

Simplification of Land Tenure in Belarus – Way to Good Land Administration

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Key words: land administration, land tenure, legislation, property rights.

SUMMARY

Last decade many various legal and administrative measures (including adoption of the new State registration Act as well as organisational reform) were undertaken by the Government to improve land administration in general and thereby to support the establishment of well operative property market in Belarus. Good land administration implies sound land tenure system, which in turn shall not be overcomplicated. This paper attempts to clarify the land tenure system in the Republic of Belarus through analyzing of existing property rights, particularly the ownership right, right of life heritable possession and the right of use (permanent and temporary). Each of them is described in detail and several differences are displayed. Moreover, the general overview of the whole land tenure system is presented. The paper considers the possibilities of its simplification by decreasing the number of applicable property rights and, therefore, conclusions for a simplified land tenure system for Belarus are outlined.

РЕЗЮМЕ

Последнее десятилетие в Беларуси было охарактеризовано проведением различных законодательных и административных мероприятий, в том числе принятием нового закона о государственной регистрации недвижимого имущества, прав на него и сделок с ним, а также организационной реформой органов землеуправления. Все эти мероприятия были направлены правительством на улучшение системы управления земельными ресурсами и поддержку развития эффективного рынка недвижимости. Надежная система землеуправления подразумевает существование устойчивого института прав на землю, который, в свою очередь, не должен быть чрезмерно сложным. Представленная статья анализирует существующие права на землю, в частности право собственности, право пожизненного наследуемого владения и право пользования (постоянного и временного). Каждому из них дано подробное описание, и выявлены некоторые различия между ними. Более того, в статье дается общий анализ существующего института прав на землю, рассматриваются возможности его упрощения посредством уменьшения числа прав на землю и делаются соответствующие выводы.

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1. INTRODUCTION

More than ten years ago Belarus as well as other republics of the former Soviet Union took the path of economic reform, a major element of which was the establishment of private markets in land and real property. Many still see the present-day situation in Belarus as retrograde (e.g., Kasten, 2003) but at the same time the increasing importance of private ownership on land and increasing activity of land market may be observed. During these years many efforts were also put on development of modern land legislation. At present, property rights on land are governed, among others, by the Constitution, the Civil Code (1998), the Land Code (1999), the State registration Act (2002), the Mortgage Act (1993), the Act on private ownership in land (1990). This legislation defines ownership on land, ownership types, and legal grounds for ownership. It also establishes a system for protection of property rights. Nevertheless, the newly established legal framework is still incoherent and overburdened with details from the old command system. Many restrictions on land transfers and a multitude of stakeholders, all of which require payment of fees hamper development of efficient property market in Belarus. Thus, clarification of the content of existing property rights as well as suggestions for simplifying land tenure system seem to be timely and relevant.

2. LAND ADMINISTRATION

Most often *land administration* (LA) is interpreted as “the processes of determining, recording, and disseminating of information on ownership, value and use of land, when implementing land management policies” (UN-ECE, 1996). Thus, LA deals with processes that collect, record and distribute information on land tenure, land use and land value. In other words, LA consists of “three components: land right registration and management; land use allocation and management; and land valuation and taxation” (Lyons and Satish, 2001). The Food and Agriculture Organisation of the United Nations (FAO) in Land Tenure Studies (2002) identifies those components as follows:

- *land tenure*: allocation of rights in land; the delimitation of boundaries of parcels for which the rights are allocated; the transfer from one party to another; and the adjudication of disputes regarding rights and parcel boundaries;
- *land use*: land use planning and enforcement and the adjudication of land use conflicts;
- *land value*: gathering of revenues through valuation and taxation, and the adjudication of land valuation and taxation disputes.

Thus, LA is a key component of public infrastructure, and “it is not an end, but a means to an end” (van der Molen, 2003a).

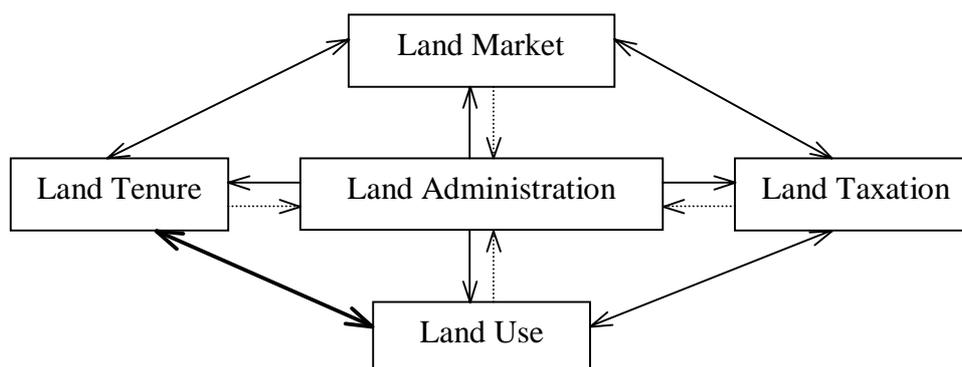


Figure 1 Land Administration: fields of application (based on van der Molen, 2003b)

Figure 1 illustrates the interrelations of land administration with the different spheres of the society. This influence is mutual, namely not only LA influences on the society, but also the society makes an impact on LA through, for example, changing the tax system, regulating the land market etc. Sound systems of land tenure and taxation lead to establishment of efficient land market. UN-ECE (1998) acknowledges that "good land registration promotes an active land market and productive land use" through increasing the security of tenure and the development of a mortgage market. That in turn together with land use planning creates basis for sustainable development of the whole society. As it is discussed below, in Belarus a legal connection between land tenure and land use is very strong: a certain type of property right determines type of land use and vice versa. This paper mainly addresses the land tenure system of Belarus and particularly characterises existing property rights on land, states their similarities and differences. Efficient land tenure system allows property transactions to be completed quickly, inexpensively, transparently, and, therefore, makes those transfers more user-friendly.

Land administration is a dynamic system and shall, therefore, respond to the changing world driven by so-called "global drivers". The Workshop on Capacity Building in Land Administration for Developing Countries (2000) enumerates them as follows: environmental sustainability, globalisation, urbanisation, technology and micro-economic reform. It is widely acknowledged that the "global drivers" influence on featuring of land administration system of any country. Modern land administration systems do not always properly address problems of sustainable development (Williamson et al, 2000; Williamson 2001). Thus, land administration systems need to face growing complexity of the modern world and the Belarusian land administration system is not an exception.

Of great importance is establishment of land administration institutions that mean "the rules of the game" (UN-FIG, 1999) and include laws and regulations for creation, transfer, modification and registration of property rights as well as their resumption. Theoretically those laws need to meet local conditions, be capable of evolving over time and be open and transparent. "Legal framework for land ownership should not only be comprehensive, but

should also be flexible, allowing for different options depending on population density, level of economic development and infrastructure access” (Deininger, 2003). The Working Party on Land Administration (UN-ECE, 2000) declares importance of a sound legal framework for land markets and land registries. However, in practice land legislation does not always keep pace with the quickly changing environment and, moreover, it may entirely depend on political will and decisions. Problems of land legislation are under a thorough consideration of the different international organisations (e.g. World Bank, UN Economic Commission for Europe, FIG, etc.) as well as scholars worldwide (e.g. Österberg, 1997; Enemark, 2003). The Land Administration Guidelines (UN-ECE, 1996) recommends that new land laws, among others, need to clarify:

- form and nature of ownership as well as legally recognized forms of tenure. It leads in turn to a clear distinction between different types of property rights;
- protection of the rights of owners, tenants and third parties, including those of mortgagees;
- what rights, besides ownership, should be recorded;
- codification of all forms of statutory restriction that may apply to land;
- means and conditions whereby any existing property right can be changed;
- rules for the initial determination of rights in land and property and how the ownership of these rights may be transferred.

The task of every government is to provide legal framework for facilitation of the property market by clearly defining property rights, establishing cost-efficient procedures of property transfers, developing a transparent market, and by creating well operating taxation system (van der Molen, 2001).

As regards Belarus, several the above-mentioned statements are addressed by the Land Code (1999) and several specific laws, for example, the State registration Act (2002), etc. However, many conceptions are still not clarified or missing in the Belarusian land legislation. For example, nature of ownership is not clearly stated in the Land Code as well as means and conditions to change existing property rights, etc.

3. LAND TENURE SYSTEM IN BELARUS

Land tenure is internationally recognised as “the way in which rights in land are held (UN-ECE, 1996). The term “tenure” came from English feudalism. It is derived from a Latin term for “holding” or “possessing” and means “the terms on which something is held: the rights and obligations of the holder” (Bruce, 1998). Tenure systems may be formal (i.e. regulating by laws) and informal (i.e. governing by customs, traditions). UN-ECE (1998) considers a formal system of land tenure as the basis for economic activities. Formal land tenure system of a country consists of available property rights holding by proprietors. Needless to say that property rights, for example, assigned to land, can be changed. For example, some can be taken away by governmental regulations like, for example, not to build higher than specified level or some other can never be included i.e. prohibited, e.g. not to pick up the protected species.

We, as property owners, can theoretically do what we like with land in a way of disposal. According to the Land Administration Guidelines (UN-ECE, 1996) “ownership means the right to enjoy the use of something, the ability to dispose of it and to benefit from the rights associated with it”. But the ownership right is not absolute since the state retains the right to expropriate land for public purposes, for example, for new housing as well as it regulates the use of land in different ways.

Generally speaking, the data of LA includes information about persons (i.e. subjects), rights and real properties (i.e. objects). Figure 2 (based on Henssen, 1995; Mattsson, 2004) depicts a model of relationships between subject, right, and object for the static system of land registration. It puts the questions such as who possesses what, in which manner and where at this particular moment of time. But this model is also applicable for analysing dynamic system as changes of one of the components (i.e. holder, property unit or property right) inhere in efficient property market.

To establish relationship between proprietor and land (i.e. between subject and object), it is vital, in the first place, to create an object (i.e. land unit). The Belarusian land legislation requires its registration in the State land cadastre and demarcation of the boundaries on the ground. Secondly, land unit shall be held by subject with appropriate property rights, for example, either the right of ownership, or life heritable possession, or the right of use (permanent or temporary), leasehold right, etc. Finally, the property rights have to be registered in the Uniform register (i.e. land unit shall be connected with subject of right).

Figure 2 clearly shows that the connection between subject and object goes through property right. If the latter is lacking and nobody holds property right in land, in this case so called ‘open access’ to land appears when everyone can benefit from using it. This, in turn, leads to overexploitation of land and thereby causes the decrease in efficiency of land use (Hardin, 1968).

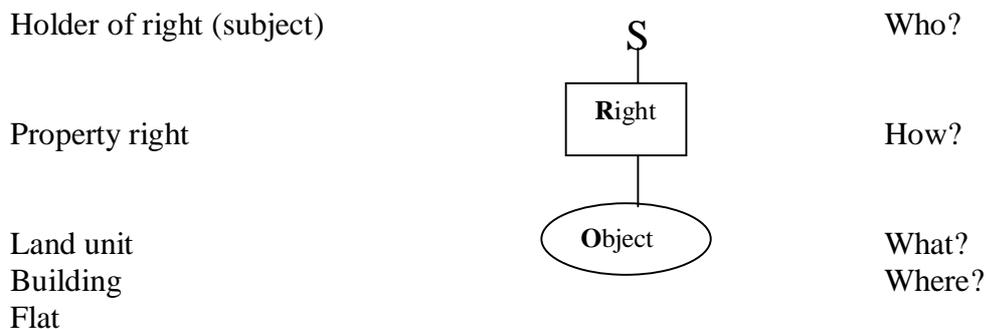


Figure 2 General relationships between subject of property right/s and a respective real property object (based on Henssen, 1995; Mattsson, 2004)

It is to be pointed out that the present paper describes in detail existing property rights on land in Belarus except leasehold right, servitude right, and mortgage.

3.1. Right of Ownership

For the first time the conception of private ownership was introduced in Belarus in 1991 by amendment in Constitution. In 1993 the Private ownership on land Act extended this conception on land. It states grounds for establishment, changes and abolishment of private ownership on land. According to the Land Code, land in Belarus can only be held either in state or private ownership. All land on the territory of Belarus not transferred to private owners is in state ownership. Therefore, theoretically any land unit has always owner, i.e. there is no ownerless land though sometimes governmental bodies do not realise or do not want to realise their duties and responsibilities for possessing land.

State ownership is characterised by several distinctive features such as, for example, total area of state owned land is much bigger than privately owned (Stankevich, 2001). So, the National report “State of the environment in the Republic of Belarus” (2001) indicates that by the year 2001, 390.000 land units were hold in private ownership with total area 73.000 hectares (only 0,35% of the total territory!) and as of 1 January 2003 land belonging to the citizens of Belarus (including land in their ownership, possession or use¹) stands only for 7,5% of the whole territory (Decision of the Council of Ministers of Belarus № 497, 15.04.2003). Until now this disproportion between state and privately owned land is still far from disappearance. For comparison by the end of 1990s some 7,6% of the Russian Federation’s territory was privately owned (UN-ECE, 2003a).

State ownership on land disappears only in a case of land privatization or it is called adjudication (Butler, 1996). Possible ways to privatise land are limited for legal entities in Belarus. They can become private owners of land only under certain few conditions such as, firstly, privatization of state owned enterprises and other real property objects held in state ownership, i.e. in parallel with privatization of enterprises, legal entities are entitled to privatise land where such objects are situated. The President of Belarus determines those enterprises. Secondly, it is possible through implementation of investment projects.

The state also keeps the right to expropriate land held in private ownership. Expropriation procedure can be only initiated by court decision. In accordance with the Land Code the ownership right on land can be cancelled due to many reasons. Among others the most remarkable are:

- need of land for public purposes;
- not using land assigned for subsidiary farming during *one year* and during *two years* land assigned for other purposes (see below);
- not using land according to assigned land use;
- systematic non-payment of land tax.

¹ Terms ‘possession’ and ‘use’ are explained below

3.2. Right of Life Heritable Possession

It is now appropriately to define the term “the right of life heritable possession” i.e. how it is interpreted in Belarus. The specialists in civil law widely acknowledge that the right of life heritable possession means a particular right of citizens to without time limit possess and use land units of fixed size and strictly defined type of land use. The right of life heritable possession can only be established on state owned land and, consequently, private owners are not entitled to transfer land in life heritable possession. The modern Land Code narrows the scope of subjects for that right, i.e. it excludes all legal entities (e.g., agricultural and forestry enterprises/firms) from holders of this right.

For the first time the right of life heritable possession on land was introduced by the Fundamentals of land legislation of the Soviet Union and Union Republics Act in 1990. Thus, existed right of use was supplemented with right of life heritable possession in order to provide citizens with possibility to transfer land by succession. During the Soviet time the state owned all land within the country while citizens were only entitled to hold land in use. It was the only possible way for citizens to possess and to use it. This use right was derived from the exclusive right of state ownership on land and, moreover, it was free of charge. The state did not, therefore, benefit from its ownership on land.

According to an international definition, the right of possession provides a holder of the right with “the ability to enjoy the use of land” (UN-ECE, 1996) or in other words it provides with the physical power to control land. Thus, a possessor of land has the ability to organise use of land in some way or other. Particularly in Belarus this right provides a holder of the right with the ability to possess and to occupy (i.e. to use) land that in turn can be transferred by succession².

Land unit in life heritable possession as a separate object of registration is always in certain relationships with other real property (e.g. buildings, etc.) located on it. For example, if building in private ownership is transferred (through purchase, gift, inheritance, etc.) to another person (i.e. another subject of right), land unit in life heritable possession where the building in question is located is also transferred to a new owner. Thus, it is to conclude that transfer of the right of life heritable possession on land follows the transfer of the ownership right on building. Area of land granted in life heritable possession is strongly connected with type of land use, urban/rural location, place of residence of a new holder of the ownership right on building, etc.

Thus, distinguishing features of the right of life heritable possession are as follows:

- lifelongness – terms of possession are not determined;
- hereditability – possessor has right to possess and use land unit and transfer it by succession;
- predetermined specific purpose of use – possessor shall keep the same type of land use as it was prescribed when land was granted, e.g. agricultural, residential purposes, gardening, etc;

² with some restrictions

- independence – possessor can independently manage land, build on it, choose any type of crops, etc;
- guarantee – possessors as well as owners are entitled to demand an equal land unit in a case of expropriation of their land.

3.3. Right of Use (Permanent and Temporary)

Property rights of land in possession differ from those of land in use and occupation. Generally speaking, ownership is matter of right, while possession and use are matters of fact at any time (UN-ECE, 1996). In Belarus there are two types of use right, namely the right of permanent use and that of temporary use.

They can, first of all, be distinguished by the term of use: the right of permanent use has no limitation in time, while temporary use can be short-term (i.e. up to three years) and long-term (i.e. from three up to ten years). But those time periods can be prolonged (?!).

Legal scholars in Belarus (e.g., Stankevich, 2001) also distinguish two types of use right depending on holder, namely general and specific rights of use. General right means that land is not assigned in use to any specific holder (i.e. subject) and, therefore, is accessible to anyone. Thus, so called right of open access appears on that land in state ownership, for example, the right to use recreational areas, parks, etc. On the contrary, specific right of land use means assignment of land to a specific holder. It clearly appears that in the case of general right of use there is a high probability of land abuse due to absence of specific holder to whom the use right is assigned and who is, therefore, responsible for protection and efficient use of land. In the case of specific use right two proprietors (i.e. owner and user) are both aware of their common responsibilities and duties.

It is seen that the right of permanent use is very close to that of life heritable possession. Land in use as well as in possession cannot be sold, mortgaged, leased or transferred by succession or as a gift. The right of use can only be kept as long as land is used according to prescribed purpose, for example, land assigned for gardening is supposed for growing vegetables, potatoes, etc. Thus, if users use land for any other purpose, then that land can be taken back.

Subjects of use right can be not only individuals but also legal entities that in turn include both agricultural and non-agricultural enterprises and firms. For example, it can be kolkhozes, sovkhozes, agricultural cooperatives as well as forest enterprises. One innovation of the modern Land Code is that subjects of use right can be, among others, legal entities with a share of foreign capital.

4. DISCUSSION

It makes sense to start discussion with a general overview of the land tenure system of Belarus. Table 1 presents the division of property rights on land in accordance with type of ownership (mortgage right is excluded from analysis). It clearly shows that private property owner can only lease his/her land or keep the ownership right as well as grant servitude right and additionally mortgage land. On the contrary, such property rights as the right of life

heritable possession and the right of use can only be established on land in state ownership. Thus, there is still variety of property rights remained from the Soviet time when the only owner of all land was the state.

Table 1 Existing property rights in Belarus according to types of ownership

		State ownership	Private ownership
Life heritable possession			
Use	permanent		
	temporary		
Leasehold			
Sublease		? ³	
Servitude			

 Available  Unavailable

In Belarus land use and land tenure are closely connected and strictly regulated. There are restrictions on types of land use for land in private ownership and life heritable possession. For example, the following types of land use are assigned to land either in private ownership or life heritable possession:

- running of subsidiary farm (agriculture for own consumption);
- construction and maintenance of dwelling house (permanent housing);
- running of collective gardening (gardening);
- construction of a summer house (secondary housing).

Besides land in life heritable possession can additionally to those mentioned above be used for (art.69, LC)

- running of farm (with total area up to 100 ha);

Table 2a Main attributes of property rights in land for legal entities

Property rights in land	Duties/possibilities								
	Use	Regis-ter	Excha-nge	Servi-tude	Sell	Lease	Mort-gage	Build	Transf-er to use
Ownership/joint ownership									
Permanent use									
Temporary use									
Lease									
Sublease				?		?	?		

 Available  Restricted  Unavailable
 ? needs in-depth investigation

³ The possibility to sublease state owned land needs in-depth investigation

Table 2b Main attributes of property rights in land for individuals (i.e. natural persons)

Property rights in land	Duties/possibilities									
	Use	Regis-ter	Excha-nge	Servi-tude	Sell	Lease	Mort-gage	Succe-ssion/gift	Build	Transf-er to use
Ownership/joint ownership										
Life heritable possession										
Permanent use										
Temporary use										
Lease										
Sublease				?		?	?			

Available
 Restricted
 Unavailable

Tables 2a and 2b clarify differences between existing property rights for legal entities and individuals (except servitude and mortgage rights) in accordance with possibilities and duties to undertake an actions (e.g., to sell, to mortgage, etc.). More facts about the restrictions on ownership, leasing and transfer in Belarus as well as in other countries of Europe and North America can be found in UN-ECE report (2003b).

Exchange of land units in private ownership is only permitted for individuals while prohibited for legal entities (art.92, LC). In other words, legal entities are not entitled to exchange land units held in private ownership.

The right of life heritable possession is restricted by the Land Code in a way that land units in life heritable possession are impossible to transfer by succession (i.e. to bequeath) if there are any buildings on it. Moreover, the right of life heritable possession is only applicable for individuals (i.e. the citizens of Belarus) while legal entities are not granted this right.

Thus, having analysed tables 2a and 2b some differences between the right of permanent use and the right of life heritable possession are observed, namely the differences in the number of appropriate holders of right and in application of the right of succession. Thus, land in life heritable possession is possible to pass by the right of succession (with the above-mentioned restriction) while land unit in permanent use is impossible to transfer by this right.

One of similarities between these rights is that land units can only be granted from state owned land and afterwards they retain state ownership. Furthermore, these land units cannot be either sold or mortgaged or given as gift or leased but at the same time the holders of these rights are entitled to apply for or to cancel servitude as well as to exchange land units with permission and to build on it. One more similarity is that citizens can be subjects of both rights, namely right of permanent use and life heritable possession. Thus, the right of life heritable possession provides citizens with more freedom in possession of land and additionally with more incentives to invest as compared with the right of permanent use. And from this point of view, the right of life heritable possession seems to be more efficient.

4.1. Security of Tenure and Registration

Analysis of land tenure system will be incomplete without discussing security of tenure in Belarus. As acknowledged the property rights on land are recognized by others and protected by the state. Registration of property rights is the most common way to secure the tenure. But it is not always true as, for example, in a case of indigenous African customary tenure when tenants could use the farming of land as the basis for claims to own it and, thus, the state and its titles become the source of insecurity (Bruce and Migot-Adhola, 1993). Even within Europe there are countries (e.g., Germany, Sweden, Finland, Norway, England and Wales, etc.) with different approaches to registration. So, in the Nordic countries property transfer is valid without registration, since ownership is already transferred by the document of transfer, and not by registration, as in a case of Germany. England and Wales, in turn, introduced compulsory land registration only in 1990 by amendments to the Land Registration Act (Millgård, 2003). Therefore, it is reasonable to put a question whether existing land tenure system in Belarus provides citizens with sufficient security of tenure. Nowadays the answer is rather positive but at the same time limitations on types of land use for land held in ownership hamper development of land market and create uncertainties for investments.

4.2.1 Registration of Rights in Rem and in Personam

Legal science distinguishes between rights *in rem* (i.e. real rights) and rights *in personam* (i.e. contractual rights). Rights *in rem* ‘run with land’, enforceable against all comers (i.e. third parties) and registrable. Rights *in personam* are between the parties themselves, based only on contract and in some countries registrable as well (UN-ECE, 1996; Arrunada, 2001). As the rights are creations of the law, it, therefore, determines to which extent their existence and content is to be protected. In Germany all real rights (e.g., ownership, servitude, mortgage, etc.) are to be registered while contractual rights do not appear in the land register (Millgård, 2003). In Sweden the distinction between rights in rem and in personam is of little relevance and, therefore, rights in personam may be registered as well. In Belarus the Civil Code clearly declares the real rights on land, namely ownership, life heritable possession, permanent use and servitude. The State registration Act (2002), in turn, states that real rights on land together with contractual rights (such as temporary use⁴, lease/sublease, mortgage) are to be registered in the Uniform register to be protected against the third parties. Thus, it is seen that the large number of property rights that are mandatory for registration also decreases activity of land market.

Prior to the new Land Code (1999) and the State registration Act (2002) a warp between ownership right on land and that of attached buildings existed, viz. buildings could be held in ownership by individuals while all land was owned by the state. Thus, individuals could own building with the right of only permanent use on land. And, therefore, the system of property registration was established to meet requirements of that institutional organisation: there were two systems of property registration kept by the different governmental bodies: one was designed for registration of land plots and another - for buildings and structures. This separate ownership of buildings from land was “a convenient principle” making possible “market” of

⁴ The Civil Code does not clearly identify the right of temporary use as contractual right

buildings and skipping the right on underlying land that could, as we saw, only be held by the state (Butler, 1996). In reality owners of buildings with the right of permanent use on land could transfer it simply by selling their rights on buildings. Butler (1996) compares that system to the long-term leasehold on land with the right of construction. The new Land Code (1999) has put an end to separation of land from buildings on it. One of its basic principles is that all objects permanently attached to land go with land that they are on. Later the new State registration Act abolished “old” system of registration and introduced a new one where the property rights on land and buildings are registered within one Uniform register.

One noteworthy feature of a modern registration system is that land units and buildings are defined as separate registration objects. The State registration Act (2002) states the hierarchy of primary registration of real property objects in the Uniform register. It looks as follows: in the first place land units and corresponding property rights shall be registered in the State land cadastre and the Uniform register with issue of state registration certificate⁵. Next step is the registration of building/s located on that land in the Uniform register with issuing the state registration certificate/s on building/s. If applicable, next in hierarchy is registration of flat and corresponding property rights.

5. CONCLUSIONS

Land ownership of legal entities differs from that of individuals. In particular legal entities are more limited to possible ways for land privatizations in comparison with individuals. Moreover, private legal entities are not entitled to exchange land units held in ownership while individuals are able to apply this possibility. At the same time the Land Code specifically determines permissible size of land held by individuals and connects it with type of land use but it is not a case for legal entities.

The right of life heritable possession was established as a transitional form from the right of permanent use during the transition period. This right is similar to the ownership right as citizens are entitled not only to possess and use land but also to transfer it to their heirs (i.e. to bequeath). It is strictly limited to subjects (i.e. only applicable to the citizen of Belarus). The necessity in this right will disappear to that extent to which the land market will develop. Thus, to simplify the land tenure system of Belarus a gradual abolishment of the right of life heritable possession can be reasonable and simultaneously it shall be transformed into the ownership right in the future with simultaneous broadening the range of available types of land use.

Noteworthy conclusion is that the land tenure system of Belarus is strictly regulated by the state through the different legislative Acts and Decrees of the President and the Government. As showed above for life heritable possession, the Land Code establishes a strong interdependence between types of land use and those of property rights. In particular a certain type of property right predetermines land use and vice versa.

⁵ It is a general term and used here for the State Act on land (in ownership, possession or permanent use) or the Registration certificate on building

The main factor restraining increase of efficiency in agriculture is a prohibition of holding agricultural land in private ownership. That in turn decreases incentives for investments in land. Still efficiency of agriculture is hampered by veto to sell land on “free” property market. Moreover, the state controls use of land through the different governmental bodies as well as municipalities. The state keeps the right to take back land not utilised in accordance with assigned land use during a short period. Impossibility to sell agricultural land leads, therefore, to a lesser demand for land improvements and lower productivity.

Nevertheless, one of the positive moments of existing land tenure system is that individual farmers holding agricultural land in life heritable possession (up to 100 ha) are able to bequeath it.

Many property rights are not clearly defined in the Belarusian legislation, or not defined at all. At present there is no any basic law of the property rights like a modern Civil Code or Land Code. All information about property rights is to be gleaned from various laws including the laws of the Soviet time. Thus, clarification of property rights and simplification of land tenure seem to be vital for establishing good land administration in Belarus.

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