures	3.9	Georgia/Moldova
Forests	7.0	Belarus/Moldova
% of different types of land		
Agricultural land	1.9	Moldova/Albania
Arable land	4.3	Moldova/Georgia
Permanent pastures	3.8	Azerbaijan/Lithuania
Non-arable land	2.5	Georgia/Moldova
Structural characteristics		
Agricultural/Non-agricultural land	7.8	Moldova/Albania
Arable/Permanent pastures	11.1	Lithuania/Georgia

7.3 CONTRASTS IN SOME ECONOMIC INDICATORS

	Indicator	Country
Share of agriculture in GDP (1998)	7.0	Albania/Russia
Share of agricultural labor force (1994-1998)	6.8	Albania/Georgia
Growth of GDP 1999/1998	+8.0	Albania
	-5.0	Moldova
Inflation rate in 1999	293.8	Belarus
	-8.5	Azerbaijan
Average annual % growth (value added) of main economic sectors, 1990-1998		
GDP	+1.8	Albania
	-14.7	Moldova
Agriculture	+8.1	Albania
	-7.1	Moldova
Industry	+4.2	Azerbaijan
	-13.0	Moldova
Services	+9.9	Azerbaijan
	-19.9	Moldova
Net agricultural production index, 1999 (1989-1991=100)	2.7	Albania/Moldova

SUMMARY

- 1) The countries represented at the workshop are predominantly urban countries. The one exception is Albania (39 percent). The northern countries (Russia, Lithuania and Belarus) have the highest level of urbanization (74-77 percent).
- 2) Most densely populated countries are Moldova, Albania and Azerbaijan. Russia has the lowest population density.
- 3) There are significant differences in the availability of land resources per capita in general and of different types of land resources:
 - a) Russia has the highest indicators for all main land resources per capita. Russia has 15.3 times more total land area than Moldova, 1.6 times agricultural land than Albania, 3.9 times more arable land than Georgia and pastures than Moldova; and 52 times more forests than Moldova. Significantly lower are the contrasts in agricultural and arable land (4.1 times).
 - b) Without Russia contrasts are much less sharper: in total land area Belarus has 2.7 times more than Moldova; in agricultural land Lithuania has 1.6 times more than Albania; in arable land Lithuania has 3.9 times more than Georgia; and in pastures Georgia has 3.9 times more than Moldova.

- 4) There are certain differences in land use structure among these countries:
 - a) The share of agricultural land in most countries is between 41 and 54 percent. The extreme cases are Moldova with 78 percent and Russia with only 13 percent. Agricultural land dominates in the land use structures of Moldova, Lithuania, and Azerbaijan.
 - b) The same countries have extreme indicators with regard to arable land: Moldova with 66 percent and Russia with 8 percent. Georgia has a small share of arable land as well (15 percent).
 - c) Two mountainous countries (Azerbaijan and Georgia) have the highest share of permanent pastures, 28-29 percent.
 - d) Most countries (Lithuania, Moldova, Belarus, Albania, and Russia) have significantly more arable land compared to pastures. This is especially true for Moldova and Lithuania: they have 6 times more arable land than pastures. Only in Georgia and Azerbaijan is pasturing the dominating type of land use.
 - e) Russia, Georgia, Albania, Belarus, and Lithuania have a significant share of forest areas, 30-45 percent. In Azerbaijan and Moldova forests make up only 11 percent of land area.

- 5) During the 1990-1998 period, only Albania showed an average annual positive growth of GDP: 1.8 percent. All other countries suffered from significant contractions in the economy, especially Georgia (-16.3), Moldova (-14.1), and Azerbaijan (-10.7). Albania's economic performance was especially good in such sectors as agriculture and services. But its industrial production during this time decreased significantly. Azerbaijan was the only country with growth in the industrial and service sectors. All other countries showed a decrease in production in all main sectors of the economy; the decrease of industrial production was much higher compared to agricultural production (especially in Lithuania and Moldova).

- 6) According to net agricultural production indices, only Albania increased its production of agricultural goods in 1999 compared to pre-reform level. All other countries by far did not achieve the level of 1989-1991. Moldova has the lowest indicator—43.4 percent—and Georgia the second best (after Albania)—74.3 percent.

- 7) There are several specific features in the annual percent change of real GDP in 1992-1999:
 - a) Albania was the only one country that experienced positive growth of its GDP during 7 years (except 1992 and 1997).
 - b) Most countries (Georgia, Lithuania, Azerbaijan, and Belarus) experienced GDP growth during 4-5 years in 1996-1999.
 - c) Russia and Moldova experienced negative economic growth all these years (except 1999 in Russia and 1997 in Moldova).

- 8) All countries went through its highest inflation rates at the beginning of reform period: Albania and Lithuania in 1992, Moldova and Russia in 1992-1993, and all other countries in 1992-1994. In 1999 Albania, Azerbaijan and Lithuania practically resolved their inflation problem, but Belarus, Russia and Moldova had relatively high levels of inflation.

- 9) Agriculture plays a crucial role in the economy of Albania. In 1998 its share of GDP was 63 percent and employed 59 percent of the labor force. In the majority of countries the share of agriculture in GDP is much less compared to industry and services. The only one exception among this group of countries was Georgia where agriculture produced 32 percent of GDP and industry only 23 percent. Moldova has practically equal participation among main productive sectors in GDP. In the mid-1990s, three countries had a high share of its labor force in agriculture: Albania with 59 percent, Moldova with 45 percent, and Azerbaijan with 34 percent.

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BIBLIOGRAPHY ON PROPERTY RIGHTS AND PRIVATIZATION
Prepared by Angel Nickolov

The following bibliography covers materials considered pertinent to the development of an index of land privatization in the transition economies. Materials concerning urban and agricultural land, and apartments and single-family housing, were compiled in an effort to survey the extent of recent works on the role of real estate assets in the creation of a market economy. The literature goes beyond a focus in real estate to encompass larger economic issues surrounding transition economies.

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