

Legislation for the New Land Information System in Finland

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ABSTRACT

In Finland information on real estate and the rights and restrictions concerning this is provided for the customers through a centralised Land Information System (LIS) based on an agreement and utilisation of information technology. The parties to the agreement on the current Land Information System are the Ministry of Justice, National Land Survey of Finland and 86 municipalities. All the information included in this national system is public. In addition to the data included in the Land Information System there are other data on real estate for which no uniform information service has as yet been organised.

New demands are constantly being directed at the availability, properties, quality and updating of information on real estate. Such information is highly significant socially and economically, and there is a growing need for an efficient and more extensive national information service system for real estate. However, the introduction of a more harmonised, updated and reliable Land Information System is not possible without a solid legal foundation.

Recently a new act was passed concerning the organisation of a national information service for real estate and clarification of the related administration. In addition to the scope of application and information content of the Land Information System, the new act contains provisions on the recording of data to the system, the administration of the system, general grounds for yielding information and the charges for this, liability for damages, etc.

RÉSUMÉ

En Finlande, les informations sur les biens fonciers et sur les droits et restrictions y afférents sont fournies aux usagers au moyen d'un Système d'information foncière (LIS, ou Land Information System) reposant sur un contrat et sur le recours à l'informatique. Les parties contractuelles du Système d'information foncière actuel sont le ministère de la Justice, la Direction nationale de la cartographie et du cadastre, ainsi que 86 communes. Toutes les informations incluses dans ce système national sont publiques. Parallèlement aux données figurant dans le Système d'information foncière, on trouve d'autres données sur les biens fonciers pour lesquelles aucun service d'information uniforme n'a encore été mis en place.

La disponibilité, les caractéristiques, la qualité et la mise à jour de l'information portant sur les biens fonciers font constamment l'objet de nouvelles exigences. De telles informations ont une grande importance sur le plan social et économique et il existe un besoin croissant pour un système de service d'information national efficace et plus riche pour les biens

fonciers. L'introduction d'un Système d'information foncière mieux harmonisé, actualisé et plus fiable n'est toutefois pas possible sans de solides fondements juridiques.

Une nouvelle loi a récemment été adoptée, relative à la mise en place d'un service d'information national pour les biens fonciers et à la clarification de l'administration y afférent. Outre le champ d'application et le contenu informationnel du Système d'information foncière, la nouvelle loi comporte des dispositions relatives à l'enregistrement des données dans le système, à la gestion de ce dernier, aux fondements généraux liés à la cession de l'information et aux frais s'y rapportant, à la responsabilité en cas de dommages, etc.

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1. INTRODUCTION

Today the significance of a Land Information System as the foundation for economic activities in a society has been acknowledged in various connections. An efficient Land Information System is necessary to construct a functioning system of securities, which in turn forms the basis for financial markets. An inadequate Land Information System may considerably slow down the development of societies.

As a result of the economic and technological development of societies, both the public sector and private businesses are more and more often faced with new challenges relating to information management. The amount and diversity of information as well as information systems and need for information services are growing rapidly. A functioning Land Information System alone will not be enough, but we also need appropriate arrangements for efficient information services for the data included in the Land Information System.

This paper is concerned with the role legislation may have in setting up a Land Information System and arrangements for efficient information services for this in a country which has a nation-wide digital Land Information System and where all citizens have access to the data included in the system free of charge, as well as the right to obtain extracts and printouts from the data subject to charge.

2. CURRENT LAND INFORMATION SYSTEM

In Finland data on real estate and the rights and restrictions concerning real estate are available to the customers through a centralised Land Information System (LIS), which is based on an agreement and utilisation of information technology. The parties to the agreement on the Land Information System are the Ministry of Justice, National Land Survey of Finland and 86 municipalities. All the information included in this national system is public.

The Land Information System consists of two main parts, the real estate part, which is the responsibility of the National Land Survey of Finland and 86 municipalities, and the registration part, which is the responsibility of the judicial administration.

The real estate part of the system consists of the data of the cadastre register as laid down in the Cadastre Register Act (392/1985), i.e. data of the numerous organisation-specific regional cadastre registers. The registration part contains the data included in the land register as provided in the relevant act (353/1987).

The Land Information System contains the information on all the 4.6 million real estates in Finland, and the system covers an area of more than 337,000 km². Each year about 4.6

million printouts and more than a million extracts through the direct access are taken from the system. The annual business income of the Land Information System totals a little under 6 million euros and the maintenance costs to the State are about 2 million euros.

3. NEEDS TO CHANGE THE LAND INFORMATION SYSTEM

Various kinds of changes are needed in the current Land Information System. The main reasons for this are the rapid change in the general information needs, growing significance of the data included in the Land Information System and development in the possibilities offered by new technologies as well as the emphasis on the role of information management. Changes will be necessary mainly in the information content and structure of the system and the legal basis for the information service.

3.1. Information Content and Structure of LIS

For the part of the information content of the Land Information System the main problem was maps, i.e. the lack of these. Another weakness was the inadequate level of detail in the data on plans and building prohibitions as well as in the data on various kinds of conservation areas. Information on buildings and addresses of real estates are also missing in the current Land Information System.

Structurally the system does not constitute a uniform and reliable nation-wide land information service system. In practice the real estate part, which consists of registers maintained by the National Land Survey of Finland and 86 municipalities, constitutes a system of non-uniform, overlapping regional registers. In addition to the data included in the Land Information System there is other information on real estate, which has not been compiled into a comprehensive national information service.

3.2. Amending the Legislation

The most serious defect in the current Land Information System is the fact that it is based on an agreement between the producers of information only. From the perspective of the information service the situation is poor when we consider the high socio-economic significance of the data included in the system and the legal protection of those using the information. There is an obvious need to set up a clear legal basis for arranging a national information service concerning real estate and other units of land and water areas as well as to secure the updating and development of the information.

4. DEVELOPMENT OF A NEW LAND INFORMATION SYSTEM

The development of a new Land Information System was started by the State towards the end of 1998 by launching two surveys, one concerning the technical aspects of the system and one for the related legislation.

The survey on the technical aspects of the system examined and promoted measures to be needed for revising the real estate part of the Land Information System and for implementing

the reforms. The possible changes in the internal structure of the information systems and transfer of information between different systems due to the possible expansion of the information content of the real estate part were also taken into account.

The objective of the survey concerning the legal aspects was to draft a proposal for legislative measures to be needed for setting up a new comprehensive national Land Information System (LIS). The work included the definition of the information content of the new Land Information System, responsibility for producing data, general principles for yielding information and information service as well as the publicity of information.

Both surveys were completed in 2000, laying the foundation for the preparation of the new national Land Information System and its implementation.

5. NEW LAND INFORMATION SYSTEM

The structure selected for as the basic structure for the new Land Information System is one where the information is managed and information services are provided through a single, uniform national information service system. Thus the current system of non-uniform, partly overlapping registers will be abolished. A management organisation will be appointed, and it will be responsible for the maintenance and development of the system and the information service. The number of the producers of data for the information content of the system is still considerable, and it is going to grow. At the first stage information will be produced by the judicial administration, National Land Survey of Finland and the 86 municipalities maintaining the cadastre register. These will send the data to be included in the Land Information System in the digital form in accordance with certain technical standards.

In the future the producers of information give information included in the system to their customers only through the Land Information System, which means that the system constitutes the only official source of information.

6. OBJECTIVES OF THE LAND INFORMATION SERVICE ACT

The survey concerning the legal aspects of the system concluded that legislation regulating the implementation and maintenance of the information service will be needed to secure the development of the Land Information System and efficient information services. The existence of such a system can no longer be based solely on a Government resolution and agreements between the producers of information. Legislation is needed to turn the current Land Information System into a statutory national register and information service system.

The purpose of the legislation is to establish the obligations and rights which can be approved by the society, for both the producers and users of the information. Legislation was also seen to provide the necessary social and political approval for the information service, because the act will be passed in the Parliament and approved by the President of the Republic.

The following objectives were set for the new Land Information System Act:

- The State is responsible for the implementation and maintenance of the system;
- The act must contribute to the accuracy of the data in the Land Information System;
- The act must take account of the objective concerning the organisation of the maintenance and availability of data on real estate by means of automatic data processing so that information on both real estate and other units of land and water areas, the rights and restrictions concerning these and their owners and possessors can be obtained from a single, uniform national information service system, the Land Information System;
- Data included in the Land Information System must be public and personal data must be protected so that the legal protection of citizens is not compromised;
- By the act a system must be set up to secure the updating of the data included in the Land Information System, and
- The act must contribute to the efforts to improve the quality of the data included in the Land Information System and the efficiency of the information services.

7. LAND INFORMATION SYSTEM ACT

This kind of act is something quite new, i.e. this is the first time when information services from a national information system are being regulated by statutory means. The Land Information System Act contains only 12 sections. Other statutes to be issued based on this act are the Government Decree on the Land Information System and the Decree of the Ministry of Agriculture and Forestry on charges collected for the Land Information System and distribution of revenue.

In terms of the implementation of the national information service the most important issues to be covered by the legislation are:

- Purpose and scope of application of the act;
- Information content of the Land Information System;
- Administration of the Land Information System;
- Recording of data to the Land Information System;
- Yielding data as information service;
- Charges and liability for damages and
- Advisory Board.

7.1. Purpose and Scope of Application of the Act

The specification of the purpose and scope of application of the act lays down the will of the social and political decision-makers concerning the organisation to be set up by the act and the issues to which the act applies. The establishment of the purpose of the act constitutes the opinion of the society concerning the kind of Land Information System to be set up in Finland.

Under the act, the information service covers all the data on real estate and other units of land and water areas. Information service must be available nation-wide, and it must be based on automatic data processing.

The scope of application of the act defines the limits for the government activities under the act. The act applies, in addition to the establishment of the Land Information System, to maintaining and updating of the system and yielding and use of information included in the system.

7.2. Information Content of the Land Information System

The information content of the current agreement-based Land Information System consists of the data included in the land register in accordance with the Cadastre Register Act. These include information on the surface area, type, location, easements, share in jointly-owned area and entry into the land register. In addition to the Cadastre Register Act and information entered to the land register, there is other data on real estate that at present are not included in the information content of the Land Information System, such as information on transfer of real estate based on notification by the notary as well as various kinds of land use plans.

It was decided that the information content of the Land Information System will be extended by stages. At the first stage the system comprises the existing data from the cadastre register and land register and the main emphasis will be on improving the quality of the available data and abolition of overlapping register systems. However, other land information may also be included in the system, which would thus provide a more efficient channel for communicating all land information created through government activities which need to be entered into a public register because of its importance for the activities of the society or for legal protection of citizens.

The act provides no direct definitions of the content of the Land Information System, but it specifies the acts which provide for the data to be included in the Land Information System. This makes it possible for the authority responsible for producing the information to make the decision on entering the information to the information service system. The final decision is made by the relevant ministry.

7.3. Administration of the Land Information System

The responsibility for the administration of the system must be clear and unambiguous to secure a reliable and efficient national Land Information System. In practice the organisation and maintenance of an efficient information service would be very difficult without a specific management organisation, with clearly defined rights and obligations.

The management organisation responsible for the establishment, administration, maintaining and updating, information services and development of the Land Information System is the National Land Survey of Finland, which takes care of both the production of topographic maps and most of the land register duties. The selection of the National Land Survey of Finland as the management organisation is due to its traditionally significant role in the production of cadastre register data and experience in the administration of extensive information systems.

According to the act, the costs due to the administration, maintaining, information service and development of the Land Information System are covered from the charges for the performance (services) of the Land Information System. The share of this is provided by the Decree of the Ministry of Agriculture and Forestry. The Ministry of Agriculture and Forestry also provides by decree on the payment of the other costs due to measures of the Land Information System through revenue from the performance and the distribution of the possible surplus between the authorities involved in the system. Before issuing the decrees the Ministry of Agriculture and Forestry must hear the most important parties producing data to the system, such as the Ministry of Justice, National Land Survey of Finland and municipalities keeping cadastre registers.

7.4. Recording of Data to the System

A reliable national information service must be based on accurate data which is updated regularly. The management organization responsible for the information service and the whole system, i.e. the National Land Survey of Finland, cannot guarantee the accuracy of the data included in the system unless it can rely on the original producers to supply accurate information. It was considered necessary to prescribe by law that the authority responsible for producing certain type of information to the Land Information System has the obligation to take care of entering this information to the system and updating it.

7.5. Yielding Data as Information Service

As we are concerned with an information service act, most of the act naturally deals with the yielding of data. In practice the most common ways of doing this are to provide data as extracts, certificates and other printouts. Data may also be available through technical interface, where the user is identified through user codes and passwords

In addition to the management organisation, extracts, certificates and printouts directly from the Land Information System may be given by municipalities, district courts, land survey offices and city administrative courts as well as other authorities with technical interface to the system under a decision by the management organisation.

Through the technical interface the management organisation may yield information to courts of law, municipalities, authorities responsible for the formation of real estate, Population Register Centre, as well as recovery and tax authorities. Based on an application the management organisation may also grant a permission to obtain data through technical interface when information is needed for community planning, transfer of real estate, granting and control of credits or other similar purposes related to real estate.

Information containing personal data constitutes a special problem area. Most of the information in the Land Information System is public, i.e. available to anybody, and thus special provisions are needed for personal data. The act lays down restrictions on yielding personal data proper, and yielding personal data is subject to the conditions that the person or institution requesting for such data has the right to deal with these under the provisions concerning the protection of personal data. In Finland there are specific acts on the protection

of personal data, and in the Cadastre Register Act reference is made to these.

Yielding the identity number used for the identification of persons which is closely connected to personal data is subject to severe restrictions. According to the act, identity number may be given only if the party requesting it is authorized to do so or this is based on a special act.

Based on the act, the management organisation may also yield information containing the name and address of the transferees of real estate or parcels for direct marketing in the real estate management or building sector or for opinion or market surveys unless this has been prohibited by the transferee. The right to yield such data is restricted by the condition that the customer must have the possibility to give this prohibition before any information is yielded.

In Finland it is also necessary to define a so-called minimum level for the implementation of an information service such as the Land Information System. According to the act, the National Land Survey of Finland as the management organisation is obliged to give anybody an opportunity to see the data included in the Land Information System free of charge and make notes on these.

7.6. Charges and Liability for Damages

In Finland an authority may not collect a charge for its performance unless this has been provided by an act or on the grounds of an act. Thus the Land Information System Act contains general provisions concerning the charges. Further provisions on the charges are provided by the Decree of the Ministry of Agriculture and Forestry.

According to the act, only information which the management organisation yields through the technical interface to authorities responsible for recording data to the Land Information System is free of charge. This concerns all data included in the system, and it is subject to the further condition that the information is used for official activities.

The objective of the information service from the Land Information System is that all the data in the extracts, certificates or other printouts from the system are accurate and reliable. To protect this reliability the act contains provisions on liability for damages should the given data be inaccurate. According to the act, a party who has suffered damages due to incorrect or deficient data from the Land Information System is entitled to compensation from the party who yielded the data.

The liability for damages may concern the original producer of the data or the management organisation responsible for the information service, i.e. the National Land Survey of Finland, depending on whether the error is due to the data entered into the Land Information System or actions by the National Land Survey of Finland, which is responsible for the management of the system.

7.7. Advisory Board

As the Land Information System is used to maintain and disseminate information produced

by different authorities, the legislation should also take account of the need to promote the cooperation between those responsible for the system and the most important producers of information.

An Advisory Board will be appointed for this purpose. The duties of the Advisory Board include the guidance of the development of the Land Information System, promoting the harmonisation of data and use of the system, as well as acting as a cooperation body between the maintainer of the Land Information System and producers of information. The Advisory Board has representatives from the Ministry of Justice, Ministry of Agriculture and Forestry, Association of Finnish Local and Regional Authorities, National Land Survey of Finland and municipalities keeping cadastre registers. The Advisory Board will be appointed by Government decree.

8. CONCLUSIONS

As a result of the economic and technical development of societies the amount and diversity of information governed by the public authorities is increasing rapidly. Efficient administration of this flow of information is becoming one of the most important factors of success both in the public sector and in private businesses. It is obvious that the availability and administration of information in the traditional Land Information System as well as the quality of data must be improved, because information plays a major role as the foundation for economic activities in societies.

The information on real estate and other units of land and water areas to be dealt with by the authorities is becoming increasingly complex and detailed, and thus clear approval by the society and political support is needed to maintain such information and organise the related information service. Legislation is one of the most important measures in order to secure this approval and support.