



UREĐENA ZEMLJA  
Nacionalni program sređivanja  
zemljišnih knjiga i katastra

# Social Assessment Study

## Real Property Registration and Cadastre Project

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# The Social Assessment Study

## Executive summary

The Social Assessment Study represents an analysis of the current situation, problems, improvements and opportunities offered by the real property ownership system. Its main purpose is to identify key fields in the ownership system and make an assessment of their impact on relevant social groups. Special attention has been paid to vulnerable social groups for which it has been either established or assumed that the Organized Land Project, i.e. the project of improving the system of recording ownership rights, would impact their life situation and the quality of living.

The study gives the results of two complementary surveys:

- A quantitative social study that surveyed real property owners (citizens and companies separately) in seven cities and their experiences with registering real property, the biggest problems in the registration procedure, reasons for (not) registering their real property and their perception of changes in the land registry and the cadastre. The survey was conducted by the method of phone interviews.
- A qualitative institutional study encompassing the cadastre and land registry offices in seven selected cities, units of local self-government in these cities, and particular civil associations dealing with specific problems that the real property owners encounter. This survey was conducted by means of in-depth interviews.

The Social Assessment Study is based on the following survey goals:

- To define potential Project beneficiaries and the Project's potential benefits for the users.
- To establish how users and civil servants perceive the ownership rights system and its limitations, together with improvements achieved during the past five years
- To establish the effects of the Project on users and to identify mechanisms for improvement or increase of positive effects, as well as a possible decrease of negative effects.
- To identify any current or potential patterns of discrimination related to the real property registration, especially on the basis of nationality, gender or income.

A large proportion of households in Croatia (around 90%) own a real property, making the primary base of the cadastre and land registry users a very broad one. Hence there is also a broad variety of current and potential users and a project aiming at improving the real property ownership system must also be directed towards and bring benefits to the groups having difficulties realizing these benefits.

An important piece of basic information obtained by the social survey is the one related to the activity on the real property market, that is, whether the surveyed real property owners have in the past 10 years bought or sold a real property. Around 30% of respondents have sold or bought a real property in the past 10 years, 2/3 of which did so between 2004 and 2009, indicating that they are familiar with the changes in the land registry and the cadastre system.

When asked about the benefits of registering real property, respondents mostly mention legal security and legalization in general, indicating an abstract perception of benefits, while concrete benefits such as easier sale of the real property or a possibility of obtaining mortgage loans are rarely mentioned. It would be useful to communicate these concrete tangible advantages and demonstrate that registering the real property brings concrete benefits to all the parties involved.

Cadastre and land registry offices belong to the group of institutions trusted by real property owners to a large extent. 38% of respondents believe cadastre offices can be trusted, whereas 36% say the same about land registry offices. Over one half of the interviewed real property owners do not trust the Department for Issuing Building Permits. The negative perception of this institution may present problems with respect to the perception of functionality of an entire range of institutions related to the construction and trading of the real property.

A similar survey conducted in 2001 gained insight into the condition of the system of real property ownership rights, primarily by means of a thorough analysis of the cadastre and land registries. Respondents in cadastre offices mentioned the need for systematic work in relation to new cadastral surveys, digitalization and harmonization with land registers. Land registry office judges reported the situation to be extremely bad, the most obvious consequence of it being a large number of unprocessed requests for ownership registration. The real property registration procedure was extremely slow, especially in larger land registry offices, resulting in a very inefficient system of real property ownership rights.

The current situation, according to the respondents, is much better.<sup>1</sup> The efficiency of cadastre offices has been positively evaluated by their employees, and the same applies to almost all land registries except the one in Zagreb which, in respondents' opinion, has not yet achieved a satisfactory level of promptness in processing cases. System improvements are primarily related to the following three aspects:

1. increasing promptness of issuing relevant documents
2. increasing promptness of solving cases
3. improving the quality and accessibility of information.

One of the key problems is the lack of comprehension of the new role of ownership. These problems affect the users of the real property ownership system, particularly senior citizens who also belong to the category of vulnerable citizens due to low incomes. A mismatch between the actual status of real property and the status recorded in land registries is the basic problem of the real property ownership system, equally affecting all social groups. However, persons of better economic and educational status handle these problems more successfully.

Respondents who have registered their real property believe the slowness of the procedure to be the most prominent problem in the procedure of registering real property. The costs of registration are rarely perceived as a problem. This is confirmed by the fact that most respondents do not even closely remember the amount of the costs, or mention that the costs were under HRK 500.

New technologies lead to a higher degree of transparency and easier access to data in cadastre and land registry offices. With respect to cadastre offices these improvements enabled more prompt issuing of certificates, resulting in more efficient performance. Many employees of land registry offices have noticed that the accessibility of information has led to better informed users, which has in turn improved the quality of the process of recording the real property in land registers. However, the greatest improvements in land registries were achieved by hiring new employees who help handle case backlogs.

Cooperation between cadastre and land registry offices has been improved by means of quality direct communication. The improvements in both of these institutions have also affected the performance of the offices they cooperate with. This is primarily related to

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<sup>1</sup> The comparison is related to the past few years, not explicitly to 2001

decreasing backlogs in land registries, thus enabling the institutions they cooperate with to perform their tasks in a more efficient manner.

The respondents in households included in the social study have positively evaluated the improvements achieved in the performance of the cadastre and land registry offices. 42% of respondents believe that the situation in the cadastre and land registry alike is improving, whereas only 3% that it is becoming worse. This indicates a positive perception of the changes in the performance of land registry and cadastre offices. Evidently, measures taken to improve these two institutions have been recognized.

Three crucial issues for a better functioning of the system of ownership rights and transactions are:

1. regulated land registers
2. accessible data in land registers
3. informed and motivated users.

It is important to notice the connection between these issues and their mutual influence. The crucial aspect is the one of regulated land registers, and it depends on informed and motivated users who, in turn, depend on easily accessible information. For many reasons, the internet is the ideal medium for displaying such information. However, one should take into consideration social groups with restricted internet access: senior citizens, persons with low education, and persons with low incomes. Therefore, it is still important to enable easy access to information in cadastre and land registry offices.

The most relevant effects of the afore-mentioned improvements are easier and quicker transactions conducted on the real property market. An efficient and safe market offers opportunities to all social groups to improve their quality of life. Among the vulnerable groups, the retired are the group which could improve the standard of living by selling the real property whereas greater mobility could facilitate the unemployed in finding work.

In addition to these vulnerable groups defined by social status, the respondents in the institutional study identified other specific groups having difficulties in realizing their real property ownership rights: people with unresolved condominium ownership, apartment co-owners, users who have filed a request for the return of nationalized property and owners recorded in the book of deposited contracts.



Users living in areas of special state concern (Knin, for example): mostly elderly persons of lower income and education.

Farmers are a group who often own land. Land parcels must be properly registered in the cadastre to enable their owners to use it to its full potential, or to receive agricultural incentives.

The institutional study has not determined any classical forms of discrimination against any of the social groups. Difficulties in realizing ownership rights for members of the Serbian minority in Croatia are: mismatch between the cadastre and land registers, lack of a unified case law and a general lack of quality real property records. The respondents feel that these difficulties are not conditioned by the minority's nationality but, rather, by the poor economic status, low education and lack of resources for conducting court procedures in Croatia.

Better regulation of the ownership rights system could significantly influence the Serbian minority, enabling them in some cases to return to the houses that they once owned.

The respondents of Serbian nationality included in the social survey as a potentially vulnerable group show no differences in comparison to other respondents with respect to their habits and experiences with the registration procedure. Apparently, citizens of Serbian nationality living in Croatia have managed for the most part to solve their proprietary-legal issues, even though this cannot be established with certainty based merely on the respondents included in the sample.

What is evident is the latent discrimination of persons with poor knowledge of modern technologies, of persons without the knowledge or awareness of the significance of ownership rights, or without economic or social resources to successfully conduct court proceedings related to ownership rights. The rate of the real property registration is lower in households with incomes under HRK 2,500. This vulnerable group evidently needs special attention, from providing them with objective concessions to informing them of the importance and benefits of registering real property ownership.

# 1 Social Study

## 1.1 Introduction and methodology

This Social Assessment Study comprises the results of the survey conducted among real property owners in seven Croatian cities. The data collected during the survey reflect the experiences and attitudes of both households and companies in the seven cities. The survey was conducted by the phone interview method between October 23 and October 28, 2009 on 400 households and 153 companies in the seven selected cities.

The seven cities included in the survey are: Zagreb, Rijeka, Osijek, Split, Pula, Virovitica and Knin.

The Social Assessment Study, according to the tender, follows exclusively the pattern of the original studies conducted at the beginning of the project in 2001. The goal of repeating the Social Assessment Study is to evaluate the project impact on social and institutional factors identified as key ones in the initial study.

In comparison to the initial survey conducted in 2001, the methodology i.e. the data collection method has been slightly modified. The 2001 survey had been conducted by face-to-face interviews whereas the 2009 survey was conducted by phone interviews.

The survey report consists of several sections reflecting the survey topics:

- Context description – an overview of property ownership among households and companies and the real property market activities
- Institutional framework: trust in institutions, awareness of cadastral offices and land registry offices, awareness of property registration benefits
- Description of property registration procedures: property registration status, reasons for property registration, duration and costs of procedure, obstacles during property registration
- Evaluation of the Organized Land Project – evaluation of service quality and functioning of cadastral offices and land registry offices.

Table 1 Sample structure - households

		N	%
<b>Whole sample</b>		<b>400</b>	<b>100%</b>
<b>Gender</b>	Male	150	38%
	Female	250	63%
<b>Age</b>	Up to 35 years	26	7%
	35 - 44 years	52	13%
	45 - 54 years	91	23%
	55 - 65 years	118	30%
	More than 65 years	113	28%
<b>Education</b>	Elementary school	33	8%
	High school	220	55%
	Faculty	147	37%

		N	%
<b>Whole sample</b>		<b>400</b>	<b>100%</b>
<b>Household income</b>	Up to HRK 2,500	55	14%
	HRK 2,501-5,500	120	30%
	HRK 5,501-8,500	88	22%
	HRK 8,501 and more	92	23%
	DK/NA	45	11%
<b>City</b>	Zagreb	100	25%
	Osijek	50	13%
	Virovitica	52	13%
	Rijeka	50	13%
	Pula	53	13%
	Split	49	12%
	Knin	46	12%

Table 2 Sample structure - companies

		N	%
<b>Whole sample</b>		<b>153</b>	<b>100%</b>
Company size	Small	82	54%
	Medium	41	27%
	Large	30	20%
City	Zagreb	87	57%
	Osijek	11	7%
	Virovitica	8	5%
	Pula	12	8%
	Rijeka	15	10%
	Knin	2	1%
	Split	18	12%
Number of employees	Less than 10	14	9%
	10 - 49	67	44%
	50 - 99	14	9%
	100 - 249	20	13%
	More than 250	38	25%

		N	%
<b>Whole sample</b>		<b>153</b>	<b>100%</b>
Total company income	Up to HRK 5 mil.	29	19%
	HRK 5 mil. - 25 mil.	23	15%
	More than HRK 25 mil.	29	19%
	DK/NA	72	47%
Main company activity	Manufacturing	25	16%
	Construction	24	16%
	Wholesale and retail	41	27%
	Transportation and storage	9	6%
	Real estate activities	9	6%
	Other social and service activities	15	10%
	Other	27	18%
Legal form of company	Refusal	3	2%
	Joint stock company	43	28%
	Private limited company	107	70%
	Other	3	2%

## 1.2 Survey results

### 1.2.1 Overview of real property ownership among households and companies and their participation in the real property market

#### **Overview of real property ownership of households**

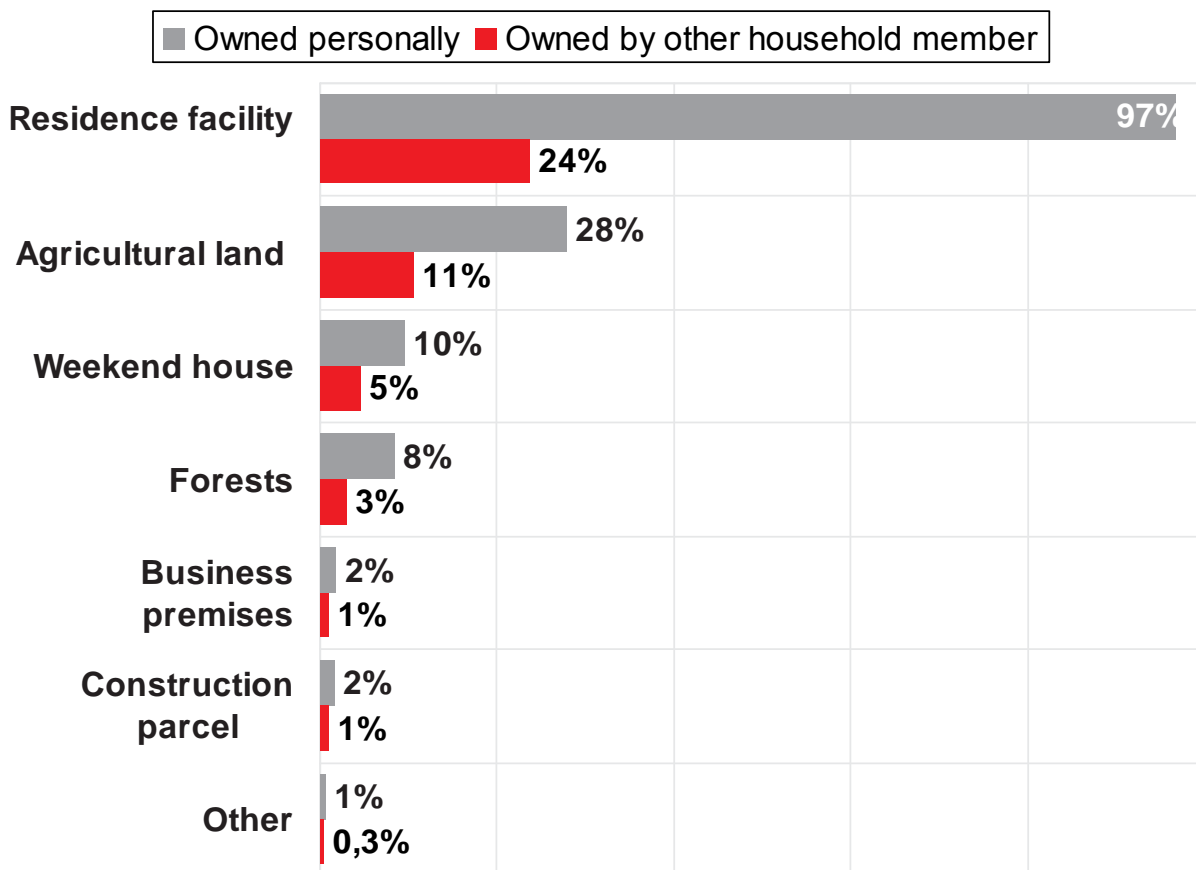
At the very beginning of the survey it was of great importance to gain insight into the real property owned by households and companies. It should be emphasized that the survey was conducted in seven cities, according to the tender, and therefore data collected should not be generalized, that is, projected onto the entire population. As expected, households mostly own residence facilities (house or apartment), which is the case for 97% of respondents within the household sample. The second most frequent type of real property is agricultural land, owned by 28% of respondents. Around 10% also own weekend houses. On average, respondents own 1.5 real properties. In most households other members do not own real property. Among those who do, most own either a residence facility or agricultural land. The survey did not collect data concerning co-ownership, that is, we do not know whether the mentioned real properties have one or more owners. When it comes to the real property ownership among other members of the household, male members somewhat more frequently own other real property, but that does not necessarily indicate discrimination, even though the survey includes more women than men. It is possible that women are not formal owners (on paper) but nevertheless consider themselves as owners. On the other hand, the survey confirmed our expectations that younger people and people with lower incomes are less frequently real property owners. Also, respondents from Zagreb, as opposed to respondents from other cities, less frequently own agricultural land and forests. Respondents from households with higher incomes more frequently own weekend houses. In addition, households with higher incomes have more members who are real property owners, that is, members other than the respondents. The fact that households with higher incomes own more real properties indicates they would also benefit more from a regulated system. This, naturally, does not mean that the ones with lower incomes have no benefits. Regulating the entire system, especially by shortening the duration of registration procedures and simplifying them, significantly lowers the costs, which is really important for lower income households. The respondents' nationality did not prove to be a crucial factor regarding real property ownership.

58% of the respondents live in apartments, whereas 42% live in houses. As expected, the respondents from Virovitica and Knin more frequently live in houses, as do respondents with lower incomes. This is primarily influenced by sampling and the fact that the standard of living

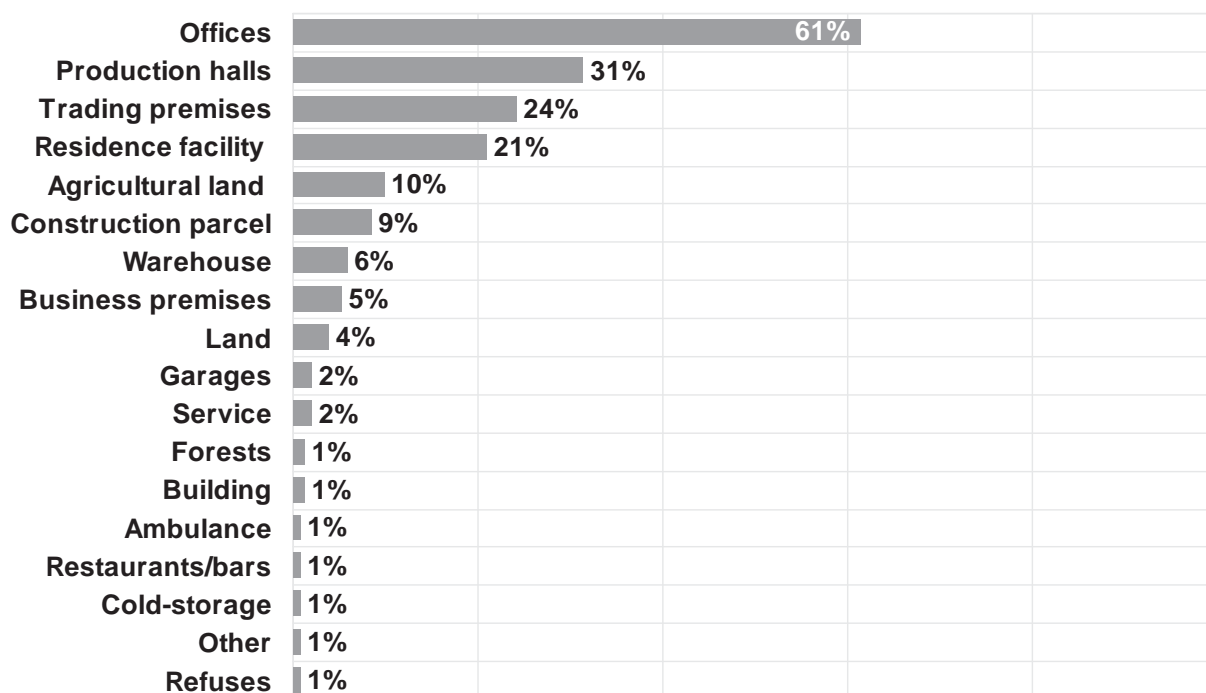
in Virovitica and Knin is somewhat lower than in other cities included in the survey. An average size of apartments is 64 m<sup>2</sup>, and of houses 129 m<sup>2</sup>.

The means of acquiring real property, as expected, differ with respect to the type of residence facility the respondents live in. Citizens have most frequently acquired their apartments by buying them off (they had tenancy rights) or by buying them at the real property market, whereas houses are more frequently built by respondents, or inherited.

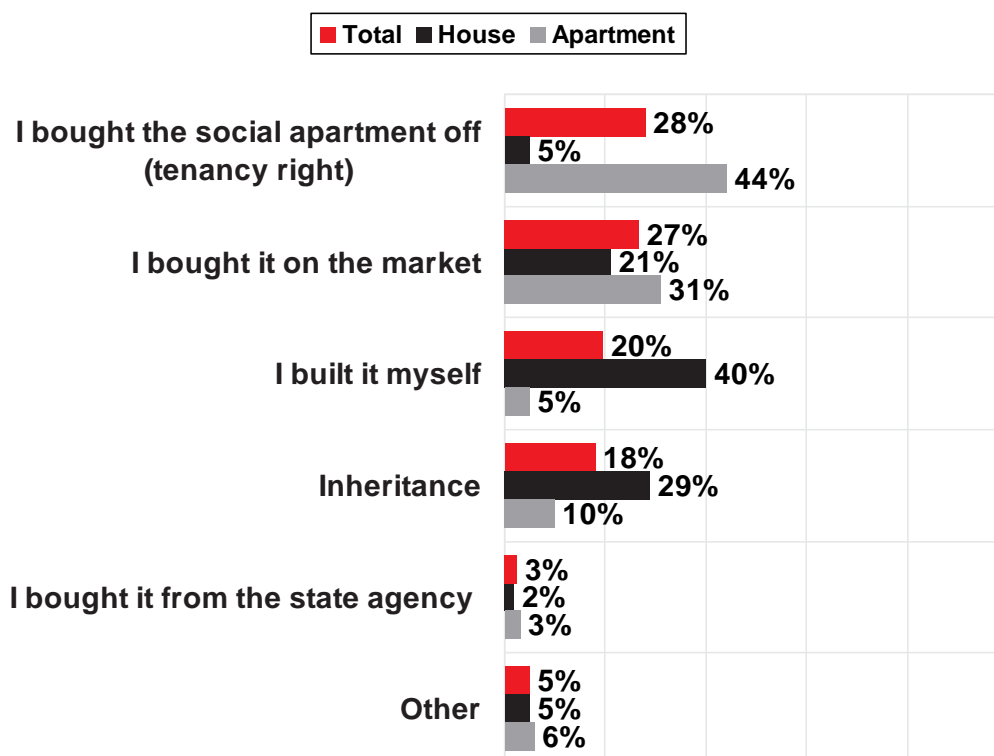
Picture 1 What types of real property do you personally own? What types of property are owned by other members of household? – households



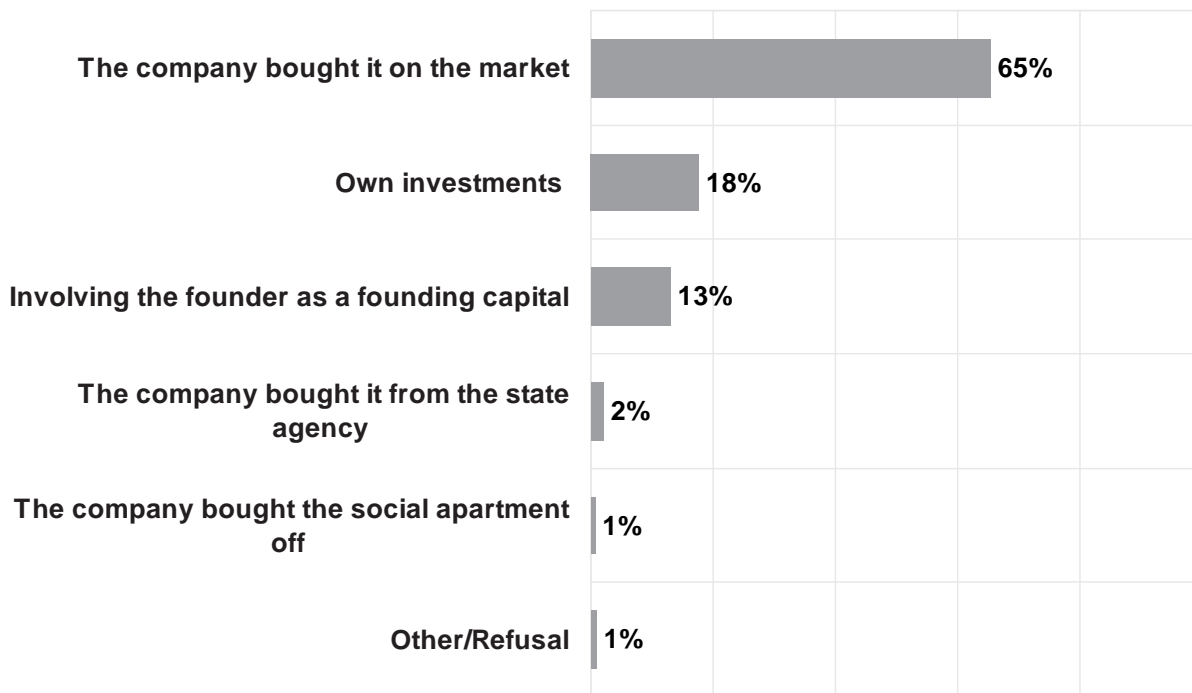
Picture 2 What types of property does your company own or is a co-owner?



Picture 3 How did you acquire the real property? – households



Picture 4 How did your company acquire the majority of real properties in its ownership?





### **Overview of the real property owned by companies**

The companies from the seven cities included in the survey own different types of real property. These primarily include business premises, owned by 61% of companies. Around 1/3 of companies own production halls and 1/4 own trading premises. Most companies own more than one real property – 1/3 own 2 or 3 real properties, whereas 31% own more than 3. Around 1/4 of companies own real properties with the size of up to 500 m<sup>2</sup>. 2/3 of real properties were bought on the market, which indicates that companies more actively participate in the market than households. The type of real property owned by companies is closely related to their type of business activity, that is, stores more frequently own trading premises, whereas the production industry owns production halls. The number of real properties is also related to the company size - smaller companies more frequently own only one real property.

### **Participation at the real property market**

The companies in the seven cities are more active in the real property market than are the households. Their common trait is the period of activity – the past 5 years, which is consistent with the data on real property market activity obtained from other sources. Companies have been particularly active in the past two years. This is probably the result of an improved standard of living and better business performance of companies in the past 2 – 5 years, as well as the fact that loans have become easier to obtain.

Approximately 23% of citizens have purchased a real property during the past ten years, whereas 15% have sold a property. 2/3 made a real property related transaction in the past 5 years. On the other hand, 66% of companies have purchased a real property, whereas 41% have sold properties. In Osijek citizens display an increase in activity, which is consistent to the construction activities in the area. Households with higher incomes show more activity.

Somewhat less than half of companies have invested in the construction of a new real property and an increased activity<sup>2</sup> in this area has been observed in the past two years.

A smaller proportion of households, 6%, generate income by renting their real properties. Mortgages are a very important part of the Organized Land Project because, by obtaining a mortgage on registered real property, its capital value is activated. This enables investments for both households and companies.

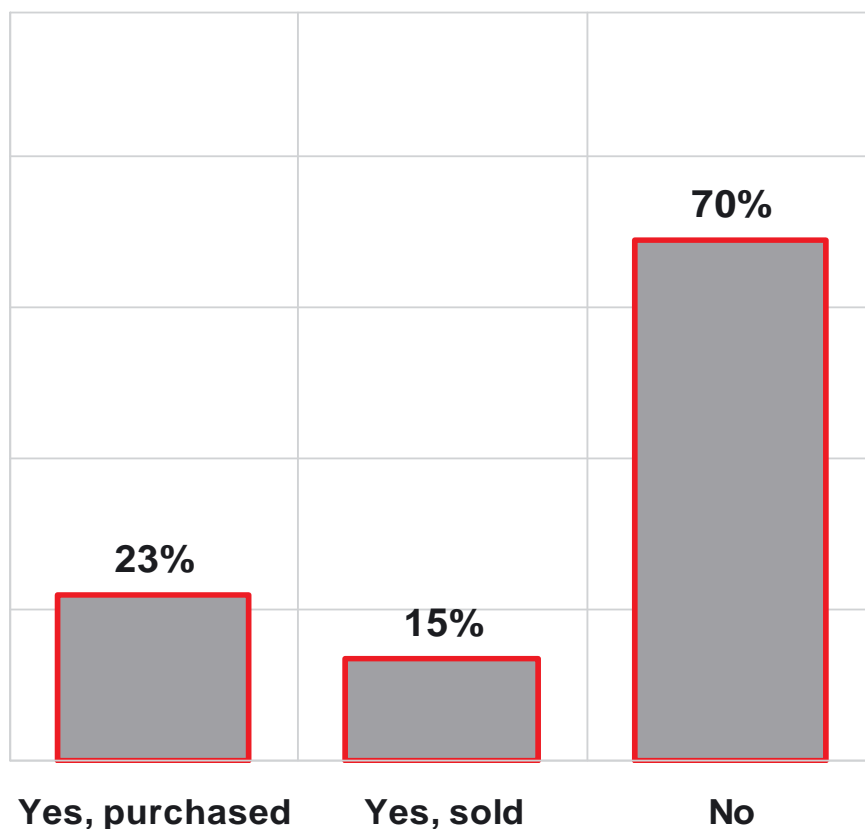
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<sup>2</sup>The data source is the Central Bureau of Statistics, *Building permits issued for the construction of buildings according to the purpose, size and type of building*

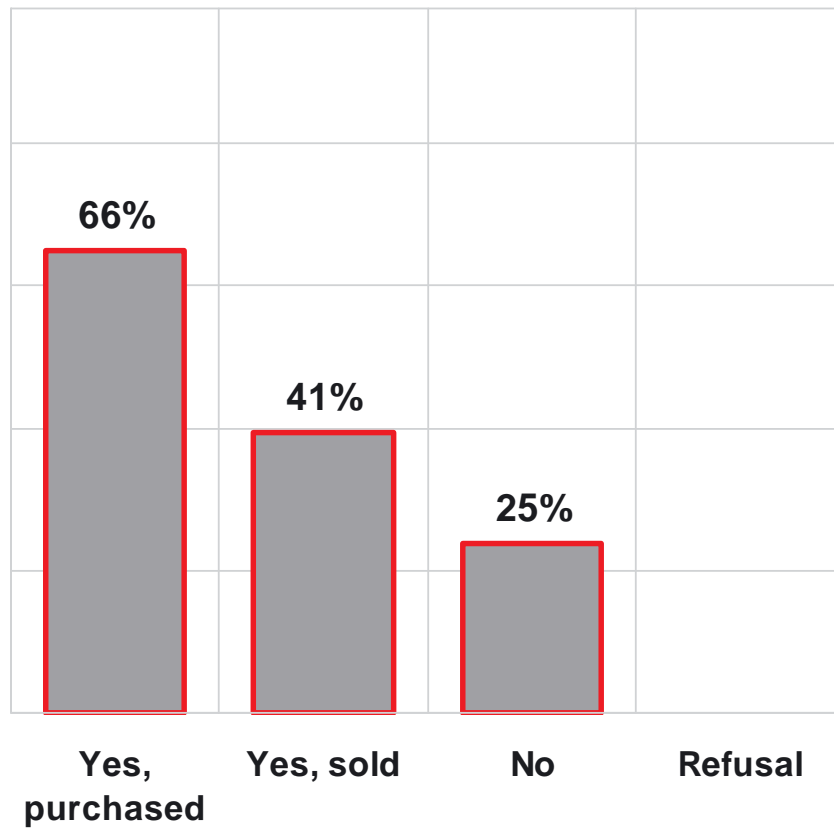
The number of mortgage loans has increased in the past five years, which corresponds to the changes in real property market activity.

Companies make use of mortgages considerably more frequently which coincides with the larger number of real properties owned by companies, as well as the number of purchased and sold real properties. Mortgages are most frequently used to finance the construction of new real properties, as well as to finance investment in business development.

**Picture 5 Have you personally or a member of your household purchased or sold a real property in the last ten years?**



Picture 6 Has your company purchased or sold a real property in the last ten years?



## 1.2.2 Institutional framework

This part of the survey mostly deals with citizens in the seven selected cities in order to get insight into their perception and knowledge of the cadastre and the Municipal Court land registry offices, as well as the benefits of registering real property in the land registry for both the public and the state.

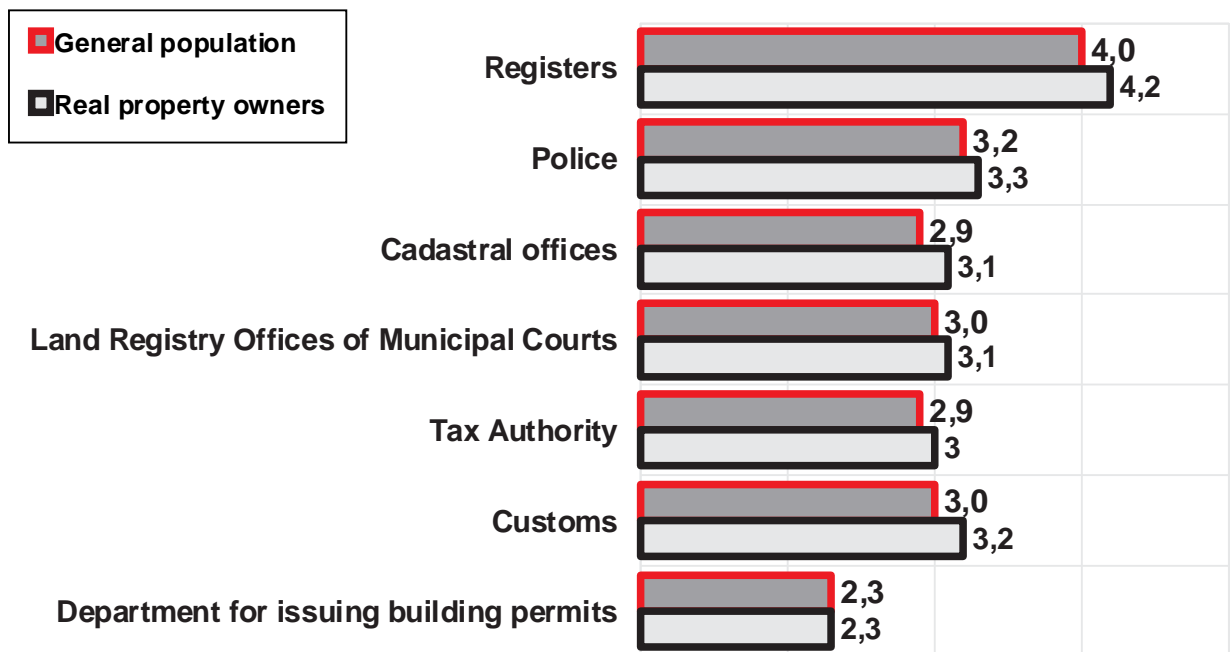
The cadastre and the land registry offices belong to a group of institutions that are to a large extent trusted by the public. 38% of respondents believe that the cadastre offices can be trusted, whereas 36% believe the same for land registry offices. The Police and the Tax Administration are also mentioned in this group. The public almost completely trust the Land Registry Office, whereas the Department for Issuing Building Permits is by far the least trusted (a little over half of respondents do not trust this department). The negative perception of this institution may influence the perception of functioning of the whole range of institutions related to real property construction and trading. Respondents from Zagreb and Split are somewhat more critical towards the land registry office and the cadastre, which is probably due to the size of the cities and the fact that these institutions have to deal with a large number of persons. When comparing the general population to real property owners in the seven selected cities, we may note that real property owners give somewhat better scores to all institutions, except the Department for Issuing Building Permits.

The people who own a real property are relatively well acquainted with the services that the land registry office provides – almost half of respondents correctly reported that the land registry office serves for the registration of ownership change. Around ¼ mentioned that the land registry office serves for registering real property in land registers. Respondents are somewhat less acquainted with the services provided by the cadastre, even though most responses were correctly related to this office. There is, however, insufficient knowledge of the services provided by the cadastre and the land registry offices as evidenced by the fact that respondents do not know exactly which institution issues which documents. Even though most respondents mention correct documents, some mention incorrect ones. It should be emphasized that the overall knowledge is good, yet there is a need to continuously inform the public of the function and purpose of each of these offices. In comparison to the general population, there are no significant differences, that is, their level of knowledge is the same.

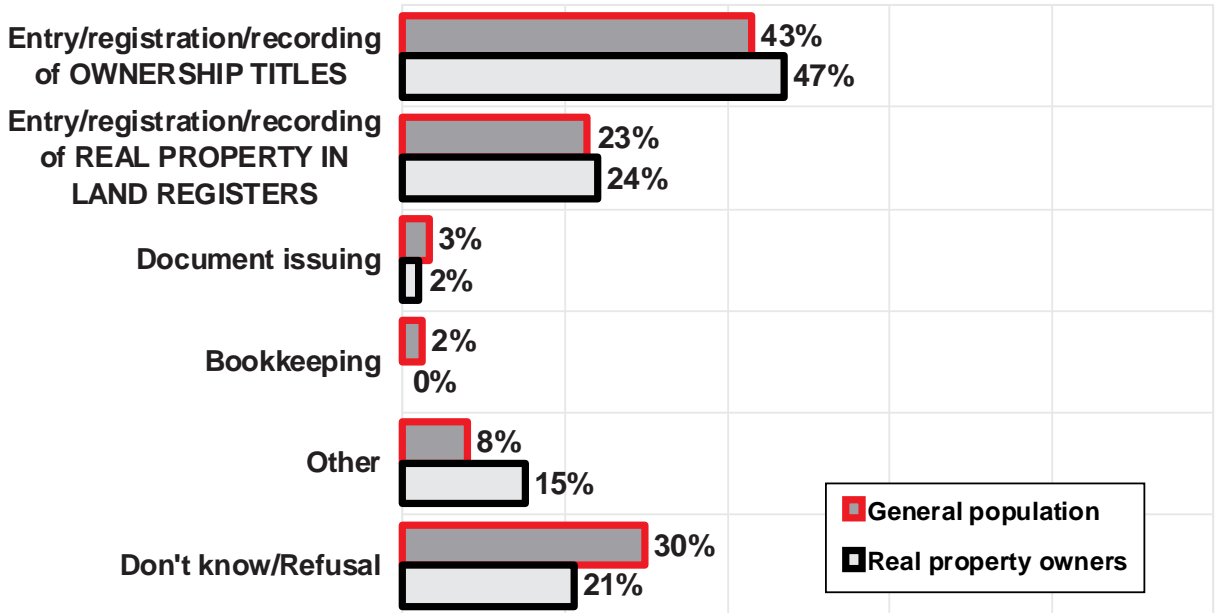
When asked to list the benefits of registering real property, the respondents most frequently mention legal security and legalization in general. These responses point to a relatively abstract level of thinking, whereas concrete benefits such as easier sale of real property or the possibility of obtaining a mortgage loan are mentioned less frequently. It would be useful

to point to the concrete, tangible benefits that registering real property brings to all parties involved. The real property owners' awareness of the benefits of registration for them and the state alike is at a higher level than it is for the general population, which could mean that recognizing these benefits prompted citizens to register their real property. The citizens believe that the greatest benefits of registering real property for the state come in the form of taxes and fees paid during the registration procedure, and not in the form of general legal security, or creating preconditions for free real property trade and development.

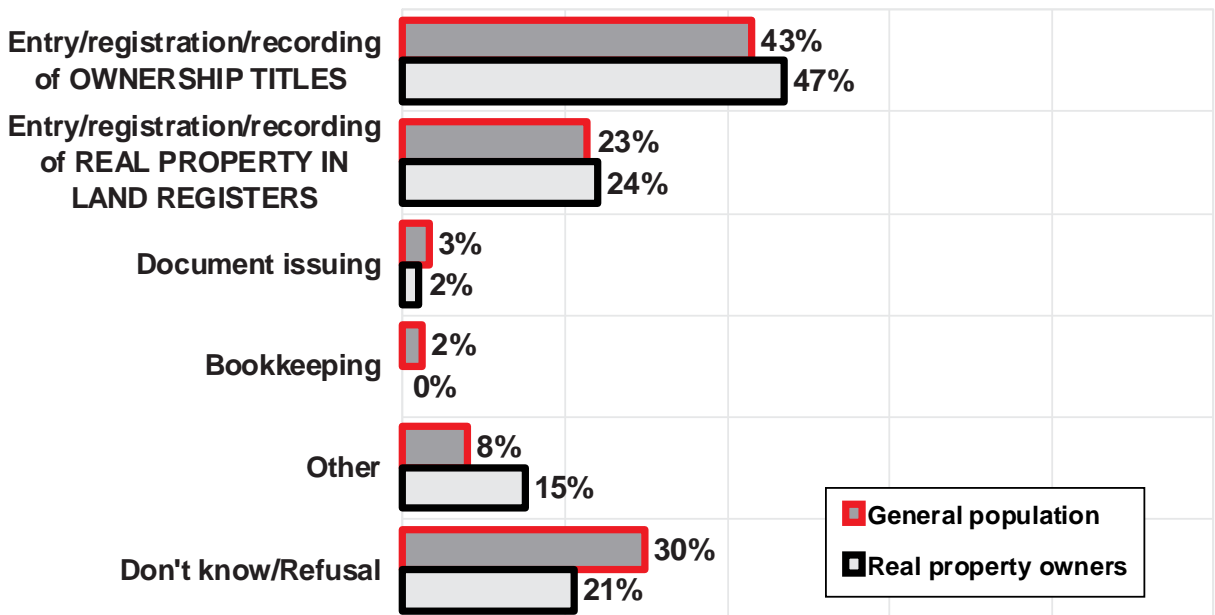
**Picture 6 Please evaluate how much each of the following institutions can be trusted in performing its work in compliance with the law and without any corruption or other forms of avoiding the law.**



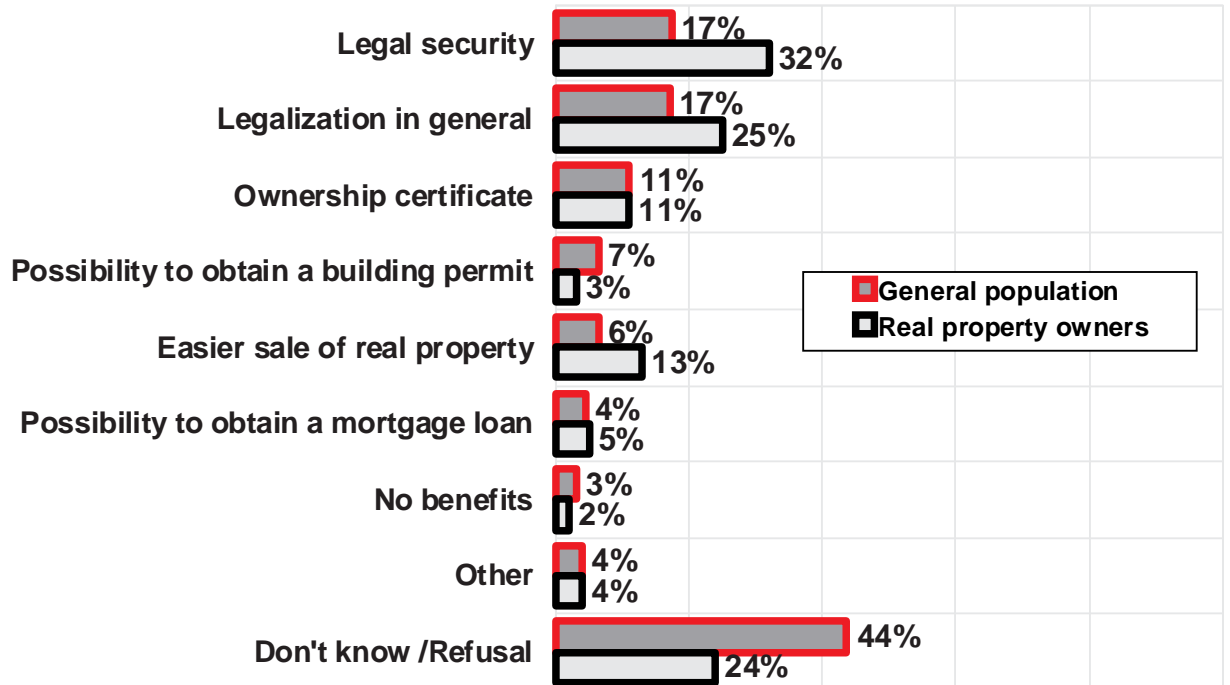
Picture 7 What is the purpose of the land registry office, i.e. what are the functions of the land registry office?



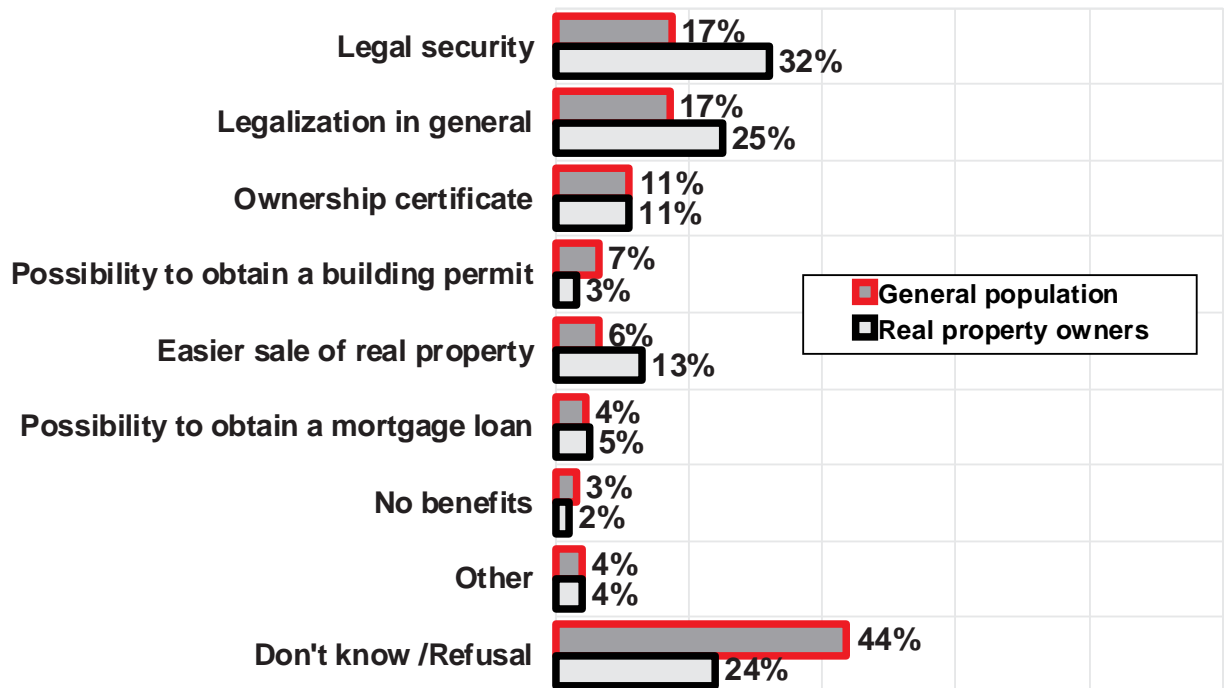
Picture 8 What is the purpose of the cadastre i.e. what are the functions of the cadastre?



Picture 9 In your opinion, what are the benefits of the real property registration for the citizens?



Picture 10 In your opinion, what are the benefits of the real property registration for the state?



### 1.2.3 Real property registration procedure

#### **Registration of real property of households**

One positive finding of the survey is that a great majority of real property owners (89%) have registered the real property they live in. Approximately 5% are in the process of being registered, whereas only 5% have not registered the real property they live in. No major deviations with the general population have been observed, that is, a fairly equal proportion of citizens have registered a real property. Even though this difference is not statistically significant, we have noticed that households with lower incomes to a somewhat larger extent do not register the real property they live in. Developing mechanisms for facilitating registration to certain groups of citizens might encourage these groups to register their real property.

The Osijek and Pula samples did not include any respondents with an unregistered real property. Even though the differences are not significant, we do observe that the proportion of respondents who have registered their real property is somewhat smaller in Knin, Split and Zagreb.

1/3 of the respondents have bought or inherited previously registered real properties. As the main reasons for registering their real property respondents mention the protection of their ownership, or respecting the law. A smaller proportion of the respondents decided to register exclusively in order to obtain a bank loan. Respondents from Osijek and Virovitica more frequently mention that they decided to register their real property in order to respect the law. Also, a great majority of real property owners who inherited or bought already registered property have made a registration of the change of ownership.

It should also be emphasized that a great majority of real property owners have registered other real property they own. Among the respondents who have not registered their property, almost half have tried to do so. This shows the existence of awareness of the importance of registering real property, but that the registration procedure is still problematic.

Almost half of real property owners initiated the registration procedure before 2001; a smaller number did so between 2001 and 2003, whereas there was an increase in the activity in the past five years, which may be indicative of improved communication and positive effects of the Organized Land Project.

As real property owners have mentioned, duration of the registration procedure varies. 16% report that the procedure lasted less than a month, 18% that it lasted more than two years. Considering the fact that half of the respondents registered their property prior to 2001, this information should be taken with a pinch of salt. Since a considerable amount of time has



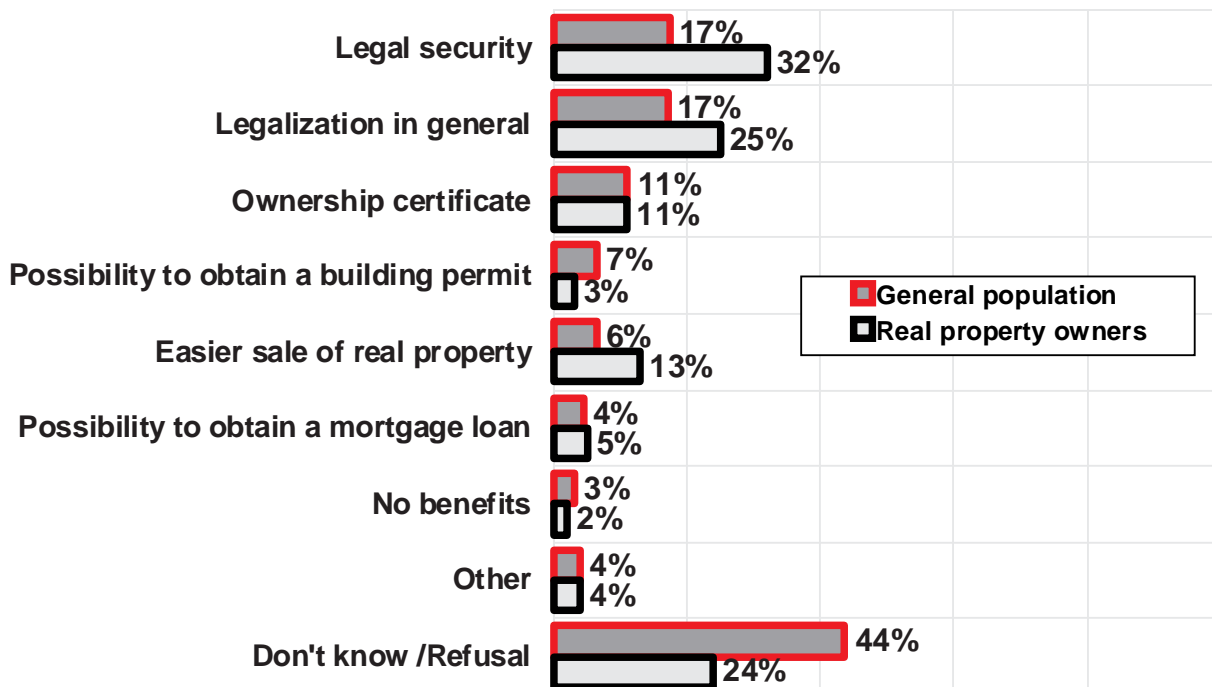
passed, the precision of responses has been compromised. It is also important to mention that the time necessary to register a property depends on the complexity of its status. The findings that registrations completed in the past two years have been processed more promptly than in other periods confirm the trends determined in the evaluation process, as well as by monitoring the work of land registry offices. This is a very relevant indicator of the progress in the registration procedure.

Registration costs do not seem to present a problem since almost half of respondents cannot remember what the costs were, whereas 28% mention that they were less than HRK 500. To a smaller number of respondents costs do present a problem because they mention not being able to afford to register their real property.

The registration procedure itself did not pose a problem for most respondents, that is, they did not encounter any difficulties during the procedure. Some property owners have encountered difficulties and some complain that the procedure is too long, whereas some encountered administrative errors, that is, incorrectly recorded data.

As the main reasons for not registering their property owners mention not being able to provide all necessary documents, and complicated situations regarding ownership.

Picture 11 Is the apartment or house where you live registered in the land registry office (i.e. the municipal court)?



### Registration of real property of companies

Companies also register their real property. Almost 2/3 of companies have registered all of their properties, whereas 30% have registered at least one, that is, some properties are registered, and some are not. There is a small share of companies that have not registered any of their real properties. Similar to citizens, companies mention the protection of ownership and respecting the law to be main reasons for registering. As we expected, companies mention mortgages more frequently than households, which is a logical reflection of their greater participation in the market. Since large companies own a larger number of real properties, they also more frequently have partly resolved ownership issues. Companies, too, show a high level of awareness regarding the importance of real property registration, which can be seen in the fact that most unregistered properties are in the process of being registered. All 21% of companies that were required to register change of ownership did so.

As with households, the lowest rate of real property registration occurred between 2001 and 2003. A great majority of companies that have not registered their property prior to 2001 did so during the Organized Land Project.

Companies also show various duration of the registration procedure. For 16% the registration is pending, for 14% it took over two years, whereas 13% registered in less than a month.

Companies have on average had somewhat larger costs of registration, probably as a consequence of more complex registration issues and more frequent use of lawyer services in matters concerning the registration procedure.

An indirect indicator of the procedures' larger complexity, as opposed to citizens, is a more frequent mention of the difficulties during the registration. Companies most frequently mention difficulty in providing all of the necessary documents, whereas citizens complain that the registration procedure takes too long. We may assume that citizens feel that their simple and routine cases should be processed more promptly.

### 1.2.4 Assessment of the Organized Land Project

At the very end of the survey the respondents were asked to assess the changes made in the cadastre and land registry offices, as well as their performance, during the past five years, that is, from the beginning of the Organized Land Project. When assessing the performance of the cadastre and the land registry offices, only respondents who had had experience with these two offices during the past 5 years were asked to assess their performance. From the subjective perspective of the respondents, the Organized Land Project has had a positive

effect. One half of respondents believe that the performance of the cadastre has improved in the past 5 years, whereas 58% of respondents say the same for land registry offices. A significantly lower number of respondents give negative evaluations. Respondents from Zagreb see positive changes in the cadastre performance more frequently, whereas the same goes for the land registry office in Rijeka. 42% of real property owners (among households) give positive evaluations of the performance of both of these offices, whereas only a small number of respondents are dissatisfied with the progress.

Companies that own real property also more frequently mention progress in both offices. Positive changes in land registry offices are mentioned by 65% of companies, whereas 54% say the same for cadastres. 46% of companies give positive evaluations to the performance of both offices.

### 1.2.5. Potentially vulnerable groups

The research did not particularly or unambiguously single out any groups as potentially vulnerable. However, there are indications that some social groups, especially those with low incomes, are less active in the real property market and they show a tendency of not resolving their proprietary-legal issues.

There is nothing to indicate that the members of the Serbian minority in Croatia stand out as a potentially vulnerable group. There are several reasons why this information must be treated with much caution. The first reason is the fact that there is a very small number of members of the Serbian minority represented in the sample (N = 30). The second is the fact that the survey did not include members of the minority who do not permanently reside in Croatia but are real property owners. The institutional survey indicates that these are the most vulnerable citizens of Serbian nationality, due to the fact that participating in court procedures from another country is very expensive and complicated. The worst case scenario that also should not be ignored is that unresolved real property legal status in Croatia is preventing some members of the Serbian minority from returning to Croatia.

The group still in need of special attention consists of persons with lower levels of education, primarily with respect to receiving additional information about the functions and benefits of real property registration.

It was not possible to unambiguously single out women as a potentially vulnerable group, because there are no clear signs indicating that women are a vulnerable group. There is a

possibility that women perceive themselves as real property co-owners even though formally that is not the case, but we were not able to confirm these assumptions in this survey.

## 2 Institutional study

### 2.1 Introduction and methodology

The institutional study is part of the Social Assessment Study which collects data complementary to the social study, with respect to prominent protagonists in the real property ownership rights system. This is primarily the basic institutional framework which includes the cadastre and municipal court land registry offices; followed by units of local self-government as prominent users of cadastres and land registers and, finally, other institutions dealing with specific problems and groups in the real property ownership rights system.

The institutional study included the same cities as the social study: Zagreb, Rijeka, Osijek, Split, Pula, Virovitica and Knin.

In these locations we conducted in-depth interviews with heads of cadastre and land registry offices. In-depth interviews at the same locations were conducted with representatives of local self-governments<sup>3</sup> who deal with problems related to real property ownership rights. The last group of respondents are not related to the cities but, rather, to specific groups with difficulties in realizing their ownership rights: this part of the report gives accounts of interviews with various associations dealing with real property ownership problems in general, with problems of owners of nationalized property, building management, and social consequences of the problems faced by members of the Serbian minority in the system of real property ownership.

The survey report is divided into sections according to the topic of the survey.

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<sup>3</sup> Representatives of the Knin local self-government refused to participate in the survey

## 2.2 Basic institutional framework: cadastre offices and municipal court land registries

### 2.2.1 Tasks and activities of the cadastre and land registry offices

#### **Basic tasks of the cadastre and land registry offices**

Basic tasks of the cadastre offices and land registry offices may be most precisely and thoroughly defined by using official descriptions of the activities they perform. However, descriptions of these activities have also been obtained in the interviews with the purpose of gaining insight into how heads of cadastre offices and land registry department judges perceive their basic tasks. Their insights may provide a more accurate account of the actual situation than the official definition can.

Heads of cadastre offices consider their institutions' main activity to be keeping record of real property changes, that is, the technical aspect of real property records. In relation to this, another main activity is updating the cadastral register of parcels and their graphic representations. In addition to this main task, important everyday tasks include working with clients and issuing certificates based on the data that they hold; thus, cadastre heads mention issuing cadastre plan copies, issuing property deeds, making records accessible for public view and the like.

The respondents from land registry offices within municipal courts list the registration of real property rights as their primary task. The activities they most frequently perform include solving cases, entering data in land registers, verifying land registers and issuing title deeds.

#### **Changes in tasks and priorities in the past 5 years: a parallel representation of cadastre offices and land registry offices**

Intense social changes in Croatia call for a redefinition of tasks of cadastre offices. The concept of cadastre offices has undergone thorough changes. Over the past few years these changes have significantly reflected on everyday activities of cadastre offices through the process of harmonization with land registry offices. During Socialist times, the role of the cadastre was specific: not only were cadastre offices concerned with the technical part of recording real property in space, but also with keeping records of property status. In a system that did not value private property, the cadastre took over the larger share of registering ownership status. Land registry offices had been in that sense largely neglected, but were later on expected to take on the leading role in registering ownership.

Together with these changes, the functioning of cadastre offices has also been strongly influenced by the digitalization of cadastral maps, which has made the data more easily accessible. This has been one of the crucial improvements with respect to user satisfaction and will be discussed in further chapters. New regulations have also affected the tasks and priorities of the cadastre, giving this office some new tasks (for example, their influence on preventing illegal construction).

The neglect of land registers has prompted the changes made in land registry offices during the past few years. The new priorities have become taking care of case backlogs, the digitalization and verification of land registers, the main outcome of which should be the complete regulation of land registers (which has not yet been achieved).

Some heads of cadastre offices have expressed their opinions and dilemmas concerning the new relations between cadastre and land registry offices. The harmonization with land registry offices has become the new priority of cadastre offices. When speaking of the changes in the relations of these two institutions, one respondent observed that the cadastre has gone from being a register of spatial changes to a register of real property rights, thus basically losing its purpose of existence. Another respondent mentioned that the process of harmonization is sometimes implemented at all costs, leading to an adoption of inaccurate data from land registers to the cadastre, thus corrupting the cadastre's accurate data.

## 2.2.2 Improvements and progress in the past few years

### **An outline of the status in 2001 (the last institutional study)**

As an introduction into the topic of improvement and progress of cadastre and land registry offices in the past few years, we will briefly outline the most important findings of the corresponding part of the institutional survey, conducted in 2001 by the Target agency for the purpose of the U.K. Department for International Development, World Bank and MPULS.

The priorities mentioned by respondents from cadastre offices in 2001 were related to collecting more accurate, recent data by means of new cadastral surveys, by completing the computerization and digitalization process, and harmonizing the mismatched cadastre data with the land registers. Problems related to the realization of property rights and transactions actually stem from these deficiencies that must be resolved. According to the attitudes of all respondents, these problems equally affect all groups of users.

The respondents believe that the condition of land registries is much worse, the very opposite of how it should be. They believe that the registers are disorganized and not up-to-date. One other important fact is that the main activity for the majority of the land registry staff is working

with clients, filing new cases and the like, leaving them very little time to tend to case backlogs. This leads to a slow and complicated registration procedure and is particularly characteristic for the Zagreb and Split offices. Suggestions for improvement consist of better work distribution and computerization, which would give users independent access to information and provide the staff with more time to handle cases. The respondents also believe that it is necessary to increase the number of employees in order to decrease case backlogs.

We will elaborate in detail the changes mentioned by the interviewed employees of cadastre and land registry offices in this year's survey - changes that have occurred in the past few years and have been directed towards solving problems recognized by the previous research.

### **Evaluation of the current situation**

When asked to evaluate how successful their organization was, the respondents were uncertain as to which reference frame they could use for evaluation. For this reason it is not possible to obtain a general evaluation of the organizations' success on one of the scales, but it is possible to describe the opinions of the respondents and discover their attitudes about the framework within which their institutions operate.

Employees in cadastre offices frequently base their evaluation of their institution on the success achieved within their capacities, that is, problems they have to deal with. They do give positive evaluations for success, but they also emphasise that success depends on their capacities, implying that there is room for improvement. One of the respondents mentioned that the situation is now better than it used to be, and another reports that his institution is successful because, in addition to their regular work, they also do extra projects.

Employees of land registry offices measure their success mostly by their promptness in solving cases. One respondent from the Municipal court land registry office in Zagreb believes that the institution is unsuccessful because they are not prompt enough, that is, their case backlog is too extensive. Other land registry offices consider themselves to be successful, either because they really are prompt or because of the increase in promptness over the past few years.

### **Business activity improvement indicators for the past few years**

Business improvement in both cadastre offices and land registry offices can be reduced to three basic categories: improvements with respect to the promptness in issuing relevant documents, improvement in the promptness in solving cases, and the improvement of

information quality and accessibility. The additional indicator of progress – the evaluation of increase in user satisfaction – will be discussed in a separate chapter.

These improvements, which we will discuss in more detail, have been achieved by means of several factors, but the most important ones are the combination of information technology and employee education and, especially in land registry offices, hiring new employees.

In cadastre offices the improvements of registering real properties is strongly influenced by digitalization and information technology. Digitalization enables easier access to information, e.g., printouts of most frequently demanded documents, and there is also the possibility of obtaining a graphic representation of data. Given the fact that promptness is one of the basic demands of users of the information provided by the cadastre, the computerization factor has a strong influence on the perception of improving the performance of cadastre offices. One of the respondents mentions that the introduction of information technologies immediately generates positive effects, which makes it justified and necessary to keep up with the latest technology, in terms of equipment, and seminars and workshops for employees.

We observe a somewhat different situation in land registry offices. Their main problem has been extensive case backlog, influenced by a relatively long procedure of issuing official documents. The main condition for improvement has been the hiring of the new personnel to solve cases and at the same time copy and verify land registers to a digital format. These improvements generate other improvements because quick access to land registration files and solving old cases enable employees to spend more time solving new cases or taking care of case backlogs. Internal communication has also improved, e.g., by introducing internal network forums which help interpret regulations.

### **Difficulties the cadastre and land registry offices encounter nowadays**

The difficulties pointed out by respondents within cadastre and land registry offices can be divided into two basic groups.

The first group of problems refers to the long-term neglect of the institutions' main activities. This is why cadastre office respondents are not completely satisfied with the current situation, despite huge improvements during the past few years. They claim that the problems lie in cadastral surveys and the fact that they do not know the extent to which the cadastre plans they hold in their database correspond to the actual situation. According to these respondents, in order to solve these problems, it is necessary to provide significant funds and to hire a lot of surveyors, that is, geodetic companies.

Respondents from land registry offices have the same problems; they claim that land registers are in a bad condition due to a long-standing neglect, and that they do not reflect



real ownership status. They believe that improvement is possible only through cooperation with citizens, that they should show more interest in their real property, which would bring land registers closer to their actual status.

The second group of problems is related most frequently to resources available to cadastre and land registry offices. Almost all cadastre offices have problems with employees, because a lot of them, after accumulating experience, transfer to the private sector due to better salaries. Land registry offices also report of being understaffed, as well as more frequent problems with basic means of work, such as poor information technology support or inadequate facilities disabling them to work with clients.

### 2.2.3 Limitations to obtaining ownership rights and transactions

#### **Evaluation of the current situation**

By means of general evaluation of the current situation the respondents evaluated the general status of ownership rights and the ability to conduct transactions, from the perspective of their institution. When seeking the answer to this question in cadastre offices, the respondents often referred us to land registry offices, because they are more directly related to these issues. However, the respondents are aware of the importance of the cadastre: they say that the cadastre holds quality data consistent with the actual situation on the field. Also, they claim that the data is registered better in the cadastre than it is in land registry offices. The respondents from cadastre offices often refer to the process of harmonization with land registry offices: the harmonization is perceived to be a logical goal, but the respondents express dissatisfaction with the fact that better quality property status data from the cadastre is being replaced with lesser quality ownership status data from the land registry office.

The responses to this question given to us by respondents within land registry offices vary to a great extent, depending on the respondents' perspective. A proportion of the respondents report the situation to be much better than before because cases are registered much more promptly and information is more accessible. Others feel differently, claiming that the situation is not good because the land registers are not in order, meaning, they do not reflect the actual status of ownership. They do not deny the importance of the reduced number of unsolved cases, as well as easier access to information, but are not satisfied with the progress. They often emphasise the importance of cooperating with the users of land registry services, claiming that they should be more prompt and active in registering ownership changes of their real properties.

Therefore, the key issues are these three prominent aspects required for the functioning of the ownership rights and transactions system:

1. organized land registers (where the data in land registers corresponds to the real status of real property)
2. easy access to data in land registers
3. informed and motivated users.

It is important to notice that these three categories are related and that they both directly and indirectly affect one another. Organized land registers may be seen as the starting point and end point of this system. A certain level of accuracy of the data registered in land registers is necessary in order to ensure a meaningful system. When a certain level of accuracy is established it is extremely important that this accurate data is easily and quickly accessible. The Organized Land Project has shown that the ideal medium for a quick and easy access to this type of data is the internet. However, one disadvantage of the internet is the fact that certain vulnerable social groups, like senior citizens, citizens with lower levels of education or income have trouble accessing the internet and, in turn, the data in land registers.

The process of digitalization results in informed and motivated users of the real property ownership rights system. Even though this alone represents success, it is the motivated and informed users and their feedback regarding data in land registers that is crucial. This is one fact that the respondents have repeatedly stressed: the awareness, knowledge and motivation of users are extremely important for the success of regulating data in land registers. Every new registration represents an improvement of the system, just like every piece of information and user interest provide help that is necessary for the functioning of the system.

### **The biggest problems in the real property ownership system**

The respondents within cadastre offices express different attitudes towards the biggest problems in the real property ownership system. Some respondents believe that inaccurate data in the cadastre presents a big problem, which they believe to be partly caused by the new regulations<sup>4</sup>, and partly by outdated cadastre surveys. However, more respondents concentrated on the relations between the cadastre and the land registry. Some respondents believe that the biggest problem is the fact that the data from the cadastre and land registry are not harmonized, and that the relations between the two institutions are not completely defined. There is mention of problems in the land registry office, for example, that their data is not up-to-date and that they neglected their work during socialist Yugoslavia.

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<sup>4</sup> According to new regulations, the cadastre does not record illegally built structures

Respondents within land registry offices also gave diverse responses which makes it impossible to reduce them to simple categories. The basic problem of land registry offices is their failure to reflect the real status of real property in the field. By resolving this problem, land registry offices would assume their real function. One respondent also mentioned that this problem has a powerful influence on the users of land registry services because it generates distrust. Another problem lies in the attitudes of the users of land registry services - they ignore the importance of registering real property and assign too much importance to the cadastre, problems that originate from the socialist system. There are also cases of land registers physically decaying, making them illegible and, thus, useless. One specific problem in Knin is the inability to deliver cases to clients: a lot of people who used to live in the Knin area and have registered real property in the land registers cannot be reached.

### **Problems in the real property ownership system and their influence on particular social groups**

The crucial question is how these problems affect particular social groups, that is, which social groups are more severely affected. The failure to understand the necessity of realizing ownership rights is not tangible on the face of it, but can be extremely serious. It is logical to assume that the elderly population will be the first to have difficulties in fully solving their problems related to the ownership system because they have gotten used to a different system in the past. As the respondents have mentioned, there are persons who believe that it is sufficient to register property in the cadastre, and that registering in the land register is less important. Due to low regular income, the elderly are those to whom real property can represent the only certain material possession and it is necessary for them to have their property registered and, thus, secure.

There are difficulties with contacting a specific group of people – refugees of Serbian nationality that escaped the Knin area during the Croatian War of Independence. This group's problems are somewhat different from the problems of other groups mentioned in this report: they require cooperation and special efforts in communication with the neighbouring countries in the attempts to inform these people that they can now resolve their ownership issues in Croatia a lot more simply than before.

### **Possible solutions to problems in the real property ownership system**

Solutions to the mentioned problems are most frequently sought in the harmonization (or merging) of mismatched cadastre and land registers. There are two concrete suggestions: copying the Austrian model (since we are dealing here with original Austrian records) or an

entirely new cadastre survey on which new land registers would be based. A respondent from Pula believes that the solution lies in gradual harmonization of cadastre surveys with land registers, in gradual conducting of new cadastre surveys (improvements in the cadastre offices) and raising the citizens' awareness of the importance of having their real property ownership status set in order (improvements in land registry offices). Respondents from land registry offices also believe that it is of great importance to inform citizens of the significance of settling their ownership issues, as well as their will to have their real property set in order.

### **Achieved improvements in the system and their significance**

Basic improvement in the system as seen by cadastre employees is complete organization of ownership records, which immediately produced results on the real property market. Improvements are also related to technological solutions - easier access to information on the internet has had a lot of benefits: easier functioning of the entire office, greater transparency and possibility of checking one's ownership status, thus enabling more efficient exchange on the real property market. Cadastre employees also believe that the improvements in land registry offices are significant because it was these changes that gave real meaning to the harmonization between cadastres and land registers.

Attitudes towards general improvements in land registry offices are the same, with emphasis on somewhat different factors that enabled them. Citizen participation is very important for the functioning of land registry offices. This is why one of the improvements often mentioned by the respondents is the change in clients' attitudes, which leads to their increased involvement. Naturally, the computerization, the access of online information and various brochures and leaflets also enabled this change of attitude and gave it more meaning.

The significance of system improvements can be seen on several levels:

- Easier functioning of the real property market: easier and faster transactions, increased security for all parties involved
- Easier investments: in order to enable investments, there should be clear plans beforehand
- Increased revenue of local self-government units: parcel owners that are clearly registered in the cadastre pay local rates, whereas activity on the real property market provides revenues from property sales tax.

More prompt conduct of the real property transactions and increased security in the procedure are extremely important to all social groups in Croatia. One of the reasons in favour of this is an exceptionally large share of real property with private ownership in Croatia.

Real property transactions in these situations offer a lot of important choices to many social groups who would otherwise not have these options. For example, retired citizens can significantly raise their quality of living by exchanging the real property they live in for a real property much favourable to them with respect to location, size or proximity to people who may be of help to them. An efficient real property market may enable them to do so.

Social groups that have difficulty finding employment can also benefit from an efficient real property market. Geographic mobility can be an extremely significant factor in finding employment. If real property transactions were conducted quickly and simply, without unnecessary costs, more of these persons would decide to look for work in other cities, thus increasing their chances for employment and a better quality of life.

## 2.2.4 Characteristics and satisfaction of users

### **Characteristics and basic demands of users**

As mentioned by the respondents within the cadastre and the land registry offices, their users are both physical persons and legal entities that are in some way involved in real property ownership issues. Most frequently involved legal entities are companies that are real property owners or co-owners, units of local self-government, municipal state attorney's offices, other government institutions, geodetic companies, real property agencies, construction companies and the like. Among physical persons these are most frequently real property owners or co-owners, or their legal representatives. The basic demands of the land registry users are related to ownership transfer requests, land registration files and access to land registers. Together with these demands that make up the basic activities of land registries, some activities are related to providing information to users, which is a difficult task for larger offices.

Basic demands of cadastre office users are copies of cadastral maps, as well as extracts or transcripts of property deeds. One of the specific demands of vulnerable groups reported by a respondent from the Knin cadastre office is related to issuing certificates on non-possession of real properties in order to obtain the right to welfare.

### **User satisfaction as a reference of success**

Cadastre and land registry employees have tried to make a general evaluation of user satisfaction with respect to the services they provide. The respondents mostly report that the

users are satisfied, because their relevant demands – prompt and accurate delivery of information - are met.

This evaluation cannot be separated from the overall image of improvement discussed in earlier chapters. It is the most frequently mentioned improvements, such as the digitalization of cadastral maps and land registration files, that have enabled the expedition of certain routine procedures (such as access to land registers), without considerable time loss for the users. We should in the same way view the high level of user satisfaction, especially with land registry offices. Due to considerable expedition of routine procedures, the users are more satisfied than before. The similar goes for cadastre offices, for which positive evaluations are most frequently related to expediting services. The respondents from cadastre offices mention possible other further steps: providing additional information and education to users, expediting deadlines for long-lasting procedures, further work on improving the accuracy of data, and enabling users to obtain official copies of cadastral maps online.

Out of all surveyed land registry offices, only the respondent from the Zagreb office believes that the users are not satisfied. Due to a constant large number of unsolved cases, users are often unable to register their real properties and so require lawyer services. In addition, a large number of people encounter complex problems and ask for help at land registry offices, but the staff is unable to provide them with the necessary assistance.

### **Changes in attitudes, priorities and demands of users during the past five years**

Easier access to information by means of computerization and digitalization has not only increased user satisfaction by expediting the issuing of documents and enabling routine access to land registers online. Combined with more intensive education of users, it has also influenced the changes in their priorities and attitudes towards the system of real property ownership rights.

Respondents from cadastre offices notice an increase in public interest due to easier access to data. Users themselves can notice errors and find information on potential further procedures. One other respondent mentions that better quality information and easier access to data lead to different types of user inquiries, making cases easier to complete for cadastre offices. New regulations have also changed the priorities of cadastre office users. This is why many respondents mention that one of the most frequent inquiries is whether a real property was built before or after 1968. Also, one respondent mentions that many new regulations significantly complicate business.

Respondents within land registry offices mention that the general improvements in business activities have increased user satisfaction, as well as their expectations. With intensive

education of users and accessibility of information, there has also been a change in users' attitudes towards ownership issues. This leads to a different type of inquiries, proving that citizens are becoming more and more acquainted with the problems of regulating their ownership status.

Users' increased expectations have caused problems in particular offices where citizens expect immediate receipt of land registration files, which is not possible if they have not been verified. A respondent from Pula explains that the launch of the Organized Land Project has led to more registrations which, in turn, leads to general improvement of land registers. Respondents in the Zagreb office notice that users have become more cautious and that they use the internet to follow the process of registration of their real property.

### **Specific groups of users, their problems and possible solutions**

Among the specific groups of users that the respondents have noticed in their cadastre and land registry offices there are most of those with problems related to real property ownership status. These are most frequently users with unresolved condominium ownership issues, users seeking the return of nationalized properties, apartment co-owners and owners recorded in the book of deposited contracts. In these cases the only efficient help very often comes from hiring a lawyer, which is a considerable expense for users with lower incomes. Respondents within the Zagreb land registry office point out that a lot of users seek help from the so-called "quasi-lawyers" that is, senior clerks from land registry offices that are not able to help users due to their lack of knowledge on the modern work principles.

In Knin there are two prominent vulnerable groups of people. One group consists of older users who can be seen as a partly separate group in the process of the regulation of the cadastre and land registers. They frequently do not have the skills to gain easy access to digitalized data, and they have a hard time adjusting to the new way of registering ownership in land registry offices because they believe that this is still done at the cadastre. The second vulnerable group are those who own real property in the Knin area, but do not longer reside in that area, making it very difficult for the registry/cadastre employees to reach them. This is why their ownership is not registered and why they cannot obtain ownership security of their property. These are the persons who have moved to Serbia after the Croatian War of Independence, leaving their real properties behind. A firm action of informing people in Serbia could help these users to realize their ownership rights. More on this topic has been heard from a respondent who is a member of the Serb National Council and whose opinion is dealt with in one of the following chapters.

A specific group of citizens in the Croatian rural areas are farmers. They own parcels that do not have great exchange value, but do have utility value that can be additionally increased by registering their surface type in the cadastre, which entitles them to receive agricultural incentives. Since the procedure for the approval of incentives demands that ownership status be resolved, it also sometimes means bigger costs which this group sometimes cannot afford.

## 2.2.5 Cooperation among institutions

### **Cooperation among cadastre offices and land registry offices, problems, suggestions for improvement and achieved improvements**

The cadastre and land registry offices are two institutions that most frequently cooperate, since the data they work with is complementary. Clerks in cadastre offices are mostly satisfied with their cooperation with land registry offices, with several suggestions for improvement. They find that it would be most important to establish direct communication, to have many meetings or conference calls, because experience has taught them that problems, which could not be solved via correspondence, can be easily solved this way. One employee mentions that there are certain problems with the harmonization of regulation interpretation in land registry offices, as well as the objective problem of the lack of staff. Land registry employees believe that primary improvements should refer to better coordination with cadastre offices, so users would not have to repeatedly visit these two offices. Identical to the employees of the cadastre offices, land registry employees have noticed that regulations are partly mismatched. A respondent from Zagreb says that the problem lies in the fact that most communication between offices is based on acquaintances within offices, because the procedures through regular channels take too long. This is why a large part of improving communication was based on introducing a large number of people, and not by systematically improving the communication channels.

There are two major factors influencing cooperation between the two offices. The first would be the greater emphasis on direct communication, phone calls, discussions and meetings which prompt cooperation, enable more agreements and a better interpretation of regulations. The second reason has a huge cognitive value: the respondents claim that the cooperation between the cadastre and the land registry before the Organized Land Project was bad precisely due to a poor condition within both of these institutions. Mutual promptness in itself increased the satisfaction related to cooperation. This goes particularly for the land registry offices where decreased case backlog has given new meaning to registering real property ownership rights, and has enabled other services that they cooperate with to perform their tasks more efficiently.



## 2.3 Key institutional users: units of local self-government

Social impact analysis from the perspective of units of local self-government demands a somewhat different structure than the social impact analysis of land registry and cadastre offices. Due to the heterogeneous quality of these groups of respondents the meaningful units are somewhat different. The cities' size and different organization of local self-government units also define the responses, thus making them impossible to be viewed within the same context.

For this reason the first unit will include respondents from Rijeka, Zagreb and Osijek. The problems encountered by the respondents from these cities are similar, which is influenced by their positions in the organization of local self-government, together with the size of their city. Given the fact that the content of their interviews is very informative and has great cognitive value in the assessment of social impact, this chapter will mostly recount their views, indications of problems and possible solutions.

The second unit of this chapter includes interviews with respondents from Pula, Virovitica and Split. The contents of these interviews are heterogeneous, but give insight into some additional problems and possible solutions, which will be listed and interpreted within other responses.

### 2.3.1 Units of local self-government: Zagreb, Rijeka and Osijek

#### **Zagreb: Analysis of obtained data**

The Zagreb respondent is a member of the Zagreb City Office for Legal-Proprietary Relations and the City's Assets which is in charge of managing the real property owned by the city of Zagreb. The central part of this Office business activities' is managing real property, and the activities it conducts include the leasing of property and conducting real property transactions. More specifically, the Office provides necessary land for various infrastructure projects. This means they have to be extremely well acquainted with the problems outlined by this report – ownership rights status and respecting those rights when pressured to violate them.

The Zagreb respondent's general evaluation of the Office's performance is that it is mediocre. His main criticisms are directed towards activities that he believes are not executed promptly enough, insufficient planning and low level of organization, whereas the major problems would be: the lack of internal organization, the fact that the Zagreb land registry office is not prompt enough, together with the latent, but deep-seated conflict with the Attorney General's Office regarding matters of state property.

Should there be improvements in the internal organization, it is necessary to have a planned project approach modelled on quality project management, managed according to assessments of necessary resources and costs.

The respondent gives exceptionally extensive accounts of problems regarding the cooperation with land registry offices. These problems are surely caused by the big expectations that the city of Zagreb has from land registry offices since land registry employees are hired part time by the City to solve cases related to City property. Apart from making the land registry office more prompt, the respondent believes that the primary task should be establishing cooperation with the Municipal State Attorney's Office based on mutual trust.

The heart of the problem are numerous unsolved old cases which overload the existing infrastructure, for example, roads that are not registered in land registers. In this case the respondent advocates the liberalization of regulations and some kind of a „final point“, a dead line to register roads according to set procedure.

With respect to realization of ownership rights and their limitations the respondent reports that the procedure is extremely slow because of many administrative obstacles. Suggestions for improvement include changes of regulations (by means of better cooperation of the state and units of local self-government) and better communication. The respondent also points out to a very important problem: by means of contracts with investors the city has protected itself from potential law suits by citizens, but they do remain a latent possibility. This risk of law suits has been taken over by investors, but economic activity and jobs created at these locations are not legally protected.

With respect to the Organized Land Project the respondent believes that it, basically, does not solve crucial problems but, rather, is an expression of political will and that it points to the problem, but not to a solution. He also mentions that the project has influenced the increase of promptness within land registry offices.

The respondent believes that the vulnerable group of citizens includes those who bought land from the City up to 2000. These are the cases in which citizens are not able to register the land they bought from the City because the City's prior ownership, which should have been registered, is not recognized. The respondent reports that in these cases his office provides advice, but that in some matters, it is important to reach an agreement within certain city offices, which is not always possible.

When speaking of cooperation with institutions, the respondent emphasises that there has been progress within land registry offices, that his office has great cooperation with the

cadastre, but that the crucial problem is the lack of communication with the Municipal State Attorney's Office.

### **Rijeka: Analysis of obtained data**

The Rijeka respondent is a member of a city department whose task is to meet all the requirements necessary for the city's development. He also mentions that the most difficult phase of this task is reaching an agreement on the amount of land compensation.

When evaluating the performance of his own department, the respondent concludes that their performance is successful within the legal framework they operate in. Since land preparation (with respect to reaching an agreement with owners or by expropriation) is the key factor for bigger projects, a large part of success comes down to the ability of negotiating with the state or government institutions. He concludes that the relations between these institutions and his Department are in a considerably bad condition.

The basic task of this department with respect to realizing ownership rights is registering all of city's property. According to the respondent, these are the biggest problems in the process:

- mismatch between the cadastre and land registry offices
- a number of unknown owners
- the fact that the state is registered as the owner of real property that it is not entitled to
- long duration of expropriation procedures.

Naturally, these problems also affect the real property market: the respondent believes that the market is quick to recognize quality projects, the number of which would increase if the system should improve. The Organized Land Project has brought his Department concrete benefits with respect to easier access to real property ownership information. On the other hand, he does not believe the Project to be of any importance with respect to the major part of the Department's activities because these revolve around negotiations with land owners.

The respondent's Department has direct impact on users during the process of expropriation of citizens' property, due to public interest. The respondent says that compromise is necessary in these situations, and that over time these procedures do become more acceptable to citizens when they realize that they have not been short-changed. He also believes that citizen satisfaction has in time increased due to an increase in the amount of compensation that city pays for expropriated land.

The following groups have been identified as having problems regarding their real properties:

- persons who have not regulated their ownership status
- persons with some form of co-ownership facing problems in reaching an agreement with other co-owners
- persons that cannot be reached.

As a means of mitigating these groups' problems the respondent mentions the following solutions: better functioning of courts in cases where persons have not regulated their ownership status and better quality procedures in cases where persons cannot be reached. The respondent reports that his department most frequently cooperates with large companies, utilities service companies and public corporations. Problems occur in situations when there is need for proprietary-legal preparations. In such cases the respondent mentions that the Department has to contact the Central State Administrative Office for State Property Management, but that the attempts to communicate usually fail.

#### **Osijek: Analysis of obtained data**

The Osijek respondent believes that the situation with real property ownership rights is considerably good, due to the city's good records of its real property, which for the most part match the actual status. This is the result of quality old cadastre surveys and good coordination between the cadastre and land registers.

The basic problem is the return of nationalized real property, that is, their undefined status. The insecurity makes owners reluctant to invest in these properties until their status is defined. One particular problem is the fact that these real properties are frequently located at the city centre or are cultural monuments and it is in the interest of the city to renovate them. However, this does not happen due to unresolved ownership relations. The solving of these matters would enable the city to make efficient plans at the benefit of the citizens.

The local self-government representative from Osijek claims that the contribution made by the Organized Land Project is extensive, with emphasis on better access to information. He does, however, stress the necessity of further organization of land registers, which would result in complete harmonization of online records with the actual status of real property ownership.

Furthermore, the respondent points out the role of the city of Osijek in helping to provide housing to low income citizens. He perceives these citizens as members of a vulnerable group that the City tries to help, provide accurate information and tell them how to realize their rights, and the like.

One other problematic group of users would be those with unclear real property situations due to nationalization and return of nationalized property. One of these is the very city of Osijek.

### 2.3.2 Other units of local self-government (Split, Virovitica, Pula)

Respondents from other cities of interest have confirmed that a long-standing neglect of real property owned by cities is one of the biggest problems encountered by units of local self-government. The Virovitica respondent claims that long-standing neglect of real estate owned by the city was caused by the lack of legal real property registration, which would make the improvement of registers the most important task of the newly established Department. The current records of real properties are merely economic, not legal.

The Split respondent gave his account of the main causes of problems in the system of real property ownership rights. In his opinion, the main cause of problems is the social system which neglected real ownership rights, which is why real property owners did not register their ownership. One other factor that added to the problem was the processes of nationalization and confiscation which caused additional insecurity and problems. Undeveloped real property market did not encourage taking care of real property registration.

Finally, the respondents agree that quality, harmonized and accessible records would enable great time savings and considerably more efficient planning and business of city services, for example, with building infrastructure.

## 2.4 Specific institutional users: associations dealing with ownership rights

For this part of the study we used the respondents who are representatives of some prominent associations dealing with different aspects of ownership rights in Croatia. These are the associations: The Croatian Association of Owners of Property Seized during the Fascist and Communist Regime, The Osijek Tenants Association and the Croatian Association of Real Estate Owners. Each of these organizations has its own specific purpose, so we will give separate accounts of each one.

### 2.4.1 The Croatian Association of Owners of Property Seized During the Fascist and Communist Regime

To put it briefly, this organization represents a clearly set target group: real property owners whose property was confiscated by the Communist regime.

The Association protects the interests of owners who are trying to return their property, and gives advice on how to manage this property. Its activities are limited to providing information and advice to citizens and it functions as a place where groups of people who are in the same situation can exchange experiences.

As mentioned by the respondent, the Association performs some sort of a social function. Since the problems citizens deal with here are of legal character, it would be logical for them to seek lawyer services. However, the respondent says that the Associations' users cannot afford these services and that hiring a lawyer could cost them as much as 30% of the compensated properties' value. Given the fact that citizens with low incomes are not able to hire lawyers, the Association is the place where they can get advice on how to realize their ownership rights.

The problems Association encounters are:

- the fact that the Ministry of justice ignores citizens' problems
- the fact that problems are ignored by the media
- the influence of the State Ombudsman's office which appeals all decisions, thus prolonging all procedures
- difficulties in registering denationalized property.

User satisfaction is difficult to assess, given the fact that the users usually do not succeed in realizing their rights in a reasonable amount of time. The respondent believes that the

Association provides quality advice to users, but that the judicial system does not function in the way they think it should.

The respondent mentions the Association's good cooperation with the OSS office, and their remarks have also been reported to the EU representation in Zagreb. Their biggest complaint to institutions refers to the 2003 report in which it stands that officially, the denationalization of property was completed, which the Association vigorously denied.

### 2.4.2 Osijek Tenants' Association

The Osijek Tenants' Association is an institution primarily concerned with the quality of living. Their goal is achieved through the Association's task force, citizens' meetings and educational forums. Their most frequent users are house and apartment owners and co-owners, under tenants and welfare cases.

The most frequent type of assistance that this Association provides to citizens is legal advice and referrals to legal institutions. Their biggest problem is insufficient funding preventing them to have full time employees, which would be of necessity. The Association also needs a higher degree of concern of the local community, and sponsors, in order to achieve their goals.

As for limitations in realizing ownership rights, the respondent believes that property issues are generally undefined, whereas ownership relations are unresolved, causing legal insecurity. The reasons for this are unorganized ownership statuses, as well as the broader problem of the concept of property and the rights and obligations it implies. For possible solutions the respondent suggests:

- simplifying legal regulations and procedures
- the promptness in the activities performed by government and other bodies
- that every real property owner should take care of their real property and take responsibilities for it.

The respondent sees the Organized Land Project as a quality beginning stage which should produce actual results in the following period with respect to legal regulation of ownership relations. The improvements have influenced users in such a way that they pay more attention to providing necessary documentation, which was in the institutional study emphasised as one of the crucial elements of organizing land registers.

The Association cooperates with the Potrošač Association (a consumer protection association) and a whole range of city owned companies: Unikom, Toplana, Elektro-Slavonija, Vodovod etc. These companies are expected to be available for providing information, thus improving their cooperation with the Association and enabling it to perform its tasks as well as possible.

Changes prompted by real property owners' heightened awareness of the importance of regulating their ownership rights are indicated by the fact that users' demands are becoming more concrete, that they are better educated and are genuinely interested in obtaining all the rights that ownership yields.

### 2.4.3 The Croatian Association of Real Estate Owners

The basic goal of the Croatian Association of Real Estate Owners is protecting and improving ownership in Croatia. The respondent's opinion is that these primarily imply absolute respect of fundamental constitutional principles, followed by the development of the entire legal system on that foundation.

The basic activities of the Association may be summarized in the following three functions:

- the Association serves as a centre for the exchange of information on various ownership-related cases
- finding material on real property ownership related cases
- monitoring the work of the Constitutional Court, the Ministry, the Government etc.

The priorities of the Association to an extent overlap with the priorities of the previously examined institutions:

- legal security
- respecting the Constitution
- restitution of properties confiscated in '41 and '45 and during the Croatian War of Independence.

The basic problem in the functioning of the institution is a poor citizen response. The respondent believes that this is a matter of a deliberate media clampdown because these issues go deep into the newly formed ownerships, which he calls "paraownerships" due to their fundamental insecurity.

According to the respondent, the biggest obstacle in the functioning of the Association, that is, the biggest disadvantage, is the lack of political will to honour the fundamental constitutional



principles. This is also the starting point on which the Association bases its demands; they believe that it is necessary to harmonize all laws with the elementary principles of constitutional laws. The laws mentioned by the respondent in this respect are all laws referring to land registers, property law, compensation law, forest law, agricultural land law. The respondent believes that these laws allow for direct abuse of political power.

When making an evaluation of ownership rights, the respondent says that the system is chaotic, that the trust in land registers is non-existent, whereas the harmonization of land registers and the cadastre is incoherent. The main thesis presupposes that improvements are merely external, whereas substantial improvements, which must necessarily stem from respecting the Constitution, are not implemented. In addition to this, the respondent considers the Organized Land Project to be a necessity, but that it is premature, because restitution should first be completed, and then followed by the organization of the cadastre and land registers.

Out of the special problematic groups the respondent emphasises those with restitution difficulties: this particularly refers to persons of Serbian nationality who are unable to realize their ownership rights. He believes that in the past five years their problems have been decreased, but not sufficiently.

The Association has established cooperation with members of the Parliament and political parties, as well as international institutions for the improvement of democracy. However, he does believe that the illusion that the state is regulated to be contra productive and that the real situation does not actually rest on constitutional foundations, but rather, on the abuse of political power.

#### 2.4.4 Serb National Council: representatives of the Serbian minority in Croatia

As a body that represents minorities we have chosen for the sample the Serb National Council, an elected advisory and coordinative body which operates as Serbian self-government in Croatia for matters of inalienable human, civil and national rights, as well as matters of their identity, their participation and integration in the Croatian society.

The current situation in the real property ownership system in Croatia is generally evaluated as being better than it was five years ago. Positive examples are digitalization, easier access to data and more prompt receipt of land registration files.

In the real property ownership system the respondent mentions the following basic problems:

1. mismatch between the cadastre and land registers where, according to the respondent's opinion, there has not been enough progress
2. lack of unified case law, causing court to resolve certain problems in different ways
3. general lack of quality records; one example of which would be certain big infrastructure projects that have not been registered.

When evaluating the current situation in the real property ownership system related specifically to the Serbian minority, the respondent says that most exiled members of the Serbian minority have returned to Croatia, but in different capacities:

- some exiled Serbs have returned merely to try to resolve real property issues, but not to live in Croatia
- some have returned and reside in Croatia permanently
- some have returned, but do not permanently reside in Croatia.

The respondent reports that the problems that the Serbian minority encounters when attempting to realize their ownership rights are not very different from the problems of other vulnerable groups in Croatia, regardless of their nationality.

The biggest part of the problem faced by members of the Serbian minority is caused by illegal construction (mostly older houses illegally built in the 50's and 60's), the legalization process for which is extremely complex.

The second cause of the problem is the lack of quality land registers and insufficient flexibility in situations when the cadastre data is of better quality than the land register data. There are many cases where more accurate data from the cadastre is replaced with outdated data from land registers, but the users were not able to appeal these resolutions because their

residence was not registered at the address in question. The procedure of rectifying this situation is difficult because it requires expensive surveyors, and a lawsuit against the state. These problems are not unsolvable, but the socio-demographic characteristics of returned exiles categorize them into vulnerable groups of citizens, groups that have difficulties realizing their ownership rights. The respondent reports that returned exiles are largely persons of poor economic status, of low education, with no permanent residence in Croatia which are all factors that hinder them from realizing their ownership rights in the following ways:

- inability to hire a lawyer
- categorical refusal of lawsuits as something that is too complicated and repulsive
- the subpoenas in a lot of cases do not reach the right address
- lack of residence in Croatia makes potential procedures more difficult and more expensive.

In all land register related situations the efforts to reach owners is an extremely important part of the procedure. This problem is frequently very complicated because it requires locating inheritors of the persons registered in land registers, who have in the meantime died. The main causes of this problem are neglected land registers with old and unrevised data.

The respondent suggests two possible improvements for ownership records. The ideal method for improvement would be by means of technical reambulation and land registers based on that data. This way is the best, but lasts extremely long and is very expensive.

The second approach places more emphasis on the cadastre, since the cadastre data is revised and is better coordinated with the actual situation, than the data in land registers.

According to the respondent's opinion, if the status of land registers were resolved it would have a significant impact on the return of exiled Serbs since they are a vulnerable group of citizens who have greater difficulties in realizing their ownership rights than other (more educated, higher-income) social groups.