

# Integrating the Cadastre and the Land Register in a Single Organisation in Norway

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## SUMMARY

The Norwegian Parliament decided in 2002 to transfer the land register from the courts to the mapping and cadastre agency. Starting in 2003 the responsibility for the land register will be transferred from 87 local courts to a single registration office at the headquarters of Statens kartverk.

The land market in Norway is currently serviced by a dual system in line with many west-European countries. Two basic registers support the land market:

- *The Land Register*, maintained by 87 local courts, administratively supervised by the Ministry of Justice.
- *The Cadastre*, maintained by 434 municipalities, supervised by the National Mapping Authority.

It is a well functioning land market in Norway, characterised, *inter alia*, by low transaction costs and fast registration services. The current registers quite adequate support the land market as well as other users of property information. A crucial question is then of course: Why change a well functioning system?

The main argument has been to concentrate the responsibility for *development issues* to a single agency, i.e. to ensure concerted focus and efforts on development of laws, regulations, register systems and services to the public. The Government must improve their capabilities to respond to the speed of which the land markets develop, not only in relation to selling and buying land and buildings, but just as much in relation to financing, mortgaging etc.. Then it is of course the rapid development in information technology, to which registers and adjacent services must adapt. Providing better access to the ever growing number of such restrictions is most probably the single most important issue for register authorities in developed countries.

Due to fundamental differences in the legal principles guiding the two registers, the Land Register and the Cadastre will also in the future be kept as separate registers, but under the same organisational umbrella.

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## 1. INTRODUCTION

Closer integration of the cadastre and the land register is on the international agenda and discussed in many countries. Several transition countries, being in a position to design their property information infrastructure more freely, have implemented a single agency solution. This approach is also promoted in the FIG document "Cadastre 2014". Countries in west-Europe, with a deeply rooted history of separating the two registers between the surveying and legal sector, will of course have bigger problems of changing the current structure.

However, in 2002 the Norwegian Parliament decided to go for the single agency solution. Starting in 2003 the responsibility for the land register will be transferred from the local courts to the national mapping and cadastre organisation (Statens kartverk).

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This report attempts to explain the reasons behind the single agency decision, and to outline the strategy for implementation. To a certain extent the Norwegian case will be used to discuss the issue in a wider perspective.

## 2. CADASTRE AND LAND REGISTRATION IN NORWAY TODAY

Currently two basic registers support the land market in Norway:

- *The Land Register*, maintained by 87 local courts, administratively supervised by the Ministry of Justice. The Land Register is fully computerised, The legally valid information is stored in a central database. Data are however initially loaded into local databases at the court offices, and transferred once per day to the central database. Services to the users are provided from the central database. User can subscribe to an on-line service or order various types of paper reports.
- *The Cadastre*, maintained by 434 municipalities, supervised by the National Mapping Authority. The alphanumeric part of the Cadastre is fully computerised in a central database under the control of the National Mapping Authority, to which the municipalities continuously report changes in the information. The cadastral maps are held at local level only, in analogue or digital form as decided by the individual municipality.

The above set up is in line with the set up in many west-European countries, as well as in countries outside Europe influenced by the same tradition.

The Land Register is basically supporting a title registration system. The register identifies the names of owners, as well as rights in the property, through recording extracts of the documents in the register itself. Registration is not mandatory. A contract is valid and legally binding between the parties also without registration, but registration gives protection against third parties. Several laws, as for example the Building and Planning Act, refer to the registered owner (the holder of the title) as the proper person in position to execute rights and obligations of ownership. In fact almost 100 % of land sales, and mortgages are registered in the Land Register. Registration time for a transfer deed or a mortgage document is about one day. Deeds, mortgages or other documents concerning rights in land may be written by the parties themselves without involving professional assistance. However, deeds are normally written by private lawyers or real estate brokers, and mortgage documents are normally set up by the by the lending bank. Notaries, as a separate profession charged with writing or authorising specific legal documents, do not exist in Norway.

The Cadastre contains “technical” information about (**G**round)**p**arcel**s**, **A**ddresses and **B**uildings, thus named the GAB-system. The GAB-system is the main data source for local authorities in their undertaking of land use planning, handling building applications etc, and is also the information basis for calling up local fees for water, sewage, etc.. It should be noted that the Norwegian cadastre does not contain values, or parameters for the calculation of values to support property taxes. A new cadastre database is under development. This should include a digital parcel map, as well as information about public restrictions concerning land and buildings, i.e restrictions which are binding without registration in the Land Register, but where publicity is essential for efficient implementation of the restriction. Registration of public rights in the cadastre is however depending on the approval of a new law on the cadastre, which is under preparation (see below).

The Ministry of Justice and the National Mapping Authority have agreed to outsource the operation of their two databases referred to above, to a state owned company; *Norsk Eiendomsinformasjon Ltd*. This facilitates an integrated on-line service to users. Selling of integrated land information to banks, real estate brokers and others, is commissioned to a number of private distributors. The distributors are delivering services, which in different ways combine other information with the official land information, to target their specific markets. Norsk Eiendomsinformasjon is currently developing a complete new database solution for the land register, to be implemented from 2005. It will be based on direct updating of a central database without going through local databases, as in the current solution. This will ease the reorganisation of the land register. Norsk Eiendomsinformasjon is also operating an information service called *InfoLand*, whereby they give access to municipal information, such as zoning regulations etc. InfoLand is however operational only for data from municipalities which participate in the service.

It is required to undertake a cadastral survey only if part of an existing parcel is transferred. The surveys are undertaken by civil servants employed by the municipality. It is however proposed to introduce private licensed surveyors in Norway. The draft law is pending in the

Ministry of Environment. It is expected that the law proposal will be submitted to the Parliament later this year.

The current registers quite adequately support the parties in the land market and other users. There are deficiencies in the current register infrastructure, however not primarily with the land register. Improvements are needed mainly to overcome the current lack of appropriate access to digital cadastral maps, and to provide better access to public restrictions on land and buildings. These data are not yet integral parts of a standardised and uniform land information system.

### **3. TRANSFERRING THE LAND REGISTER FROM THE COURTS TO THE CADASTRE AGENCY**

As mention above, The Parliament decided in 2002 to transfer the land register from the local courts to the national mapping and cadastre agency.

That was actually the second time the Parliament handled the case. The proposal was first submitted to the Parliament in 2001. At that time the Parliament decided to remove the land register from the courts, but could not agree on who should take over the responsibility. The Parliament therefore requested the Ministry of Justice to undertake a second evaluation, and present a new report on this particular issue to the Parliament.

It can be concluded from the above that the issue which triggered the entire consideration, was not the idea of a single agency being in charge of state property registers. It was indeed issues related to the courts themselves: Norway has a population of only 4 million people, scattered over a long and large area. To meet these circumstances the state has been obliged to operate comparably many local courts, 87 in total. Several of the courts have only one judge and few other staff. As the society is becoming more complex, it was agreed that maintaining so many small courts was not a sustainable solution. Deciding on having fewer courts, the question of what to do with the land register came to the agenda. That's where it started.

It could of course been decided to let the land register stay with fewer courts. This would have cost some money, but indeed not to a prohibitive level. However, the Minister of Justice, seconded by the Parliament, was of the opinion that the courts should concentrate on their basic function; which indeed is to judge.

There are elements of legal judgements in the land registration process as it is defined by law in Norway, but these are very few. In fact the clerks undertake registration without much help from judges. Except for the land register office in Oslo, no judges are full time allocated to the land register. It is calculated that the operation of the land register occupies 200 man-years in total, out of which only about 6 man-years are provided by judges.

I believe it is mainly a historic reason why land registers are with the courts in so many countries. When this particular registration service was established, it did not exist alternative competent bodies on district level. Today it can be observed that the public administration more and more are making decisions with legal effects, sometimes with far more serious

consequences to the parties involved, than what may result from decisions in respect to the land register. In fact, if land registration services were to be established for the first time today, placing it with the courts would probably not be considered. We know also from other jurisdictions that the land register can be operated fully satisfactory outside the courts.

It was however not obvious to the Ministry of Justice that the mapping and cadastre agency was the evident candidate to take over the land register. Other alternatives were considered as well. Particularly the agency which runs the register on pledges on movables, register of companies and other similar registers, was a serious competitor. A reason for the doubt on this issue can be related to the fairly short history of the cadastre in Norway. In fact, for a long time properties outside the cities were only registered in the land register. The role of a cadastre in supporting property tax was terminated decades ago, indeed when the property tax system based on cadastre values was eliminated. Only in 1980 a new nation wide cadastre (the GAB-system) was introduced, and then for other purposes than taxation. The result of the cadastre not playing a fiscal role, is that the cadastre in Norway is less known and has a lower prestige among politicians and in the society at large, than the land register.

The mapping and cadastre agency, supported by its supervisory ministry, the Ministry of Environment, managed however to convince the Minister of Justice that the time was come to place the basic property registers under one single authority.

If the challenge was only to provide a common gateway to property information, this can be facilitated without concentrating the registers in one agency. In fact, this is already implemented in many countries, for example in Norway through the services from Norsk Eiendomsinformasjon, and in England by the National Land Information Service. The challenge goes further than that.

In the Norwegian case, the main argument was to concentrate the responsibility for *development issues* to a single agency, i.e. to ensure concerted focus and efforts on development of laws, regulations, register systems and services to the public. The Government must improve their capabilities to respond to the speed of which the land markets develop, not only in relation to selling and buying land and buildings, but just as much in relation to financing, mortgaging etc.. Then it is of course the rapid development in information technology, to which registers and adjacent services must adapt. On-stop gateway to property data via Internet, electronic signatures and electronic conveyancing will come, if not implemented already. It seems more difficult to address such issues adequately in ministries of justice and in courts than, for example, in cadastre agencies.

Not least, it is increasingly important to have a common approach to legal developments. To use Norway as an example once more, we are currently elaborating how the concept of three dimensional properties shall be implemented in the cadastre as well as in the land register. Another issue is how public restrictions on the use of land and buildings should be registered. Providing better access to the ever growing number of such restrictions is most probably the single most important issue for register authorities in developed countries.

The pending law on the Norwegian cadastre attempts to introduce a strategy whereby the land register should only contain information which need the particular legal protection obtained

by registration. All other information in need of publicity only, should be registered in the cadastre. If this concept is adopted, public restrictions should be registered in the cadastre and not in the land register. Another important issue is to facilitate registration of data in graphic form, and not limited to parcel boundaries. In many countries it is a bigger market in apartments than in land, however drawings of flats are seldom contained in the registers.

In adopting a single agency approach, it seems to me that the cadastre obviously is the best candidate, and not only in Norway.

Taking over the land register, the mapping and cadastre agency will also operate the registration offices. There are good reasons to argue that cadastre offices are in a good position to also undertake the land registration services. The mapping and cadastre agency proposed to have 18 land registration offices, combined with the existing regional offices of the agency. That would facilitate that a large percentage of the skilled court clerks could be employed by the mapping and cadastre agency, and by that ensure a smooth transition. It was also argued that regional offices would facilitate that the public still could visit the registration office in person, however many would have to travel fairly long distances.

But the Parliament would differently. In fact the Parliament decided to have only one single registration office for the entire country, arguing that that will be the best solution looking ahead. The decision may cause some problems in the beginning, but it must be admitted that it is a good solution for the future. Already 80 % of the documents are coming by mail, and electronic documents are only a few years away. It seems less important to maintain a personal service to the users. Access to register data and to archived documents as well, can easily be provided off line through Internet and other means. In this situation complete centralisation of the registration function is well justified. In the long run this will provide the best platform for further developments of the registry, which most certainly will require less manpower.

#### **4. IMPLEMENTING LAND REGISTRATION IN THE MAPPING AND CADASTRE AGENCY**

The mapping and cadastre agency (Statens kartverk) will start to take over the land register from late 2003. The register will be handed over court by court over a period of three years. At the same time the mapping and cadastre agency will have to establish a capacity of approximately 150 staff members at the main office outside Oslo. It is estimated that centralisation from 87 courts to only one registration office shall reduce the manpower needed by 25 %, and that further reductions should be achieved by electronic documents. These are of course estimates only.

A significant reduction in manpower should be achieved from allowing parties to pay registration fees and transaction taxes after the registration is filed. Currently the law requires these amounts to be paid in beforehand, but invoicing after the registration is made is a much simpler solution for the register office as well as for the clients. The Ministry of Finance has accepted that registration fees can be called up after the registration, but is still reluctant to accept the same for the transfer tax, which in Norway is 2,5 % of the sales value. It is my opinion that the Ministry of Finance does not have a good case here, because many other

taxes and fees to the government are called up subsequently to the related action, without significant losses to the government.

It is an additional challenge to the mapping and cadastre agency that the Parliament decided that an archive of documents shall be established at a small settlement on the west coast of Norway, to support a district with employment problems. A few kilometres of existing archive shelves shall be transferred to this new facility. The archive must be able to service the users in various ways, however Internet will most certainly be the main channel. It is not yet decided if all existing documents shall be scanned, or scanning shall be done only when a copy of a document is required. Certainly all incoming documents shall be scanned, as far as these are in paper format. Electronic documents seem well suited for transfer deeds and particularly for mortgage documents, but documents should also be accepted on paper for the foreseeable future.

The role of Norsk Eiendomsinformasjon will remain unchanged, however the ownership of the company will be transferred from the Ministry of Justice to the mapping and cadastre agency, once the reorganisation of the Land Register is completed. In fact, it is considered to give the company a wider role in distributing as well geographic data from the mapping and cadastre agency. Maintaining Norsk Eiendomsinformasjon in its present role reduces also the risks connected with the transfer of the Land Register to the mapping and cadastre agency.

It should be underlined that the Land Register and the cadastre will be maintained as separate registers within the mapping and cadastre agency, and as hitherto guided by two different laws; the Law on Land Registration and the Law on the Cadastre, respectively. In a longer perspective one will benefit from a closer harmonisation. There are however several reasons to maintain two separate registers. The positive confidence and related governmental liability for data correctness and readiness to pay compensation, are fundamental principles in respect to the Land Register. The same principles do not apply to the Cadastre. Concerning data in the Cadastre, the governmental liability for its correctness follows the general law on compensation. One must therefore clearly present which data belong to the Land Register and which data belong to the Cadastre. The routines for updating are also different. In principle (with few exemptions) no document can be recorded in the Land Register unless it has the signature of the owner. In the Cadastre however, data may be recorded by authorised public bodies, without the consent of the owner.

Currently all registration fees goes to the Treasury, and the Land Register is financed from the state budget. This is also a consequence of the Land Register being organised within the courts. Transferred to the mapping and cadastre agency, registration fees could go directly to the agency to cover operational costs. It could in fact be argued that fees to the Land Register also should cover costs related to the Cadastre. It is difficult, if not impossible, to finance the Cadastre from its own registration fees. There are about 1 million transactions per year to the Land Register, and only about 50.000 to the Cadastre. The current registration fees paid to the Land Register amounts in total to about three to four times the costs to operate the Register.

Land registration plays an important role in the economy of any country. Good registration services pays. It is therefore of vital importance to undertake the transfer of the land register

without interruption. The ambition is to maintain the current service level, in terms of registration times and quality all through the transition period. The biggest risk is probably that the exiting services at the courts erode because the staff seeks other jobs. This problem could have been limited by making a fast transition. It was however necessary to balance this with time needed to recruit and train registration staff at the new central office. It does not seem difficult to recruit personnel, but to train them to a satisfactory level of competence is somewhat an unknown territory. Until today registration clerks have been educated through on-the job training. No particular training centre exists, and the mapping and cadastre agency will have to establish such a centre.

Finally, the reorganisation of the registration services in Norway could be a reference for countries that are in a position to implement similar solutions. After all – it is also responding to FIG Cadastre 2014.

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