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## **The Comparison of Some Aspects of Appraiser (Valuer) Profession in Poland and Belgium\*\***

### **1. Introduction**

Belgium is one of the best developed and richest countries in Europe, its industry and agriculture being on a high level of prosperity. It belongs to NATO and Benelux and is one of the founders of the EU. Brussels, the capital of Belgium, is also the “capital” of the European Union. A country of such a high level of development can be a good point of reference for comparisons in several departments of industry. Below we will present a comparison of selected aspects of appraiser (real estate valuer) fieldwork for Poland and Belgium.

### **2. The Characteristic of an Appraiser in Belgium**

Current definition of an appraiser<sup>1</sup> in Belgium is the FIG definition of 1934, which states as follows:

A surveyor is a professional person with the academic qualifications and technical expertise to conduct one, or more, of the following activities:

- to determine, measure and value land, three-dimensional objects, point-fields and utilities;
- to assemble and interpret land and geographically related information,
- to use that information for the planning and efficient administration of the land, the sea and any structures thereon;
- to conduct research into the above practices and to develop them<sup>2</sup>.

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<sup>1</sup> Mostly an appraiser is also a surveyor.

<sup>2</sup> <http://www.fig.net/general/definition.htm>.

At present in Belgium surveyor's title is reserved for an independent specialist with a specific education, who meets the regulations and performs his learned profession of certified valuer.

A surveyor offers his services to:

- Law: courts and court experts, attorneys, notaries – to measure and determine the positions of boundaries, make plans for notary documents, in cases of succession, exchange, division, counting shares in impartible real estates, in arguable issues, divorces, land descriptions; in diverse appraisals and valuations (inheritance, donation, accident damage, purchase, etc.).
- Building industry: engineers, architects, contractors and builders, for the purpose of: performing technical measurements, high measurements, installation of works of art, technical advice, etc.
- Economy: industry and agriculture, banking and mortgage sphere, insurers and auditors of business, owners, tenants and lodgers, administration and civil services, for the purpose of: measurement, sale, division, mortgage valuation, land description for leasing or rebuilding, etc.
- Environment: land management, cartography, urban development, for the purpose of: measurement, division, urban building certificates; also as a technical advisor for road tracing, surface works, infrastructure works, etc.
- Real estate sector: as a technical adviser, valuation expert, real estate agent, real estate administrator, in: arguable issues and divorces; valuation and expertise in case of purchase, renting, land description, estate administration and regulations concerned, etc.

Appraiser's tasks must fulfill the following conditions (quality standards):

- Independence – appraiser is a liberal profession. It has no commercial purposes, which could collide with the professional activity of an appraiser.
- Accuracy – guaranteed by education on academic level.
- Complexity – seen mostly in research works in administration, archives, notary offices, data bases etc.
- Lodging complaints – at this point there exists no trade body with which a client could lodge a complaint against supposed errors in appraiser's work. In case of appraisers belonging to trade unions a client can lodge a complaint with the unions. Expert surveyor offering services for clients has to be sworn and his certification must be always noted on all documents made within the framework of his professional tasks. He must also be registered in the Appraiser Register.
- Qualifications – it is obvious that an appraiser must hold an appropriate certificate. But thanks to some legislation gaps there is a small group of

persons who have usurped the appraiser title without necessary education. New law is to prevent misuses of this kind.

- Accumulation issue (joining appraiser work with other employment) – it is also obvious that an appraiser performs his or her tasks independently, as a free professional. An appraiser employed by authorities or business lacks neutrality needed for making decisions for a third party. Aside the general accumulation prohibition (1982 bill), concerning all civil servants except those holding a special government permission, there is a special accumulation prohibition for all appraisers, issued by the Ministry of Finance (handling the land register maintenance). This is logical, taking into consideration that appraisers who handle the land register are responsible for independent valuation of income from the real estate<sup>3</sup>.

### 3. Acquiring Authorizations to Perform Appraiser Profession

The regulations concerning authorization to perform appraiser profession in Belgium (May 11th 2003 bill, chapter 2, Of the title and work of appraiser) name the following rules:

Article 2. Nobody can perform the appraiser activity, nor use the appraiser title, nor any other title suggesting valuating without fulfilling all of the following conditions:

1. Possession of one of the following titles:
  - a) Surveyor or geodesist title, or geodesist with specialty in real estate valuation (provided under the 31st July 1825 Royal Bill regulating the appraisers work, with later changes);
  - b) B.A. diploma in Geography, with specialty in land valuation, B.A. diploma in Geometrology;
  - c) engineer diploma in Industrial Building, specialty in land valuation;
  - d) a diploma in fields of: real estate valuation or building and real estate, specialty in surveying, plus the certificate of passing the geodesist exam in specialty of real estate valuation<sup>4</sup>;
  - e) a university, academy, or other higher school diploma, which can be reconciled with performing the appraiser profession, approved by the King after consultations with the High Council of the Free Professions and Small and Medium Business;

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<sup>3</sup> Accumulation with no conflict of interests can be acceptable only under the 1982 Bill, regulating the accumulation issues.

<sup>4</sup> The bill issued in 1947 introduces exams for some faculties' graduates due to gain the real estate valuer's diploma.

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- f) a diploma equivalent to any of the above, if issued by the examination commission of the government or the commonwealth (in Flanders or Wallonia);
  - g) a diploma issued by any other authority of the same level, if approved by the King after consultations with the High Council of the Free Professions and Small and Medium Business;
  - h) a diploma issued in another EU country partaking in the European Economic Area<sup>5</sup>, which gives rights to perform appraiser profession in that country. By a diploma here is understood any diploma, certificate or title – issued by the appropriate body of the country – confirming that the person spoken has graduated from a college of at least three years, or an equivalent of non-resident studies at a university or other higher school of the same level, or, if needed, has finished professional training, supplementing his or her college education; a diploma stating that the graduate gained proper professional qualifications for appraiser work, according to the country's regulations, if the education is gained in the EU or EEA, or if the graduate has three year professional practice, approved by the country authorities.
2. Or, if the person spoken has practiced the appraiser work for two years in the last ten years in some other country, in which this profession is not controlled<sup>6</sup>.

#### 4. Geodesy Studies

For a general orientation we provide a description of exemplary geodetic studies (one of faculties authorizing to perform an appraiser job) in Belgium. These are usually academic studies at the geography department. As an example let us take the Geography and Geomatics Department at University of Ghent. The studies have two levels and end with the engineer (Bachelor) title in Geography and Geomatics (main subject: surveying). Three years studies contain about 600 hours of learning in the first year, 750 in the second and 500 in the third year. The exact number of studying hours is difficult to establish due to the existence of various faculties. Yet the ECTS points for all courses are strictly established; there is 60 points to gain in every year of study. The difference with reference to Poland is that the hours of student's work are determined and contain courses, classes (or professional placements) and personal work<sup>7</sup>. In sum there is always 1800 work hours in one studying year. The M.A. studies on the Geomatics and Surveying

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<sup>5</sup> EEA comprises EU countries plus Norway, Iceland and Lichtenstein.

<sup>6</sup> The two year practice may not be required if the person has a diploma in field connected directly with the appraiser profession.

<sup>7</sup> The personal work hours, designed for mastering the material required, are counted in respect of an average student.

faculty last one year with similar hours count. Geodetic studies give jobs mostly to specialists maintaining GIS (geographical information systems). But most graduates become independent, certified appraisers.

## 5. Situation in Poland

In Poland an appraiser is a person owning government license to value real estates. The license can be acquired through passing an exam before the Government Examination Commission. To take the exam one has to have academic education in fields of law, economy or technical faculties (for example building or geodesy). Beside that, if the candidate's education does not meet the program requirements, he or she has to finish post gradual studies in real estate maintenance field<sup>8</sup>.

## 6. Acquiring the Appraiser's License

The path to acquire the license is described in details in PFSRM (The Polish Federation of Valuers' Associations)<sup>9</sup> standards:

1. The definition of a valuer.
  - 1.1. A valuer is a natural person having authorization to value real estates, given by the Ministry of Infrastructure or by the president of the Institute of Spatial Management and Housing, under the 17th May 1989 Geodetic and Cartographic Law (Journal of Law, no. 30, position 163, with later changes) till 31st December 1977, and by the president of the Institute of Spatial Management and Housing under the 21st August 1997 Real Estate Management Law (Journal of Law, no. 46 year 2000, position 543).
  - 1.2. Performing the valuer's job without needed authorization is prohibited under pecuniary penalty fixed by the Real Estate Management Law.
  - 1.3. The valuer gains license to perform his tasks on the day of being registered into the Appraisers Register maintained by the Institute of Spatial Management and Housing. Excerpts from the Register concerning appraisers from particular provinces are issued by provinces' governors in local office journals.

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<sup>8</sup> The program minimum is defined by the former Ministry of Building (actually Ministry of Infrastructure).

<sup>9</sup> The standards were enacted by the National Council of PFSRM at the 10th January 2002 and added to the body of Professional Standards for Valuers (SZRM).

As can be seen from the above comparison, acquiring the appraiser's title in Poland undergoes very precise and strict rules. Practically it is necessary to graduate from adequate post gradual studies and to pass the government examination of a high difficulty level. In Belgium gaining similar authorization is much less complicated. In fact it is enough to have adequate academic diploma, in most cases on the engineer (BA) level, to acquire the appraiser's license. It is also possible, with no bigger barriers, to conduct a nostrification of licenses gained in other EU countries. Two years of practice is enough for this process. This leads to conclusion that the most important factor should be the market, which ought to regulate the number of working appraisers as well as influence the substantial quality of valuations performed.

Returning to the Polish way of acquiring appraiser's license, one should notice that there is a plan of the Real Estate Maintaining Law's amendment to remove Article 198, which sanctions unauthorized appraisers, and at the same time to omit changes in Articles 174, 179 and 184, describing the necessity of license and the legal protection of professional titles. This legal activity, instead of clarifying the authorization rules, even further complicates the already intricate procedures.

## 7. Appraiser's Duties

Above cited standards describe [5] the appraiser's duties in Poland as following:

### 3. Appraiser's duties.

#### 3.1. Appraiser is obliged to perform tasks concerning real estate valuation:

- a) in accordance with the law,
- b) in compliance with the rules of the present standards,
- c) observing the rules described in the Professional Ethic Code,
- d) keeping the special diligence, proper with regard to the professional character of his work,
- e) in an objective and independent manner.

#### 3.2. Appraiser should refuse valuation or other tasks mentioned in point 2.9., if the circumstances threaten his objectivity, especially if there is a possible conflict of interests between the appraiser and his client, or if there is any illegal pressure from the client or any third persons exerted on the appraiser.

The comparison of appraisers' duties in Poland and in Belgium shows some significant differences.

In Belgium there the question of job accumulation is decidedly emphasized, resulting in accumulations prohibition for appraisers, even in case of government and local administration works. Polish law does not acknowledge the issue in

such a clear manner, though it should be noted that strict observance of point 3.2. could at least partially serve to regulate it.

Yet the professional responsibility of appraisers towards clients, for whom valuation tasks are performed in Poland, is strictly regulated. The proper law articles define it as follows [5]:

4. Professional responsibility of appraiser.
  - 4.1. Explanatory proceedings can be commenced towards an appraiser at the Professional Responsibility Commission, which is called up by the president of the Institute of Spatial Management and Housing. The course and detailed rules of conduct of proceedings at this Commission is described by the appropriate laws.
  - 4.2. In case of essential divergences of opinions about the valuation of one estate made by different appraisers, the estimation of those valuations' correctness is made by the appraisers' professional association.
  - 4.3. Every person who can prove his or her legal interest, can appeal to the appraisers' professional association for an opinion about the valuation performed, if it is no older than three years. The opinions are made based on the agreement concluded between the Association or PFSRM and the person questioning the valuation.

In Belgium, however, there is in fact no possibility to lodge a complaint. There is no professional authority to which a client could report any complaints about supposed faults made by an appraiser. Of course there is still a possibility to take the case to court.

## 8. Summary

There are no crucial differences between professional qualifications and responsibilities of appraisers in Poland and Belgium. But there is a tendency in Poland to regulate things institutionally, especially the way of acquiring license and the professional responsibility issues, while in Belgium there is definitely more freedom of action and easier access to conducting the professional activity. The difference in the duration of education is also clearly seen. In Belgium it is enough to graduate from the three years B.A. studies, while in Poland it has to be 5 years M.A. studies plus at least one semester of post gradual studies. The responsibilities of a Belgian appraiser is much less bureaucratic, but this does not mean that he does not bear responsibility – mostly financial – for mistakes made (culpable or not). Consideration of the Belgian approach to the appraiser work can show some possibilities in developing the activity in Poland. As the free market forms real estates' prices, similarly the market can select the best professionals. Another clear advice that should be taken is a definite accumulation prohibition.

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## References

- [1] Papers of the Royal Appraisers' Association (Koninklijke Confederatie Der Landmeters Experten) in Belgium – web address: <http://www.kcle-crge.org/nederlands/start.htm>
- [2] Papers of the Polish Federation of Valuers' Associations (Polska Federacja Stowarzyszeń Rzecznawców Majątkowych) – web address: <http://www.pfva.com.pl/>
- [3] The Decree of the Ministry of Finance from 23th December 2003 concerning the obligatory third-party insurance for appraisers (Journal of Law of 2005 No. 228, item 2265).
- [4] The Decree of the Ministry of Infrastructure from 21<sup>st</sup> January 2005 concerning proceedings on grounds of professional responsibility of appraisers, real estate agents and landlords (Journal of Law of 2005 No. 207, item 2109, with later changes).
- [5] Professional standards of Polish Federation of Valuers' Associations, edition 8<sup>th</sup> corrected, June 2004.
- [6] The 21<sup>st</sup> August 1997 Law about real estate management, Warsaw 2004 (Journal of Law of 2004 No. 261, item 2603).