

Project “LAND REFORM BAROMETER: Information and Advocacy Campaign”

Land reform barometer

How to avoid corruption in registering land ownership rights

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Author

Petro Zalizniak
petro.zalizniak@gmail.com

Center for Political and Legal Reforms
Project “Land Reform Barometer”

4 Khreshchatyk Str., of. 13
Kyiv, Ukraine, 01001
tel.: (044) 278-03-17
fax: (044) 278-16-55
e-mail: centre@pravo.org.ua
web: www.pravo.org.ua

The survey conducted in the framework of Barometer of Land Reform: Information and Advocacy Campaign Project show that 40% of landowners experienced and heard about unofficial payments and other corruption activities in the process of registering the land ownership rights. As a rule, in order to receive appropriate documents or have them legally granted, individuals were informed that they had to pay unofficial fees, provide certain commodities or services. According to the survey conducted in Khmelnytska oblast, 38.3% of the respondents heard about unofficial payments; in Dnipropetrovsk oblast – 18.3%; in Autonomous Republic of Crimea – 60.9%. This article provides recommendations that might decrease the risk of corrupt activities in registering the land ownership rights.

Unfortunately, there are no well established methods or recommendations in the law practice that would eliminate corruption and guarantee that public officials would not demand money from claimants for registering their land rights. However, there are general guidelines whose implementation may significantly decrease the risk of corruption when a private person interacts with the state authorities or local government officials. In particular, the guidelines may be found in the manual *Prevention of Corruption in Self-Government Authorities: Practical Guide* from the Center for Political and Legal Reforms¹.

One of the main recommendations is a *high level of individual knowledge on how a certain public authority functions*. This principle has a dual meaning. On the one hand, public authority or self-government authority have to inform private individuals on administrative services and other activities that it performs. As a rule, this is supposed to be done on a news board of certain authorities. In this aspect a private individual can apply to the information desk of an authority with a request; ask responsible officials to grant a full access to legislative databases which regulate the authority's functioning and how the procedure of administrative services operates; visit a special consultative cabinet and approach information services and familiarize with the official web site and samples of documents (if there are any).

On the other hand, private individuals themselves can obtain information on how a certain authority functions from numerous sources that are independent from state authority or self-government establishment, e.g. legislative databases, various practical manuals, comments to legal acts and hot lines at public authorities (by the way, this is possible to do in your district as well as in others).

Given the fact that according to *Barometer of Land Reform: Information and Advocacy Campaign Project* the issue of unofficial payments primarily arise in areas of land privatization or land rights registration, it is worthwhile consulting the following Legal acts: the Land Code of Ukraine, the Law of Ukraine on Land Planning; the Law of Ukraine on State Land Cadaster; The Law of Ukraine On State Registration of Proprietary Rights for Real Estate and its Limitations,

and other legal acts which were issued to facilitate application of the aforementioned laws.

The second recommendation is that a private person shall obtain the information on *access to public authority and on timeframe within which a certain administrative service has to be performed by a public authority*. Such timeframes are usually prescribed by law or by local regulations. If such timelines are not met, then the public authority violates a law, subsequently a private individual becomes eligible to lodge a lawsuit to a court against illegal acts of state authority or self-government body.

It is also important to know the regulation of *internal control and supervision within certain public authority*. In other words, a private person shall know who is supervising and can affect a certain official who is responsible for delivery of services to a private individual.

In case if a concrete official behaves inappropriately and refuses to perform their duties properly or asks for a document or a certificate which are not foreseen by the law or other things, then it is recommended to address an official that supervises this particular official.

As experience shows, majority of the public authority and self-government authorities provide individuals with *the information regarding delivery of the administrative services*. It is advisable to familiarize with this information and compare it with the originals of the enforced legal acts which regulate this administrative service.

And last but not least, frequently unofficial payments and other corruption elements are being requested by so-called intermediaries but not by the officials themselves. The intermediaries often commit fraud and deceive private individuals.

Bearing the abovementioned in mind, *it is necessary to communicate directly with official of a state authority or a self-government authority when registering one's land rights* (for example, plot of land, receiving a state act for a plot of land, extract from the Land Cadaster etc)

To conclude, we would like to note that the knowledge of an individual on how the state authority or self-government body operates, leads to a significant decrease of the risk that some authorities may manipulate the information. It might also lead to a significant decrease of involvement of the third-party individuals (this happens more frequently) that convince private persons in doing some sort of work for them. Hence, before communicating with certain public authority, a private individual is highly advised to learn as much as possible information on how the state authority or self-government body operates, on timeframes and procedures for delivery of administrative service; and also the question of crucial importance is to communicate directly with representatives of public authorities.

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http://despro.org.ua/media/articles/07_book_banchuk_zapob_gannya_protid_ya_korupc_.pdf