

# THE ECONOMIC AND JURIDICAL ROLE OF LAND REGISTRATION

## A GENERAL ASSESSMENT

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for



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# WHAT IS ELRA?

- ELRA stands for European Land Registry Association
- AISBL created in 2005
- Objective: to support the development and understanding of the role of land registration in real property and capital markets in Europe
- Principle of respect towards the different EU legal systems
- Since 2005 activities co-funded by DG Justice
- Recognition by the EU institutions as the interlocutor representing land registries in Europe



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- The economic role of land registration
  - Hernando De Soto -“The Mystery of capital”
    - Without an integrated formal property system, a modern market economy is inconceivable.
  - Registration creates a mirror to the asset itself
    - It becomes a marketable object
    - Possible to use as a collateral
    - Creates right “Erga omnes” ( sometimes)



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- The role of cadastre and land registration
  - Cadastre
    - Collect geo spatial data
    - In order to inform the authorities
      - Basis for collecting taxes
      - Information for Policy making
    - Administrative role
  - Land registration
    - Private law
    - Deliver legal security to citizen on real estate
  - Both use the same data – but different goal



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- The traditional systems of land registration
  - Deed system
    - The deed is archived and indexed
    - Very little guarantees by the state
    - Avoiding double sales
    - Priority rules for mortgages
    - The need to go back to the root title for security
    - Inform third parties
  - Title system ( Torrens system)
    - The act of registration causes legal consequences
    - The "Mirror" and "Curtain" system



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- Pro's and contra's of each system
  - There is no best system
  - The deed system
    - Delivers poor guarantee
    - Is cheap and does not need highly qualified personal
    - Proof of title only after investigations
    - Problems with archiving paper
  - The title system
    - Gives proof of title
    - Thorough investigation before registration
    - Active role of Registrar and qualified personal
    - expensive



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- New challenges
  - internationalisation of the market
    - Cross border conveyancing
    - Demand for better information
      - More than most land registries actually deliver
      - Guaranteed as well as non- guaranteed
      - Geo- spatial
      - Always Up to date



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- The organisation of land registries
  - New technologies
    - Blockchain
    - Artificial intelligence
    - Big data
    - privacy
  - Cost cutting initiatives
    - Privatisation
    - Upcoming sociological changes



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- Roles for the surveyor – in a changing world
  - Nowadays everybody can measure
  - But not everybody can give guarantees on the result
    - The role of the chartered surveyor
      - A preferential partner in the process of providing legal security
      - A beakon of thrust to the citizen



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**Thank you  
Jan Moerkerke**

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