

The Impact of Buildings and Apartments Registration in Economic Development of Kosovo

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Key words: Apartment, Building Cadastre, Cadastre, KCLIS, Kosovo

SUMMARY

The registration of buildings and apartments is the highest priority task of Kosovo Cadastral Agency (KCA). This mandate contributes to the improvement of the real property system in Kosovo and, therefore to the operation of the real property market. The main registration outcome is that the number of users is being increased using their property as collateral, in particular for securing mortgages, transactions and land market purposes. Therefore, a well-functioning cadastre for the registration of buildings and apartments in Kosovo was built as a base for investments, mortgages, and for spatial planning.

After data collection in the field, buildings and apartments are registered into the Kosovo Cadastre Land Information System (KCLIS), which can be considered as an integrated multi-purpose system as well as a base system for the National Spatial Data Infrastructure (NSDI) in Kosovo. This article is mainly about the impact assessment of the systematic registration of buildings, apartments and business premises. The concept behind and the approach for implementing the building cadastre are presented as well. On the basis of the impact assessment results regarding the current registration of buildings and apartments in Kosovo, some key conclusions are made.

PËRMBLEDHJE

Regjistrimi i ndërtesave dhe banesave është një detyrë me prioritet të lartë për Agjencinë Kadastrale të Kosovës (AKK). Ky mandat kontribuon në përmirësimin e sistemit të pronës së paluajtshme në Kosovë, si dhe në operimin e tregut të pronës së paluajtshme. Rezultati kryesor që është duke u arritur nga regjistrimet është rritja e numrit të përdoruesve që janë duke e përdorur pronën si garanci, veçanërisht për të siguruar hipotekat, transaksionet dhe tregun e tokës. Prandaj një kadastër i cili funksionon mirë sa i përket regjistrimit të ndërtesave dhe banesave në Kosovë, është bazë për investime, hipoteka, dhe për planifikim hapësinor.

Pas mbledhjes së të dhënave në terren, ndërtesat dhe banesat regjistrohen në Sistemin e Informacioneve Kadastrale të Tokës në Kosovë (SIKTK), i cili cilësohet si një sistem i integruar shumë qëllimor, si dhe është sistem bazë për Infrastrukturën Kombëtare të të Dhënave Hapësinore (NSDI) në Kosovë. Ky artikull ka të bëjë kryesisht me vlerësimin e ndikimit që ka regjistrimi sistematik i ndërtesave, banesave dhe lokaleve afariste. Koncepti prapa kësaj dhe çasja për implementimin e kadastrit të ndërtesave janë prezantuar gjithashtu. Në bazë të vlerësimit të ndikimit të rezultateve lidhur me regjistrimin aktual të ndërtesave dhe banesave në Kosovë, janë nxjerr disa konkluzione të rëndësishme.

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1. INTRODUCTION

There is a growing need all over the world for land information as a basis for planning, development and control of land resources (Larsson, 2000). Security of ownership is a prerequisite for a functioning land market. Real property rights must be registered and the ownership information should be easily accessible. The authorities should guarantee the content and transparency of the register. Such register forms a strong basement for the economic development in the Republic of Kosovo.

The building is an object where besides spatial and physical elements, other factors like juridical (different rights) and economic characteristics are attached. It is very important to know the spatial location of a building in order to regulate the other necessary relations, linked with the building. International experience shows that this can be achieved only with the establishment of a proper registration for all buildings and apartments, or generally the cadastre for buildings and apartments.

A well-functioning Cadastre for registration of buildings and apartments in Kosovo is the base for investments, mortgages, and for spatial planning. In addition, what is of utmost importance for a country in post-war period is that a good cadastre contributes to taxation as a source for a healthy foundation for the state building and development.

In Kosovo, the real estate property market is constrained by its legacy. Real property is either private, socially owned (belonging to the Socially Owned Enterprises-SOEs, which are now in different stages of privatization), state owned (belonging to municipalities and the central government) or owned by Publicly Owned Enterprises (POEs, mostly public utilities also being privatized).

The Kosovo Cadastral Agency (KCA) was established in 2000, and is now structured under the Ministry of Environment and Spatial Planning (MESP). KCA is responsible for Cadastre and the preparation of laws and issues related to the administration of all cadastral activities. The maintenance of the data and immovable property registration are executed at Municipal Cadastral Offices, which are structured under the Municipal Assemblies, but at the professional level they are supervised by KCA.

Considerable results in the development of cadastre and in the creation of the cadastral information system have been achieved by KCA. According to the Kosovo Cadastre Development Strategy (Kosovo Cadastre Agency 2009) and Business Plan for Kosovo Cadastral Agency 20013-2017 (Kosovo Cadastre Agency 2013), there is a necessity that land information is available for numerous purposes in both public and private sector. Contribution

from the government of Kosovo and donors from Norway, Germany, European Commission World Bank and Japan have greatly assisted the process. Most of these donors continue to support KCA with the objective to develop further on the stability of a more advanced and sustainable cadastral system. In this process the registration of buildings and apartments has the highest priority, which will contribute to the improvement of the real property systems in Kosovo and, therefore to the operation of the real property markets.

2. BACKGROUND

The Republic of Kosovo is undergoing economic and social reforms for its sustainable development. Among other fields these kinds of reforms are undertaken for the development of cadastral system as well, which is a pre-requisite for implementing land administration objectives, upholding the rule of law, promoting economic development and resolving long-standing conflicts and uncertainties.

Rational planning and management with stock of buildings is not only a Kosovo preoccupation, but it is an actual problem of many countries in transition. At this moment, we are witnessing that the fast development of technology and human relationship slowly is putting the land in second level, and constructions above the land are taking priority. Therefore, we are talking more about Real Estate Cadastre instead of Land Cadastre.

Based on an estimation from KCA, there are around 600,000 buildings of all types in Kosovo. In addition, it is also estimated that 250,000 buildings exist in rural areas of which many are unregistered. The electronic system for registration of real properties has already been established and applied from 1 January 2005 within the context of the law on Immovable Property Right Register (IPRR). This law deals with the textual part of the cadastre in Kosovo. The IPRR system contains information about immovable property units like land parcel, building or part of a building (apartments) and use. As will be elaborated later on, according to the Law on Cadastre in Kosovo, buildings and parts of buildings (apartments) could have ownership separated from the land itself. This system is developed further towards a new and more comprehensive system “Kosovo Cadastre Land Information System” (KCLIS), which will integrate the textual and graphical cadastral data by common parcel identification numbers. This system is operational in most Municipal Cadastral Offices in the country. KCLIS is a web-based application with a central database which uses SQL Server for the data storage. This way, users do not have to install the software on their computers and the problems related to synchronizing and updating the application are solved. So, all users can use the same version of the application at the same time. It appears that KCLIS is easy to use by all stakeholders as its interfaces are straightforward, clear and simple.

The rapid development of banks in Kosovo is interlinked with possibilities of leaving as collateral the real estate properties (such as: land, buildings, apartments etc). Therefore there is an urgent need to register the buildings, apartments and other dwellings which are unregistered in KCLIS.

3. THE CONCEPT BEHIND THE BUILDING CADASTRE IMPLEMENTATION

Land, together with its associated buildings and construction, is one of the most important financial assets in any country (Dale and McLaughlin, 1988). The tenure security and the land administration is ultimately the responsibility of the State. The Constitution of Kosovo recognizes and protects the right of ownership to property and to the use of the property in accordance with the public interest regulated by law. This is possible through a good land administration system with correct records and registers showing the real properties about location, shape and boundaries in cadastre and the property rights in a property rights register.

Both graphical and textual cadastral data are in the process of being integrated in KCLIS. The only problem is the discrepancy between the textual and graphical database (register). The data in graphical database was updated through massive registration projects (cadastre reconstruction).

According to the current legislation, the common practice in Kosovo is that separate apartments within multi-flat buildings belong to individual owners (direct ownership). Based on KCA regulations the buildings in Kosovo are categorized in four groups. The main purpose for grouping buildings into categories is that MCOs, banks and owners are able to recognize types of buildings and to decide if, how and when they can be registered. Four different categories of buildings can be distinguished:

1. Private building on private parcels;
2. Socially owned building referenced to a single parcel;
3. Socially owned building located on multiple parcels;
4. Buildings without building permits.

The private buildings constructed on one private parcel are the easiest buildings to be registered. The registration can be obtained during regular maintenance of cadastre, while applying to MCOs, to measure the footprint and give a number to the building. The apartments can be registered as well. The main obstacle to register them is that they should have a valid building permit and usage permit (building inspection).

The “Socially owned buildings” which are referenced on single parcels can be also registered easily, while applying to MCO for the registration. The main problem for registering this category is that the individual owners do not apply for registration since the parcels are public property. Therefore, KCA proposed that they need to be registered through systematic registration projects (building cadastre construction).

The third category which deals with registration of buildings which are not referenced to a single parcel, since in some parts of urban areas in the cities, the maps in cadastre are not updated according to the decisions of expropriation. The conventional legal position is that apartments in buildings cannot be registered if the land parcel on which the building is located cannot be identified. Therefore, the main obstacles for registration of the third category in urban areas is the reconstruction of cadastral information where within a relative limited time and cost, urban parcels can be formed and buildings numbered. This enables ownership and apartment mortgages in the urban areas to be registered on daily basis through simple registration procedures in the KCLIS. KCA Guideline 2009/1 enables some cases of building registration for this category when reconstruction is completed. Unfortunately, the third category applies for the vast majority of the “Socially owned buildings” and many private

buildings. Studies from KCA have shown that this is a general problem for cadastral information from the former Yugoslavia socialist system, where the cadastre maps in many cases were not systematically updated and maintained. Certainly, updates of the parcels after expropriation would be time consuming with little economic interest for the society as a whole, as it was all regarded as social owned land.

The category of buildings without building permits arises as a result of the limited amount of building permits issued, lack of urban planning, and the possibility for rental behavior.

Many multi-flat buildings in urban areas are constructed without a building permit, or were not based on any kind of urban planning.

4. LEGAL FRAMEWORK

Land registration must be kept in perspective. It is a device which may be essential to a sound land administration, but is merely part of the machinery of government (Simpson, 1976).

The actual most important legislation framework which regulates the registration of buildings and apartments in the Republic of Kosovo includes the Law on property and other real rights (03/L-154), the Law on Cadastre (No.4/L-013), the Law on Immovable Property Rights Register (2002/05), the Law on use, management and maintenance of building joint ownership (03/L-091), Administrative Instruction (02/2012) for cadastre reconstruction and immovable property rights register, Administrative Instruction (03/2012) for the work of commission for cadastre reconstruction and IPRR, Administrative Instruction (04/2012) on cadastre reconstruction and IPRR public awareness campaign, the guideline for registration of buildings and parts of buildings (2009/01), and other laws which are harmonized with property legislation, operation manual for Building Cadastre Construction and the catalogue for cadastral measurements. The Government of Republic of Kosovo has prepared the draft of the Law for treatment of constructions without permit, where this law provides a uniform program for the treatment of unpermitted constructions that will be implemented throughout the country. The most essential part of legislation framework is explained below.

4.1 Law on Property and other real rights

The basic Law on property and other real rights (2009/03/L-154) (Republic of Kosovo, 2009) governs the creation, content, transfer, protection, and termination of real rights. The law regulates ownership as well as the limited real rights, possession, real security rights and real rights of use.

When it comes to the ownership of building according to Article 57, the law regulates the ownership of a separate part of a building (building unit) as a separate ownership of an apartment, an office, or a garage parking space together with a share of joint ownership of the immovable property in which the building unit is located. Joint ownership exists for the immovable property on which the building is built as well as all respective parts, installations and equipment unless owned separately and/or owned by a third party. Separate ownership of a building unit can only be established if the apartment, office, or garage parking space is self-

contained. The share of joint ownership of the immovable property cannot be separated from the respective separate ownership of the building unit.

4.2 Law on Cadastre

As it is mentioned one of the most important legal acts from the point of view of a functioning cadastre in Kosovo is the Law on Cadastre (No.4/L-013).

This Law regulates the Cadastre of immovable property, national and cadastral surveys, geodesic and cadastral works as well as acquisition, registration, keeping, maintenance and use of cadastral data. This register forms the content of the Kosovo cadastre land information system (KCLIS) intended to support administrative, legal, economic and scientific needs.

The Cadastre is composed of cadastral units register, cadastral maps and cadastral documents file. All these should be in analogue and digital form. Basic cadastre units are:

- cadastral parcels;
- buildings;
- parts of the building, and
- utilities.

The registration of buildings is defined as being similar to that of parcels. The information to be registered is the following: identification number of the building, location, area and shape, actual use, reference to underlying land parcel and, if the building is divided into several parts, also a reference to the parts of the building (apartment). A part of a building may be subdivided so that new parts of a building are created. The building must be connected to the parcel on which it is located. In case the building is destroyed, it must be removed from the register in regular proceedings or upon request by an interested party. The law requires that the building must have a reference to the underlying land parcel.

4.3 Law on Immovable Property Rights Register

The Law on Immovable Property Rights Register (2002/05, 2002/22) and amendment of the Law No.04/L –009 on amending and supplementing the law No. 2002/5 on the establishment of IPRR (No.04/L-009) establishes an IPRR and places it under the jurisdiction of KCA. This agency must issue guidelines, and the registration itself is implemented by the MCOs. The register applies principles for accuracy, reliability, liability and public access.

Any unregistered immovable property transaction after the establishment of the register is considered illegal. It establishes separate units of ownership – real property, cadastral parcel, building and part of building. KCA is authorized to implement the law and issue the necessary administrative instructions and interpretations. The information is stored on a central server of KCA. All registrations are performed by authorized users using electronic signature procedures.

4.4 Law on use, management and maintenance of building joint ownership

The Law on use, management and maintenance of building joint ownership (03/L-091) (Republic of Kosovo, 2009) regulates owners' rights and obligations to building units regarding the use, management and maintenance of common sections and equipments of the building – joint ownership. The law is implemented for all buildings, which have some units and serve for housing or exercising commercial activities that are owned by more than one owner (joint ownership).

In a multi-unit and multi-owner building, all owners can establish their ownership right to building unit, so that other building unit owners are not disturbed, meaning on using common sections and equipments of the building.

For decision making and administration of the building joint ownership, the responsible are the Owners Communion or representative of the owners, and selected administration bodies such as administration council and the administrator. If the building has two or more owners with more than six units in the building, then the owners should nominate the administrator.

4.5 Administrative Instructions, operation manual and catalogue for registration of buildings and parts of buildings

The Administrative Instruction (02/2012) for cadastre reconstruction and immovable property rights register, Administrative Instruction (03/2012) for the work of commission for cadastre reconstruction and IPRR, Administrative Instruction (04/2012) on cadastre reconstruction and IPRR public awareness campaign are also facilitating a lot the work during systematic registration of buildings and apartments especially the work of the commission and public awareness. The Operation manual for Building Cadastre Construction and the catalogue for cadastral measurements also explains in details the procedures for quality control of the data during building cadastre construction.

4.6 Guidelines for registration of buildings and parts of buildings

The guideline for registration of buildings and parts of buildings (2009/1) (Kosovo Cadastral Agency, 2009) sets up the procedures for carrying out the cadastral works and other works related to the systematic registration of all the buildings and parts of buildings (apartments) in Kosovo. Whereas with regards to the Law on Cadastre every building should be referenced to one parcel. Referencing to one parcel is important for identifying the building location on the ground.

Many parcels in urban areas are still not reconstructed due to the lack of planning and property documents. Also many expropriation decisions from the past are not registered in cadastre, hampering the formation of urban parcels. In order for the building to be registered while being referenced to the parcel on which it is built; it should be registered with a remark that the building is referenced to the parcel with the aim of being identified.

4.7 Law for treatment of constructions without permit

The Law for treatment of constructions without permit (No. 04/L-188) applies to unpermitted constructions identified in the digital orthophoto map. This identification is based on aerial photogrammetric assessment of the territory carried out when orthophotos were produced.

When the law will be promulgated and enforced the owners and occupants of unpermitted constructions or units within unpermitted constructions will apply in the respective Municipalities for legalization of their constructions. All applications will be included in the Official National Registry of Unpermitted Constructions. The deadline is six (6) months from the date this law will be effective. After all procedures, if legal ownership or right to use cannot be established before the expiration of this program, a legalization permit cannot be issued and the construction shall be demolished. Unpermitted constructions that are not completed at the time they are listed in the registry will be evaluated in accordance with the law on Construction No. 04/L-110

5. STATUS OF BUILDINGS AND APARTMENTS REGISTRATION

As one of the key priority issues for KCA is the rapid registration of buildings and apartments in order to secure both legal rights to apartments and to support the creation of an active mortgage market in Kosovo. KCA with the support of the Government of Kosovo and donors has initiated several projects for systematic registration of buildings, apartments and business premises. Government of Norway has supported the first pilot project in two cities Ferizaj and Gjakova in order to prepare the regulation framework for further projects.

The World Bank launched the Business Environment Technical Assistance Project (BETA) in Kosovo (2007), where throughout the land administration component Immovable Property Rights Enhancement were aimed to secure immovable property rights as a contribution to land market development. Through the pilot project under BETA the establishment of the cadastre of buildings and parts of buildings (apartments) was initiated in four cities (Prishtina, Peja, Prizren and Gjilan) using systematic registration. The data and formed property units for all kinds of buildings and apartments (including buildings without permits) were technically collected. For the buildings without permit, the registration continued with daily sporadic registration for these property units from MCOs (after fulfillment of conditions for registration), where the number of transfers was expected to grow dramatically. According to this project, new urban parcels were formed including all units for buildings and apartments, before the buildings and the individual apartments were massively registered.

Currently the KCA is implementing a new five year project – “Kosovo Real Estate Cadastre and Registration Project” (RECAP), which is also financed by the World Bank to support the Government of Kosovo in achieving the long-term objective regarding the strengthening of its land administration institutions (both central and local). This project aims to improve the registration and cadastral system, i.e. strengthening the institutional capacity and sustainability of the KCA by establishing/enforcing standards and developing procedures to generate real estate information and record transactions, and to help MCOs improve day to day land administration services to record and update transactions. This project timeline is up to 2015. It is planned that the Building Cadastre Construction in almost all cities in the country has completed then. Until now more than 25,000 property units (apartments) in

KCLIS are registered and MCOs are continuing with daily sporadic registration of new property units which fulfill the criteria for registration.

The figure 1. shows the implementation progress of Building Cadastre Construction in Kosovo. With red color are marked 14 municipalities (urban areas) where the Building Cadastre is finalized. With blue color are marked 10 municipalities (urban areas) where the project is in progress. Whereas with yellow color are marked the municipalities (urban areas) that are planned to be completed by the end of RECAP project especially in the north of the country.

It is good to mention that the effect of RECAP project has influenced the ranking of Kosovo in World Bank report “Doing Business 2014”. It scored 17 places higher than in year 2013 regarding the component of property registration. Kosovo is now ranked at 58th place.

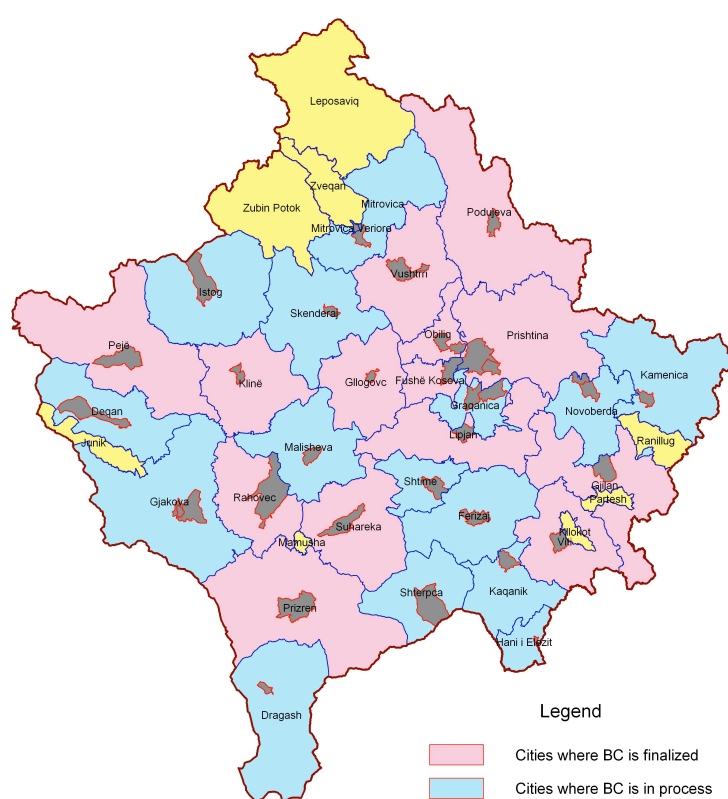


Figure 1. Implementation of systematic registration of buildings and apartments in Kosovo (source KCA)

6. SOCIAL AND ECONOMIC BENEFITS FROM THE REGISTRATION OF BUILDINGS AND APARTMENTS

The successful implementation of the Cadastre projects in KCA, resulting in efficiently functioning system of state registration of rights to immovable property right register, has a significant social and economic benefit. The Building Cadastre Construction is of outmost

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importance to the entire cadastral system of Republic of Kosovo. Cadastre is a dynamic field wherein changes must be recorded in the cadastral registers. Systematic registration of buildings and apartments is a procedure carried out for the first time in Kosovo cadastre, which did not happen before.

Systematic registration of buildings and apartments has made it possible to provide a free of charge registration procedure and to secure the immovable property rights for all citizens within the urban areas of the cities where multi-flat buildings are situated. This is of great importance, in particular to poorly living citizens. Moreover, property owners applied for this procedure which was made as easy as possible with good public information. Through the systematic registration process is achieved to complete ownership data of the immovable properties, which furthermore contribute to the enforcement of other administrative tasks such as taxation, land use planning, development of infrastructure, management of state and municipal land, etc.

The main outcome from registering buildings and apartments in Kosovo is that a significant number of users actually is using their property as collateral, especially for helping to secure mortgages, transactions and land market purposes. This is of high priority for both the owners and financial institutions and is contributing to the economic development of the country. Another benefit of registering buildings and apartments is that municipalities are able to address illegal constructions, increase property tax, and to urban planning better.

As presented in table 1 below, the highest number of transactions was for the year 2011 when the massive registration projects for registration of buildings and apartments were implemented in the four largest cities in Kosovo including the capital city Prishtina.

Year	No. of transactions	No. of mortgages	Total	Remark
2006	23173	2896	26069	The information from MCO's Zveçan, Zubin Potok and Leposaviq are missing
2007	41052	4340	45392	
2008	52691	5718	58409	
2009	55223	5395	60618	
2010	63534	5364	68898	
2011	68142	3543	71685	
2012	51101	4538	55639	
2013	50235	4659	54894	
Total	405151	36453	441604	

Table 1. *Statistics from the IPRR/KCLIS system - years 2006-2013 (source KCA)*

The impact of systematic registration on the mortgage market in Kosovo is shown on figure 2. where are presented the statistics from mortgage values for the years 2010-2013. The estimation is done based on the mortgage values registered in cadaster system (KCLIS) for owners who have used their property units as collateral for mortgages. As shown in the figure 2. the highest value was on 2012, this is because during that year the registration of buildings and apartments was finalized in four biggest municipalities in the country.

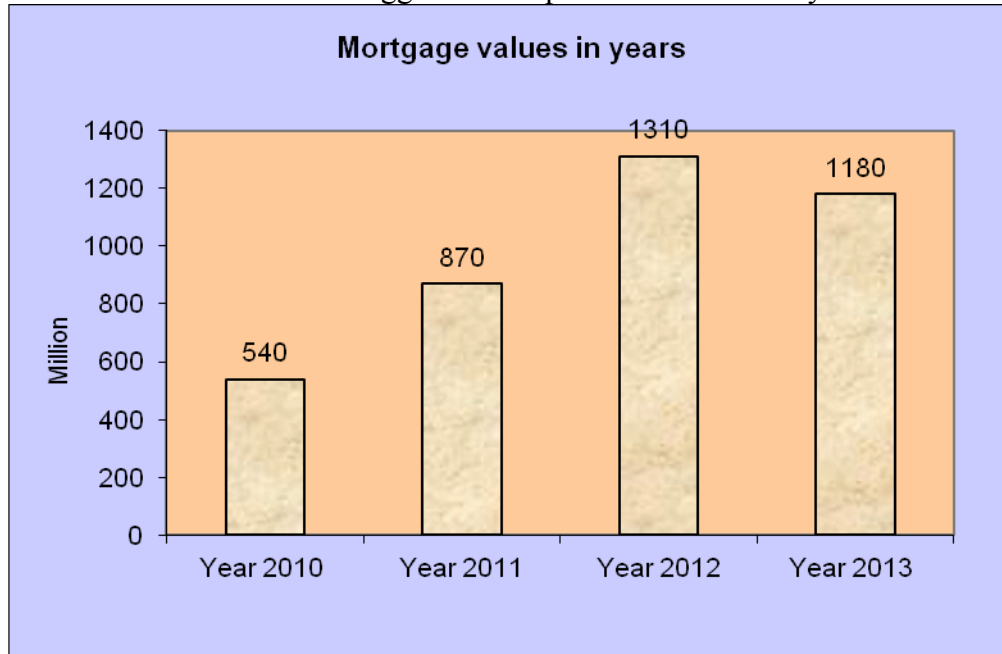


Figure 2. Mortgage values for the years 2010-2013 (source KCA)

7. CONCLUSIONS AND RECOMMENDATIONS

This paper showed the concepts behind, the legal framework, and the implementation status of the buildings and apartments registration in Kosovo. It can be concluded that this (update) registration has been taken very seriously with well-developed concepts and pilot studies for implementation. In order to make this registration information more compatible with other public sector data and the registration process more efficient, it appears that it is necessary to improve the cooperation, coordination and relations between KCA, MCOs and other different institutions at central level; to build capacity of the surveying sector for developing efficient cadastral services; and to improve the co-operation between the public and the private sector in Kosovo as mentioned by Kaufmann and Steudler (1998).

Below, several key recommendations for future activities are presented in order to develop a strong registration for buildings and apartments in Kosovo:

- Implement the Law for treatment of constructions without building permit (No. 04/L-188);
- Implement systematic registration projects for buildings and apartments including the data for buildings without permit to be collected as well;

- Since there are many buildings that are being recently constructed in Kosovo, MCOs should continue as soon as possible with the maintenance of the register by daily registration of all unregistered buildings and apartments;
- The enacted Law No.03/L-091 from Kosovo Government on use, management and maintenance of building joint ownership should be fully implemented from all owners of multi-flat buildings. They should establish their administration councils in order to administrate the use, management and maintenance of common sections and equipment's of the building as well as create housing conditions and mechanisms according to European Union standards;
- According to the existing laws, too many details are required for registering the buildings and apartments in cadastre. To speed up the building cadastre projects only a set of minimum requirements should be made. Then, the registers can be updated at any time when additional information is needed;
- There is no legal restriction that impedes registration of apartments or buildings, therefore the registration of apartments and buildings should continue for the entire country, and temporary unique identifiers should be used that are changeable once disputes or boundary clarities are established.

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