

The General Administration of the Patrimonial Documentation: An Actor of the Juridical Security and of the Economic Growth in Belgium

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Key words: cadastre; digital cadastre; e-Government; land management; real estate development; risk; partnership; registration; mortgage service; juridical security.

SUMMARY

The general administration of the Patrimonial Documentation of Belgium (previously the "Coperfin Reform": Cadastre, Registration, Public Property administration and "Mortgage Service") by means of some of its projects and by means of a partnership with the public and the private sectors is an actor of the Juridical Security and of the economic growth in Belgium.

RESUME

De par ses projets et de par sa collaboration avec les secteurs public et privé, l'administration générale de la Documentation patrimoniale de Belgique (avant la réforme des Services publics: Cadastre, Enregistrement, Domaines et Hypothèques) est un acteur de la Sécurité juridique et de la croissance économique de la Belgique.

SAMENVATTING

De algemene administratie van de Patrimoniumdocumentatie van België (vóór de hervorming van de overheidsdiensten: Kadaster, Registratie, Domeinen en Hypotheken), speelt, door middel van haar projecten en door middel van haar samenwerking met de overheids- en privésector, een rol in de Rechtszekerheid en de economische groei in België.

ZUSAMMENFASSUNG

Durch ihre Projekte und durch ihre Zusammenarbeit mit dem öffentlichen und dem privaten Sektor bildet die Allgemeine Verwaltung der Vermögensdokumentation Belgiens (vor der Neugestaltung der öffentlichen Dienste: Kataster, Registrierung, Domänen und Hypotheken) ein Akteur der Rechtssicherheit und des wirtschaftlichen Wachstums Belgiens.

RESUMEN

Debido a sus proyectos y debido a su colaboración con los sectores y privados, la administración general de la Documentación Patrimonial de Bélgica (antes de la reforma de los Servicios públicos: Catastro, Registro, Ámbitos e Hipotecas) es un protagonista de la Seguridad jurídica y el crecimiento económico de Bélgica.

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1. THE KINGDOM OF BELGIUM

1.1 The Organization of the State

1.1.1 The Federal State

Within the Federal State, the legislative power is exercised by the Federal Parliament on the one hand, consisting of two assemblies (the Chamber of Representatives and the Senate) and on the other hand the King. The King does not exercise any personal authority. His Ministers bear full responsibility by jointly signing the draft laws that are enacted by Parliament and Royal Decrees.

1.1.2 The Regions

Apart from the Federal State and the Communities, there are the Regions.

There are three Regions. The names of the three regional institutions are borrowed from the name of the territory they represent. So we refer to (from north to south) the Flemish Region, the Brussels-Capital Region and the Walloon Region.

Regions have powers in fields that are connected to their region or territory in the broadest meaning of the term.

So the Flemish Region, the Brussels-Capital Region and the Walloon Region have powers relating to the economy, employment, agriculture, water policy, housing, public works, energy, transport (except Belgian Railways), the environment, town and country planning, nature conservation, credit, foreign trade, supervision of the provinces, communes and intercommunal utility companies.

They also have powers relating to scientific research and international relations in these fields.

1.1.3 The Communities

In addition to the three Regions, the Federal State has three Communities. They are based on the "language". So we talk about the Flemish, French and German-speaking Communities.

The territory of the Communities

The Flemish Community exercises its powers in the Flemish provinces and in Brussels, the French Community in the Walloon provinces, with the exception of German-speaking communes, and in Brussels, the German-speaking Community in the communes of the province of Liège that form the German language area.

The powers of the Communities

Since the Communities are based on the concept of "language" and language is "dependent on the individual", a number of other powers are obviously associated with the Communities. The Community has powers for culture (theatre, libraries, audiovisual media, etc.), education, protection of youth, social welfare, aid to families, immigrant assistance services, etc.

1.1.4 The Provinces - The Communes

The level of administration that is closest to the individual is the local authority or commune.

In Belgium there are 589 communes. The 308 Flemish cities and communes are spread over five provinces. The 262 Walloon cities and communes are spread over five provinces. The Brussels-Capital Region covers nineteen communes.

1.2 The Kingdom of Belgium is also in brief ...

Population:	10,396,421 inhabitants (2003)
Surface area:	30,528 km ²
Federal capital:	Brussels also capital of the European Union
Head of State:	King Albert II
National Day:	21 July
National languages:	Dutch, French and German
Currency:	the euro (EUR)
National product:	283.7 billions of EUR (2004)
Annual growth rate:	2,7 % (2004)
Time zone:	GMT + 1 hour
Summer time, from the last Sunday of March to the last Sunday of October:	GMT + 2 hours

Weights and measures:	metric system
Domestic electricity:	220 volts
Population density:	339 inhabitants per km ² (2003)
Maximum distance between two points:	280 kms
Geographical centre:	Nil-Saint-Vincent
Peak:	Signal de Botrange (694 m)
Average temperature:	9,8 ° Celsius
Precipitation:	780 mm (annual average)
Sunshine:	1,555 hours (annual average)

2. THE "PATRIMONIAL DOCUMENTATION" ADMINISTRATION OF BELGIUM

2.1 The New Chart Organization

The "Coperfin Reform", the reform of the Ministry of Finance of Belgium has led to the creation of new organization charts and new structures.

The Ministry of Finance became the "Federal Public Service Finance".

The "Federal Public Service Finance" is now composed of three general administrations:

1. Taxes and Tax Collection;
2. Patrimonial Documentation;
3. Treasury.

The general administration of the Patrimonial Documentation (previously the "Coperfin Reform": Cadastre, Registration, Public Property administration and Mortgage Service) is composed of five general departments:

1. Legal Security;
2. Surveys and Valuations;
3. Patrimonial Services;
4. Not fiscal Tax office;
5. Collect and Swap of information.

Three Directorates support these five operational Departments:

- "Functional Expertise and Support", which is entrusted with devising the working methods as well as with analyzing and writing the texts and the instructions,
- "Provision of Services, Strategy and Implementation", which is entrusted with the relations with the citizens,

- "Program Management Office", which is entrusted with the change processes.

2.2 The Origin of the Belgian Cadastre

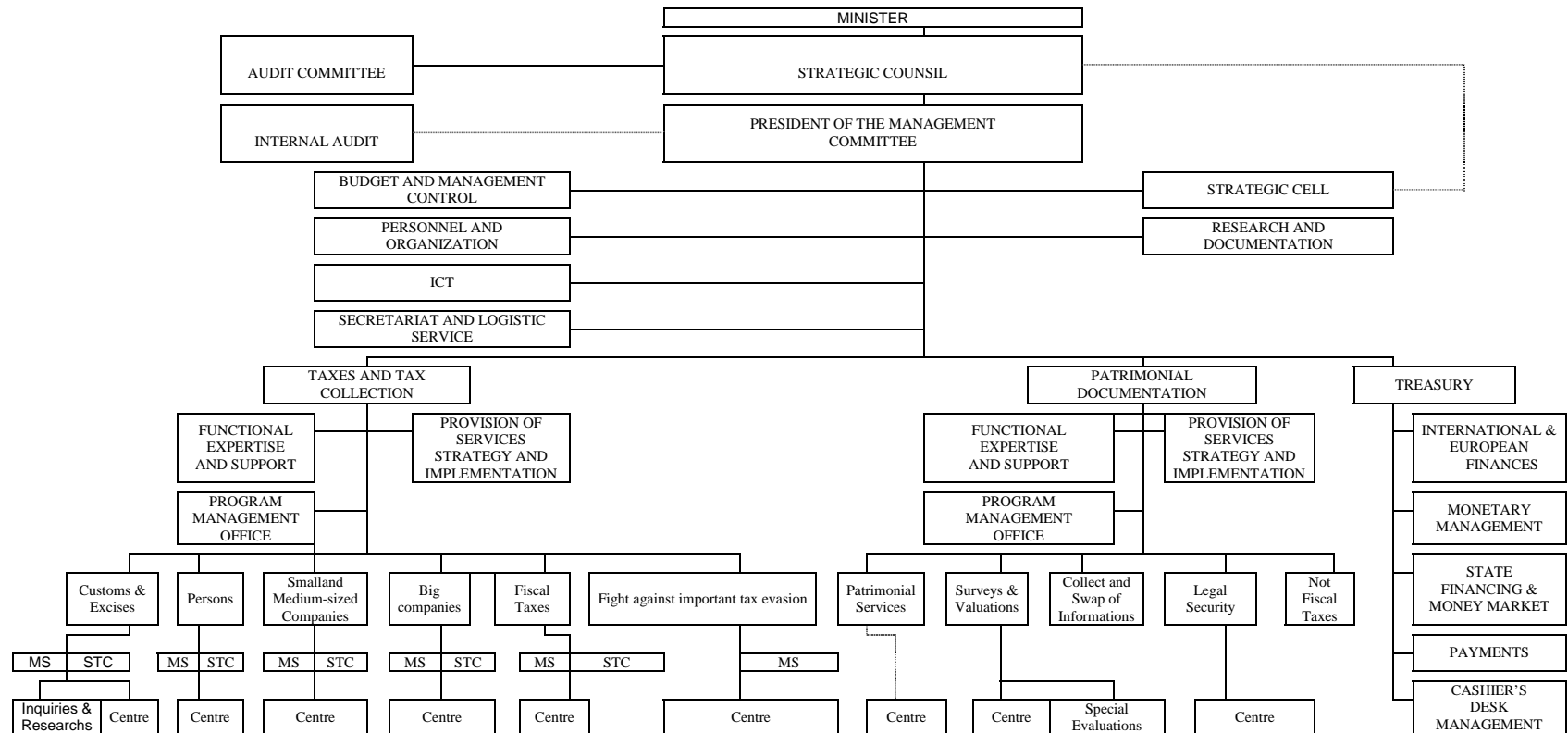
In the beginning, the Belgian cadastre should have been a legal and juridical cadastral system where the immovable files were updated by civil servants. These immovable files should be the proof of the property. The civil servants should have an active updating. But it wasn't so because it was not possible to consult all needed titles.

The Belgian cadastre is a "personal cadastre". When we say that the Belgian cadastre is not a juridical cadastre, it doesn't mean the Belgian cadastre has not any juridical quality. Indeed, the Belgian cadastre doesn't give a title, but without title, the Belgian cadastre can give a presumption. The title proof only comes from the notarial deed. The proof for the third party is possible only if the notarial deed is transcribed in the mortgage service.

The Belgian system consists on assuring the publicity of the immovables which is in fact the ownership during thirty years (titles). The publicity is made by the Registration and the Mortgage Service.

2.3 The new assignment of the "Surveys and Valuations" administration (before the Reform: Cadastre)

The "Surveys and Valuations" administration determines and verifies the different values of immovable property (the cadastral income, the market values in respect of the registration duties and the inheritance taxes, the rental value), measure the parcels of land and the construction, determine the boundaries of the pieces of land as well as the administrative boundaries within the framework of the updating of the cadastral map and the development of a geographic information system. In the future, the "Surveys and Valuations" administration will also be entrusted with verifying the construction value in respect of VAT as well as the value of movable assets such as holdings of enterprises, works of art, etc.



MS : MAGEMENT SUPPORT
 STC : STRATEGY OF THE TARGET CLUSTERS

Figure 1 : The chart of the Federal Public Service Finance

2.4 The new assignment of the "Legal Security" administration (before the Reform: Registration)

"Legal Security" administration collects the registration duties and the inheritance taxes, which are mainly transferred to the Regions, the mortgage duties and the court fees. But beyond the tax mission of this administration, "Legal Security" administration adds an essential legal piece to the puzzle of the immovable property's picture: the publication, by the Mortgage Registry Offices, of the public officers' instruments, with respect to which we have verified the correctness of the data. "Legal Security" administration updates the documentation in the light of these instruments in order for the information to correspond to reality as soon as possible.

"Legal Security" administration is at the service of the general public world (notaries, bailiffs, lawyers, credit institutions, citizens). "Legal Security" administration makes sure to maintain the quality of the service in order to deserve its complete confidence.

3. E-GOVERNMENT AND THE "PATRIMONIAL DOCUMENTATION" ADMINISTRATION

3.1 Introduction

The projects and the partnerships (with the public and the private sectors) of the "Patrimonial Documentation" Administration are established within the framework of "E-Government".

These projects and partnerships lead to a Juridical Security and to an Economic Growth.

3.2 Objective

Belgium wants to be and remain a country in which people like to live, to learn, work and reside and in which it is gravitational for the societies to undertake. With this intention, the authorities must provide services of great quality.

To carry out that in an optimal way, it is necessary that all the authorities (Federal, Community and Regionally, Provincial and Communal) and the world of the companies collaborate.

3.3 Definition

E-government is a basically new manner, to integrate and continue to provide services by using a maximum number of possibilities of new information technologies and communication.

It is thus also and same especially what one does not see on Internet because the process develops in the back office.

3.4 Double role of the administration

The administration plays a double part.

On the one hand, it must act as "allowing" (enabler). That's means it must remove the obstacles (legal and administrative) and must create the necessary conditions for the realization of the company of information. On the other hand, the administration must create a context and a climate in which the various actors can profit with maximum chances that the company of information offers to them.

Moreover, the administration must fulfill it-self a function of example by the way in which it uses the ICT and of which it interacts with its customers. Indeed, the administration is it-self one of the most important suppliers of services bases on information.

3.5 A virtual administration uniquely

Citizens and the companies considerate "the administration" as only an ensemble independent of the distribution of the task and responsibilities between different the administrative levels and a whole series from administration and services. They ask a total solution to their problems. They are not interested in knowing which administration and/or which public authority are implicated in this process.

3.6 The changes

E-government makes it possible to carry out a single virtual administration by completely respecting the specific competence of each one.

What will be the changes for the citizens and enterprises?

E-government will modify the provision of services by administration to customers at 4 levels:

- More efficient: because the user does not have to move any more for the provision of services lasting time to wait administration making double jobs; the feedback could be given in real time;
- More convivial: because that the citizens and the companies will have access 24h on 24h and 7 days a week at the administration in any place where they are. In the other hand always will be able to appeal to the easiest information to find and the rendered service will be more personalizes;
- Less contact: since the data-base of the citizens and companies will have to be collected only once. That data-base will be interchange in a maximum way between the administrations and that information will be managed in a pro-active way;

- More transparent: the citizens and the companies will have a greater participation in the decision, they could communicate directly with the competent public and access to the personal data that the administration has to arrange to its necessities.

4. THE PROJECTS (REALIZED OR UNDER CONSTRUCTION) OF THE "PATRIMONIAL DOCUMENTATION" ADMINISTRATION

4.1 Digitizing of the cadastral map of parcels

The changeover to digital maps offers numerous perspectives:

- centralization of the geographic information (before, the maps drawn on film were distributed among the regional directorates);
- provision of the cadastral maps to the municipalities, at first on cd-rom, later through the network;
- creation of links between the data of the map and those of the land register; currently a geographic information system is under construction, namely the CADGIS project;
- implementation of a future integrated system of the Patrimonial Documentation, STIPAD: the geographic information system is essential for this project;
- improvement of the quality of the maps thanks to their being in line with more precise systems of reference (orthophotos, regional referential plans, NGI) and thanks to the integration of the plans drawn up by the contracted private surveyors-experts;
- creation of a continuous map assembling the 30,007 digitized sheets (realized project : the cadastral map is now continuous);
- creation of a large-scale national referential map that will serve as a basis for numerous internal and external applications; various firms already have indicated that they wanted to get the digital maps;
- creation of a referential map for the subsoil cadastre; each participant will keep its powers and its responsibilities but the respective information will be pooled through a computer platform to be implemented by FEDICT (e-government);
- start of the Best Address (Belgium Street Address) project.

4.2 Start of the Best Address (Belgium Street Address) project

This project is aimed at developing a national system for the codification of the addresses to be used in all the federal, regional and local applications, Belgium's public authorities as well as the citizens will be able to use the same addresses, managed in a decentralized manner under a responsibility shared according to the various powers. Best Address necessitates an infrastructure that will be implemented with the help of FEDICT. Other partners such as the National Register of Individuals, the Belgian Post and the Regions will also have to be involved.

4.3 CADGIS (SIG)

CADGIS enables the updating of data of the Patrimonial documentation by the integrated system (links between the data of the map and those of the land register).

4.4 Web Map Server

The objective is to consult the cadastral plan as a file not as an image (the result is that our partners can work on the map).

4.5 UNIDENT Project :

Univocal identification of the immovables

4.6 Preliminary cadastration

The search for a better security for the signing of the deeds and a better reliability of the Public documentation impose on the administration a perfect understanding of the realized acts.

In view of the Freedom of the parties allowed by the Civil Code are sometimes difficult to transfer the acts in the Public documentation.

In the matter of transfer of immovable titles, a substantial improvement is planned in compliance of the article 141 of the Mortgage Law of December 16th, 1851. The project is that the new article will impose for the deeds a precise designation of the immovable and a recent cadastral extract. So there is no confusion possible with other immovable.

The second phase is a law taking in compliance of the Mortgage law that will impose the preliminary cadastration before the act transferring the immovable property and also a map when new boundaries are created.

The third phase will be a law that will impose for each act transferring the immovable property, a “boundary marking plan” made by a surveyor. This “boundary markings plan” will identify the cadastral parcels.

4.7 Building code (mathematical model for the appraisal of the immovables)

In the past, the cadastral income was based on 14 terms. We want to extend to 62 terms to be more precise. The terms which we talk about for example are, the kind of building, the component elements, the shell of the building, the inside finishing, the technical equipments, the outside developments, the objective environment, the distinctive characteristics, the name of the appraiser, the surfaces areas.

5. THE PARTNERSHIPS OF THE "PATRIMONIAL DOCUMENTATION" ADMINISTRATION

5.1 PCC (Permanent Committee on Cadastre in the European Union)

The Permanent Committee on Cadastre in the European Union (PCC) was created under the Spanish Presidency in 2002 by the representatives of the institutions responsible for the cadastres of the fifteen Member States of the European Union. The Committee was entrusted with establishing:

- a link between the Institutions of the European Union and the Cadastral Organizations of the EU Member States;
- a network enabling to exchange information, experiences and best practices in respect of cadastre among its members.

It was decided to improve cooperation with the other European institutions. A comparative study of the different cadastral models has been undertaken and will be published in order to increase the visibility of the PCC.

5.2 EUROGEOGRAPHICS

Since 2004, the Patrimonial Documentation is an associated member of the international organization EuroGeographics.

More activities in connection with the Cadastre would be deployed and that the integration between the Cadastre, the Property Administration and the Cartographic Administration would be considered to be a major objective.

The establishing a common strategy in the implementation of the INSPIRE project of the European Commission, which proposes a legal framework for the harmonization of geographic information is very important.

5.3 EUROBOUNDARIES

Since 2004 the Patrimonial Documentation has been an associated member of Euro-Geographics, an association of European Geographic Institutes and Cadastral Administrations. The European project initiated by this association and known under the acronym "EuroBoundaries" aims at creating a network of ETRS 89 coordinates, approved by the neighbouring countries, for all European borders.

The diversity of the national cartographic projection systems creates recurrent problems and penalizes the pan-European cartographic products. The European Institutions rely on these products, in particular for the territorial management of major risks. Moreover, they insist on the importance of introducing a real convergence of the geographic information.

This project fits into the Patrimonial Documentation's strategy of legal security because it reconciles the authentic definitions of the borders based on the treaties with their precise geometric descriptions indicated in the reports.

5.4 INSPIRE DIRECTIVE (Infrastructure for Spatial Information in Europe)

The INSPIRE Directive aims at creating a geographic information infrastructure in the European Community. It must offer a legal basis for stimulating the use of the geographic information within Europe, especially with a view to environmental applications. INSPIRE (Infrastructure for Spatial Information in Europe) relies on the powers of the European Union in respect of the environment in order to act as a regulator in the field of geo-information, a field that largely goes beyond the field of the environment.

The objectives of this proposal meet the preoccupations of the Patrimonial Documentation with respect to the harmonization of the spatial data, their accessibility and interoperability.

The Federal State manages important information having a geographic component. Good management of this information enables the authorities to perform the general interest tasks they are entrusted with in a reliable and efficient manner.

The Patrimonial Documentation has actively participated in the drafting of the text of the proposal for a Directive of the European Parliament and of the Council because the federal institutions have a federative role to play as far as the production, the validation, the distribution and the use of the geographic information are concerned. However, special attention must be given to the respect of privacy.

5.5 Partnership with the Belgium National Geographic Institute (NGI)

The Patrimonial Documentation continues to cooperate with the Belgian National Geographical Institute (NGI). Besides, two of its representatives are members of the Management Committee and have voting rights. In July 2004 the two institutions also signed a co-operation agreement in the context of the development of a federal platform for geographical information.

The NGI and the Patrimonial Documentation have formed, together with the three Regions, the STRATEGIS group, whose aim is at defining a global strategy in respect of geographical information.

Synergies are implemented at both national and international level: INSPIRE, the proposal for a Directive establishing an infrastructure for spatial information in the European Community and EuroBoundaries, the project relating to the definitive description of the national boundaries of European countries.

5.6 Collaboration with the Private Surveyors

The Cadastre has signed an agreement with about 1,050 private Surveyors. According to the terms of this convention, the private surveyor makes his maps in accordance with the standards and directly provides the Cadastre with an original copy of the map.

To this end, the private Surveyors respect the following standards:

- To indicate on the map the coordinates of the vertexes of the property (local, Lambert or in another system coordinates). The coordinates permit an adjustment of the problems of angles and a rescue of the boundaries of the property;
- As far as possible, obtain the signature of the parties (the owners of the contiguous parcels and this only after due hearing of the parties boundaries);
- To permit the identification of the signatories. For example with the insertion of a table containing by parcel, the results of the investigations (indication of the old maps and the "after due hearing of the parties" boundary) and a square for the signature.

The map must include the following elements:

1. the date of the survey;
2. the scale of the map and the indication of the North;
3. the complete designation of the concerned cadastral parcels: town, cadastral division, section, number;
4. the localization of the part of the parcel concerned by the transaction in relation to the boundaries;
5. in case of housing estate: the number of the lot, the date and the number of the "housing estate" permit;
6. if the property is adjacent to the public property: the exact designation of a lane or of the stream;
7. the succinct description of the kind of the boundaries;
8. the common or private nature of the boundaries;
9. the complete description of the vertexes of the boundaries;
10. the length of the segments of the surveyed part, the coordinates of the vertexes, and all the geometric elements;
11. the dimensions of the survey and the necessary elements for the drawing of the new parcel for the calculation of the area;
12. the area to within about a square meter;

On the other hand of these services, the private Surveyor who has signed the agreement has a free access to some cadastral data or files (drawings of transfer, maps, georeferenced files).

For a better viewing, the Cadastre has set up a Databank of the maps of the Surveyors.

At the level of the cadastral map of parcels, a new procedure permits the integration of the map of the Private Surveyor.

Some maps of the private Surveyors will be georeferenced and the private Surveyors who has signed the agreement with the Cadastre will also be able to use these georeferenced maps.

So the Private Surveyor will play an important part in the establishment of property ownership. This is an important step towards the Surveyor as a real Public Officer whose acts will be certified and centralized by the Cadastre.

5.7 Collaboration with the three Regions and the towns in Belgium

Notably, with the project URBAIN (URBANistic Information Network) : the data of the urbanistic permits are delivered to the Patrimonial Documentation administration. There is also a partnership with the real estate agents. The agreement will be signed in 2007.

5.8 STRATEGIS

The Belgian National Geographic Institute (NGI) and the Patrimonial Documentation have formed, together with the three Regions, the STRATEGIS group which is aimed at defining a global strategy in respect of geographical information.

5.9 Collaboration with Notaries

Notably with the analysis of the deed.

5.10 Collaboration with Architects

Two mainlines

1. the architects testify the implantation a new building
2. and the consistency of the building : the layout, the outside and inside distances, the quantity and the quality, the kind, the outside developments

6. CONCLUSION

With its realized and under construction projects and with its collaborations with the public and private sectors the General Administration of the “Patrimonial Documentation” is, and will be more and more, an Actor of the Juridical Security and of the Economic Growth in Belgium.

BIOGRAPHICAL NOTES

Francis GABELE (60)

- Studies : Surveyor certificated by the Belgian State
Town Planner qualified by the Town Planning Institute
- Practice :
- General Auditor, Section Head at the “Federal Public Service Finance” – Patrimonial Documentation (Cadastre, Registration, Public Property, Mortgage Service)
 - In charge of the general inspection of the services of the cadastre for Brussels and the Walloon Region
 - In charge of the International Relations for the Patrimonial Documentation
 - Belgian Delegate to the PCC
 - Member of the National Council of the Belgian Association of Surveyors
 - Editor of the review “Surveyor”
 - Professor of property law (Engineer Surveyor)
 - Scientist Adviser at the University of Liège (Geomatic Engineer Department).
- FIG :
- Delegate of the “Patrimonial Documentation administration” of Belgium (member Affiliate FIG)

Marc VANDERSCHUEREN (50)

- Studies : Surveyor certificated by the Belgian State
- Practice :
- In 1982 – 1983, private surveyor in London, UK
- At present, First Attaché at the “Federal Public Service Finance” – Patrimonial Documentation (Cadastre, Registration, Public Property, Mortgage Service). Human Resources Department.
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