

# Country Report 2003

(Based on the PCGIAP-Cadastral Template 2003)

## Austria

Country/state for which the indications are valid:	AUSTRIA
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### I. Country Report

#### A. Country Context

##### *Geographical Context*

Austria is situated in southern central Europe, covering part of the eastern Alps and the Danube region and, although land-locked, it borders on the Mediterranean area. The country has a wide variety of landscape, vegetation and climate, and situated as it is at the heart of the continent, it has always been a junction for communication links between the trade and cultural centres of Europe.

Austria is a federal state with a total area of 83,858 sq.km, consists of nine provinces and has a population of 8.1 million.

Austria has common borders with eight other countries. The borders have an overall length of about 2,708 km.

##### *Historical Context*

Today's Republic of Austria is a small state, whose origins can be traced far back into history. Populated since prehistoric times, Austria's location in the heart of Europe means that it has had its share of the continent's historical developments. It evolved from a border region into a powerful empire and multiracial state, which collapsed at the end of World War I. In 1918, the small, newly proclaimed Republic of Austria followed by an administrative reorganization which also resulted in an joint up approach for Topographic Mapping and Cadastre in close cooperation with Land Registry. Austria emerged from World War II and the sufferings associated with it as a neutral state that feels secure in its existence and which plays a decisive role in Europe.

##### *Current Political and Administrative Structures*

The Austrian constitution is based on the Federal Constitution Act of 1920 as amended in 1929. The Austrian constitution is based on the undisputed principles of democracy, the republic state form, federalism and the rule of law. The constitution also includes a number of instruments of direct democracy, such as popular initiatives, plebiscites and referenda. Fundamental rights and freedoms have always been of the utmost importance and continue to be accorded height priority in the Austrian constitution.

### ***Historical Outline of Cadastre***

- From the 13th century there were sovereigns who evaluated on lists („Urbare“) their income.
- In the Middle Age it was usual to document contracts on real estate within cities in form of chronological lists. It was a documentation of individual civil rights and an example for a land register („*Grundbuch*“).
- 1718 Austrian Administration introduced a registration system within the Italian provinces for all buildings and parcels based on a surveying and mapping in the field. „*Censimento milanese*“ was designed and organized by Johann Jacob Marinoni (1676-1755). Within three years he managed the survey (including local triangulation) of 20,000 sqkm (which is as large as Lower Austria) only.
- 1812 Civil Code (*Allgemein Bürgerliches Gesetzbuch*): Principle of Inscription for immobile objects.
- 1817 Cadastre for taxation of achievable (not on real) profit from real estate based on objects = parcels. This was the first systematic registration of objects (parcels) of the whole country based on field survey. Completeness of taxed objects was guaranteed.
- 1870 Land Registry system was added to Cadastre introducing legal processes for documentation of owners and mortgages. The register was structured in 3 pages: (a) page A for objects, (b) page B for owners and ownership and (c) page C for obligations. The concept of this structure as well as the dual system of land register and cadastre is still in use nowadays known as Central European Land Registry system.
- 1969 Cadastre of boundaries (Legal Cadastre): The previous Cadastre (*Land Taxation Cadastre*) was extended by a qualitative attribute that secures the individual rights on boundaries. The requirements for receiving the qualitative attribute are a precise survey of the whole parcel and a written consent of all owners neighboring the specific parcel. Within the “Cadastre of boundaries” the state guarantees the boundaries of a parcel.
- In the early 1980s the digital “real estate database” was implemented, which contains both the information from land book and from cadastre in digital format. The unified data base has completely replaced the analogue registers and allows a countrywide access by web based services.
- Since the beginning of the 1990ies, this unified database can be accessed trough the web and was amended with the “Digital Cadastral Map - DKM”, which can also be downloaded by using modern interactive web tools.
- In 2004 the unified Address Register was added to the Real Estate Database System.

## **B. Institutional Framework**

### ***Government Organizations***

Institutional structure of Land Management Sector; the Key Players in the land management sector and their responsibilities:

Ministry of Justice	Land law
Court (County Courts)	Land book
Ministry of Finance	Valuation of land
Ministry of Agriculture and Environment	Law on land-consolidation
Ministry of Interior	Register of inhabitants
Local Agrarian Authority	Land consolidation
Ministry of Economics and Labour	Surveying and cadastre act
Federal Office for Metrology and Surveying (BEV)	National Agency for Cadastre, Topographic Mapping and Metrology
Cadastre Office (Vermessungsamt)	Cadastre

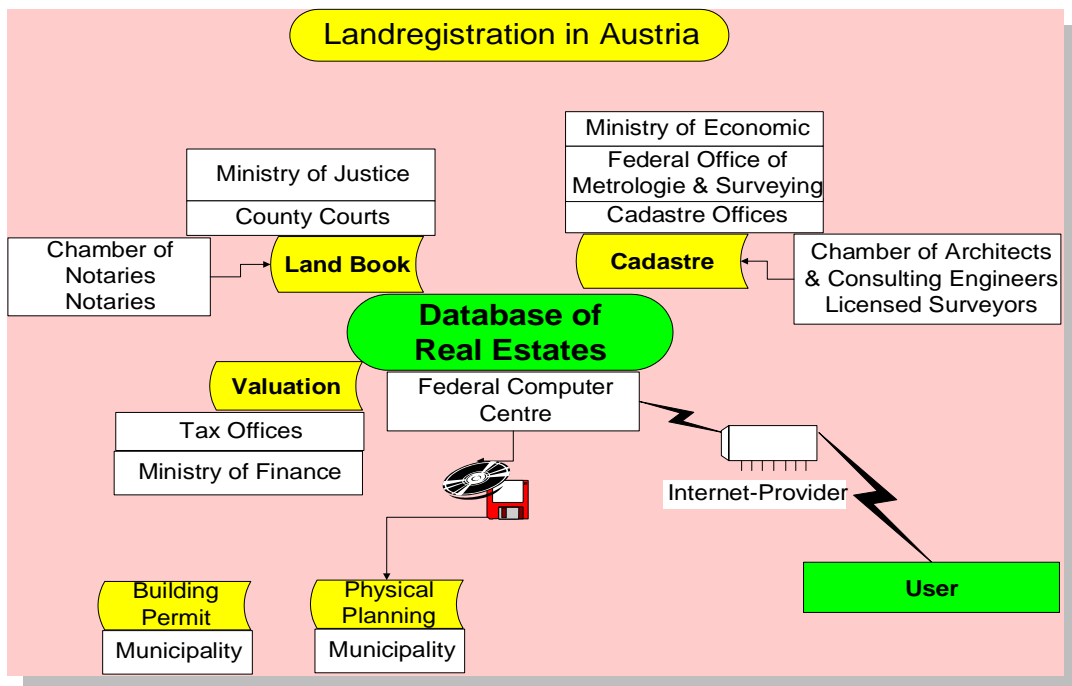


Fig. 1: Land registration in Austria.

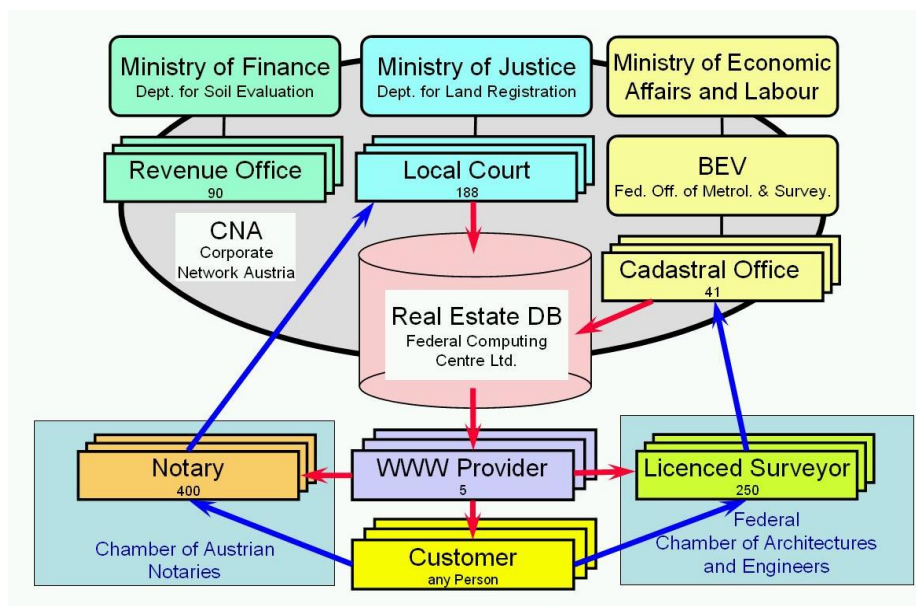


Fig. 2: Players and Data Flows within the Austrian Real Estate Data Base.

### Subject – Right – Object:

In Austria all real estate has been brought under the present system of land registration. Data about (a) Real property units, (b) real property rights and (c) holders of property rights are administrated and maintained by Cadastre and Land Register with shared tasks and responsibilities in land administration.

Each legal entity is mandatory identified by a property number (*„Einlagezahl“*) and is made up by one or more parcels. The same applies for real property units (objects). Consequently these unique identifiers for all these data categories are also used by other registers.

The legal task is provided by about 180 „Land Register Offices“ (*„Grundbuch“*) under the Ministry of Justices which are combined with the local courts.

The technical task is provided by 41 „Cadastral Offices („*Vermessungsamt*“) coordinated by the „Federal Office for Metrology and Surveying“ under the Ministry of Economics and Labour.

- Land-Registry Offices are maintained within the local court by 3-5 persons. A judge from court is supervising this team.
- Cadastre Offices are responsible for the registration and maintenance of objects (parcels, buildings, land use ...) as well as the documentation of land use and soil quality. The Land Register Offices as well as the Cadastral Offices are part of the public administration.

### ***Private Sector Involvement***

Notaries (private but licensed) are offering their service for transfer of ownership, inheritance, mortgages and others.

Surveyors (private but licensed) are offering their service for division of parcels and recovering boundary points.

### ***Professional Organization or Association***

Licensing: Any Architect, Surveyor or Chartered Engineering Consultant has to apply for an authorisation at the Chamber of Architects and Consulting Engineers (*Bundeskammer der Architekten und Ingenieurkonsulenten*).

The Chamber of Architects and Consulting Engineers with subunits and the regional branches are public law bodies and the statutory professional representation associations of state-authorized and certified technical consultants (architects and consulting engineers with over forty authorizations for technical, scientific, mining and agricultural disciplines). There are about 300 licensed surveyors (*Ingenieurkonsulenten für Vermessungswesen*) registered as member of the chamber.

It is the duty of the chamber to represent and promote the professional, social and economic interests of the technical consultants and to monitor fulfillment of the professional obligations of the technical consultants.

### ***Licensing***

The access to the Austrian profession “*Ziviltechniker*” (comprises Architects and Chartered Engineering Consultants) is regulated by a federal law (*Ziviltechnikergesetz*) requiring the following qualifications:

- University degree in architecture; technological, scientific and mining areas; areas connected with environmental and soil sciences.
- Professional practice of at least three years (after graduation). One of these three years has to be passed as an employee working under the instructions of the employer.
- Licensing Examination (“*Ziviltechnikerprüfung*”)

The Licensing Examination is a public oral examination and there are no remedies against the decision of the commission. Every candidate has to demonstrate in the Licensing Examination sufficient knowledge in the following areas:

- Austrian administrative law which includes especially the scope and basic knowledge of the different regulations;
- Business administration, especially basics in the fields of cost accounting, organization, personnel matters, investing and financing etc.;
- Legal and professional regulations of the special professional field (e.g. architecture) . Professional laws and ethics of the profession.

The authorization for professional practice (“*Befugnis*”) is awarded by the Federal Ministry of Economics and Labour. For either architecture or one of the more than 40 specialization of Chartered Engineering Consultants an own authorization is required. Both, natural persons and business associations of architects and engineers may hold an authorization.

Before making use of the authorization the applicant has to take the oath that he/she will observe the law, his other responsibilities and the duty to keep confidential.

## ***Education***

At university level two universities in Vienna and Graz offer education in geodesy, geoinformation, land management and surveying in a full program. The study is made up of six terms (semesters) Bachelor study with a following Master's study with a duration of 4 semesters. Besides, the baccalaureate is concluded with the academic degree Bakk.techn. and the Magisterium with the graduate in civil engineering Dipl.-Ing.

## **C. Cadastral System**

### ***Purpose of Cadastral System***

The Austrian system is a "title registration". The registered owner has public faith of being owner. The title registration is operated in close cooperation with cadastre.

A development to cover the following aims can be recognized:

- to administrate critical items,
- to tax subjects, objects or rights and
- to control the processes, infrastructure and their changes.

For all this it was and still is necessary to collect data and control over the 3 basic categories of data:

- subject,
- objects and
- rights as relation between subjects with objects.

The Austrian cadastre is used for multiple purposes and serves as the basic system for Zoning plans, Provincial Geographic Information Systems as well as for IACS (Integrated Agricultural Control System).

### ***Types of Cadastral System***

Land register and cadastre are fully independent in organization, personal and financial matters but they are unified in a common data base. The digital "real estate database" ("Grundstücksdatenbank") contains both the information from land book and the cadastral register. Each land register office and cadastral office maintains the data (within its jurisdiction in the data base. The technical support of this central organized data base lies in the responsibility of the Federal Office of Surveying and Metrology. All information in the records is fully open to the public. There is an open access to the information by using modern web based services. All land book courts, cadastre offices, notaries, licensed surveyors, banks and many others have online access to the database.

### ***Cadastral Concept***

A **plot of land (parcel)** shall be the part of a cadastral community referred to as such with an individual number in the cadastre of boundary lines or the property tax cadastre.

Cadastral communities shall be those parts of the surface of the earth explicitly registered as such in the cadastre of boundary lines or the property tax cadastre.

Therefore a plot of land is a part of the surface of the earth with an individual number.

**Real Estate:** land and any things attached to the land including buildings, apartments and other construction

### ***Content of Cadastral System***

#### **Basic register units and attributes**

The Real Estate Database (*Grundstücksdatenbank* – GDB) contains data from the Cadastre as well as from the Land Book.

#### **Basic register units**

- cadastral unit identifier (*Katastralgemeinde*) – KG-Nr
- parcel identifier (*Grundstücksnummer*) – GSt-Nr

- docket number of the application at the district court (*Tagebuchzahl*) – TZ
- authorized district land register court (*Grundbuchsgericht*)
- register unit identifier (*Einlagezahl*) – EZ

#### **Cadastral attributes**

- Area of parcel (*Flächenausmass*) – FLÄCHE
- Address of parcel (*Grundstücksadresse*) – GST-ADR
- Type of land use and sections of land use (*Benützungsart*) – NUTZUNG
- area of each section of land use (*Benützungsabschnitte*)
- other specific attributes of the parcel (*Sonstige*)
- Cadastral Map (*Katastralmappe*)
- boundaries of parcels
- boundary points (*Grenzpunkte*)
- surveying (control) points (*Festpunkte*)
- yield figure (*Ertragsmesszahl*)
- file number of the surveying plan that was the basis for updating the map (*technischer Veränderungshinweis*) – VHW

#### **Land Book attributes**

- data of A1-Sheet: see cadastral attributes
- data of A2-Sheet:
  - cross reference in case of servitudes
  - subdivision and parcel addition
  - administrative obligations, e.g., imposed by municipalities or provinces
  - references to legal provisions (e.g., monument protection)
- data of B-Sheet:
  - share of freehold
  - owner of register unit (name, date of birth, address)
  - restrictions to owner (minority, bankruptcy, creditor's trustee etc)
  - title (e.g., purchase contract, gift contract)
  - freehold right or priority notice for freehold right
- data of C-Sheet:
  - encumbrances
  - title (e.g., mortgage bond and its date)
  - beneficiary of title (e.g., mortgagee)
  - amount of mortgage

#### **Types of encumbrances**

- Mortgage
- Easement
- Charge on land
- Repurchase right
- Pre-emption right
- Restraint on alienation and encumbrance
- Lease and tenant rights
- Grant of priority
- Usufruct
- Right of use
- Dwelling right
- Construction right

#### **SAMPLE of REGISTER**

```

GRUNDBUCH 01005 Josefstadt                               EINLAGEZAHL    16
BEZIRKSGERICHT Josefstadt
besondere Abschrift ***** ABFRAGEDATUM 2000-10-27
Letzte TZ 3802/1999
Wohnungseigentum
***** A1 *****
GST-NR  G BA (NUTZUNG)           FLÄCHE  GST-ADRESSE
  
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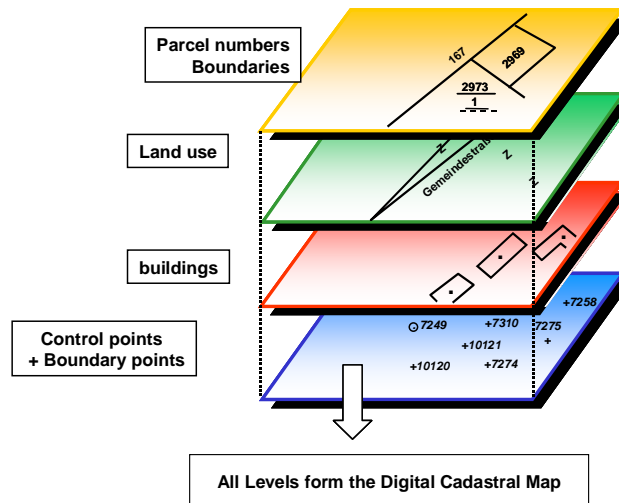


Fig. 3: Digital cadastral map (DKM).

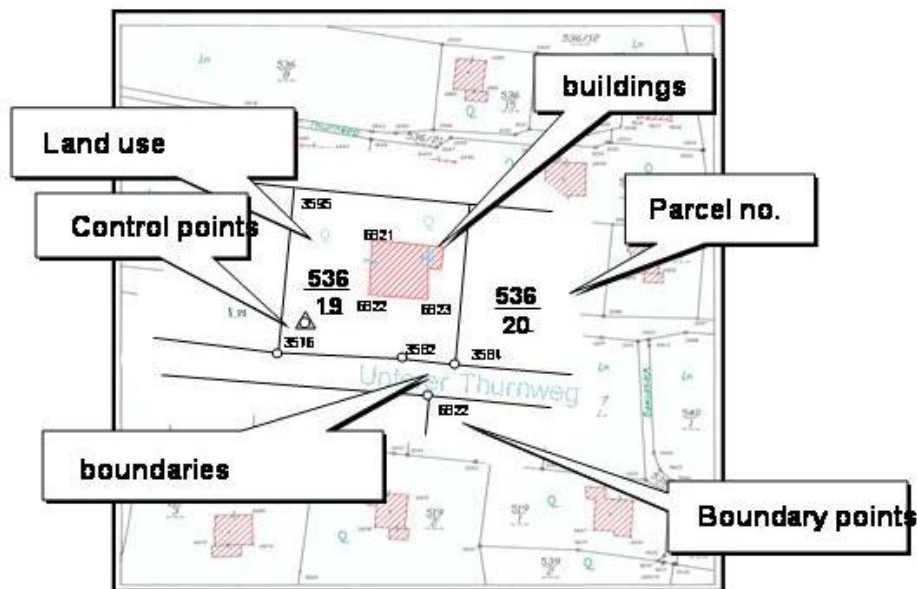


Fig. 4: Digital cadastral map 1:1000 (excerpt).

### ***Role of Cadastral Layer in SDI***

Austrian surveying legislation stipulates that the boundary cadastre must be managed by computer-aided methods on the basis of the real-estate database.

The real-estate cadastre is used for the binding verification of real-estate boundaries and for visualizing types of land use, area dimensions and other specifications in order to facilitate the identification of plots of real estate.

The area-wide data of the real-estate register is stored centrally together with the entries in the land register in the real-estate database. It is managed in distributed mode by means of remote data processing by the surveying offices and land-register tribunals in a manner assuring that the statutory responsibilities are honored. The cadastre and land register forms the nationwide soil information system which refers to soils and to real estate.

Data about land are accessible to everybody in Austria. This fact is one of several reasons why data managed by Land Register and Cadastre are used for so many different customers. As a



result of that multipurpose use of data not only cost recovery is guaranteed but also the demand to use common and unified data for management, administration, documentation and individual security is satisfied. Examples for users and demand are given in the following part.

The direct access via computer and public network or via Internet) is very popular. This method of access to data is used by notaries, credit institutes, licensed surveyors and other professions. Data on tape or any other digital medium are frequently requested by users which are interested in larger areas or for planning purposes.

The typical individual client however is still going to the Offices to get the information needs printed on paper to get information about individual civil rights, subjects or objects.

- The general plan about urban and rural planning over a longer period is based on cadastral data. This demand of local authority allows a definition of proposed land use; The assignment or allocation of a specific parcel for is pointed out in the Zoning Map which has two different functions:
  - Regulation function: Each assignment/allocation is related with different ownership-rights (e.g. the dedication "Greenland" implicates a building ban for the parcel).
  - Development function: Each assignment/allocation shows the potential use of parcels that must not necessarily be identical with the actual use (e.g. a parcel dedicated as "Building Area" is used as agricultural land at the moment).
- For parcels in rural areas the Austrian Cadastre contains an index that depicts the soil quality (*Ertragsmesszahl*). Soil quality is valued by soil experts of regional Tax Offices which are provincial departments under the Ministry of Finance. The valuation is based on the nature of soil, on the topography (relief) and site of the area, and finally on the water and climatic conditions of the site. The results of valuation are visualized in analogue and digital maps, the so-called Soil Estimation Maps. The final soil quality index of a specific parcel that serves as the basis for the taxation of farmers and agricultural enterprises is derived by the intersection of this soil valuation data set with the digital cadastral map. Usually these data sets only can be accessed by financial authorities and surveying authorities.
- The Danger Area Plan outlines areas with a specific risk of natural disasters (e.g. avalanches, land slides, floods). Usually the different zones are linked with different land use restrictions. The composition of Danger Area Plans lies in the responsibility of the Regional Offices of Risk Protection which are subordinated to the Austrian Ministry of Agriculture, Forestry Environment and Water Management. Danger Area Maps are based on cadastral maps and are produced for municipalities with a given risk probability. Citizens are enabled to have a free look to these maps in the specific municipality or in the Regional Office of Risk Protection.
- Cadastral data are also used within facility management, even when cadastral data are not designed for that purpose.
- Control of Resources (forests, wine) is another example where governmental as well as private institutions use cadastral data for their decision-making.
- The Ministry of Agriculture and Forestry administrates subsidies within handicapped rural areas based on cadastral data combined with their data and rules.
- Currently address-matching is often used to combine cadastral data with statistical data from the Federal Office for Statistics or other sources. This is a common method to bring databases into relation with their geographic position. This process called "geocoding" needs geographic information which covers the whole country.

## **E. Reform Issues**

### *Cadastral Issues*

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### ***Current Initiatives***

Modernization of technical aspects (data model, process model and metadata), IT-tools and marketing for brought use of these information as part of an information infrastructure provided by the government (eGovernment).

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## **II. Questionnaire**

### **1. Cadastral Principles**

#### ***Deed or title registration***

- 1.1 Is your cadastral system based on deeds registration or on title registration ?
- deeds registration
  - title registration
  - other: .....

#### ***Registration of land ownership***

- 1.2 By law, is registration of land ownership compulsory or optional ?
- compulsory
  - optional
  - other: .....

- 1.3 If felt necessary, please, comment on the actual practice and the legal consequences.

**Approach for the establishment of the cadastral records**

- 1.4 Are landowners required to register their properties systematically during the initial establishment of the cadastre or is registration sporadic, i.e. triggered only by specific actions (such as for example sale) ?
- systematic
  - sporadic
  - both
  - all properties are already registered
  - other: .....

**2. Cadastral Statistics**

**Population**

2.1 What is the **population** of your country ?

8.10 million
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2.2 Please, estimate the **population distribution** between urban and rural areas.

urban:	...75... %
rural:	...25... %
<hr/>	
total:	...100... %

**Number and distribution of land parcels**

2.3 Please, estimate the approximate **total number of the smallest uniquely identified land units**, often called "land parcels" in your country, including urban and rural areas ?

10.45 million
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*The total number would include all freehold and state owned land, regardless of registered, non-registered or informal holding.*

2.4 What is the approximate **total number of registered strata or condominium units** ? This number would be in addition to the number of land parcels indicated in 2.3 ?

450,000
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2.5 For **URBAN areas**, please, estimate the **distribution between the smallest uniquely identified land units, often called "land parcels"** (i) that are legally registered and surveyed, (ii) that are legally occupied but not registered or surveyed, and (iii) that are informally occupied without any legal title (this may include illegal occupation or squatting).

*If the estimation is too difficult or complex using land parcels, you may base your estimation alternatively on the number of people occupying these forms of land parcels.*

legally registered and surveyed:	...100... %
legally occupied, but not registered or surveyed:	0... %
	0... %
informally occupied without legal title:	.....0... %
<hr/>	
total:	...100... %

- 2.6 For **RURAL areas**, please, estimate the **distribution between the smallest uniquely identified land units, often called "land parcels"** (i) that are legally registered and surveyed, (ii) that are legally occupied but not registered or surveyed, and (iii) that are informally occupied without any legal title (this may include illegal occupation or squatting).

*If the estimation is too difficult or complex using land parcels, you may base your estimation alternatively on the number of people occupying these forms of land parcels.*

legally registered and surveyed:	...100... %
legally occupied, but not registered or surveyed:	.....0... %
	.....0... %
informally occupied without legal title:	.....0... %
<hr/>	
total:	...100... %

### ***Number of professionals***

Please estimate the total number of *academic professionals* that are active within the cadastral system and the proportion of the time that they actually commit for cadastral matters (as opposed to work outside of the cadastral system) ?

- 2.7 Total number of **professional land surveyors**, such as licensed surveyors active within the cadastral system:

260
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- 2.8 Proportion of the time that these land surveyors commit for cadastral matters:

50%
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- 2.9 Total number of **lawyers/solicitors** or equivalent active within the cadastral system or land market:

n/a
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- 2.10 Proportion of time that these lawyers/solicitors commit for cadastral matters or land market:

n/a
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### ***Remarks and Comments***

Please, identify the best aspect of this questionnaire ?

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Please, suggest the area in the questionnaire that could be improved ?

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