



Flat ownership and Registration in Europe - an Overview

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Introduction

- Comparative study conducted at TKK in 2006-2007.
- Case studies of ten European countries:

Austria	Norway
Belgium	Poland
Finland	Slovenia
Germany	Sweden
France	Switzerland

Structures of collective ownership: 1. Co-ownership

- In all the countries studied, it is possible to own real property units in a co-ownership.
- Form of direct ownership i.e. the object of ownership is the property unit itself
- Decisions regarding the co-owned property typically require a majority decision
- The co-owners often can sell and mortgage their shares individually
- In co-ownership without shares (Poland, Slovenia, Switzerland) transactions and mortgages require an unanimous decision of owners

Structures of collective ownership: 1. Co-ownership

- Problems in co-ownership
 - Not planned for management and ownership of buildings with several flats
 - Rights and obligations (e.g. possession of flat) are often not clear or are based on arrangements, which only are binding between the contractual parties
 - Some countries have reacted to these problems by enabling registration of these agreements

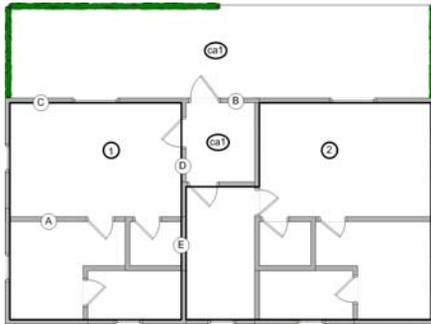
Structures of collective ownership: 2. Commonhold

- Defined here as
”a form of apartment possession, where the ownership is organized through a legal structure dividing the property into private and common areas”
- Exists in all the countries studied

Structures of collective ownership: 2. Commonhold

- Private area = part of the building and/or plot used exclusively by one owner
- Common area = parts used by all the owners or some of them and parts of the building ensuring the stability, resistance and protection of constructions (e.g. stairwells, elevators, corridors, garden, exterior walls)
- Each owner can use and enjoy freely the common areas under the condition of not obstructing the rights of the other owners

Structures of collective ownership: 2. Commonhold, example



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7

Commonhold: legal structures

- Legal structures vary across countries
- Most common types
 - Commonhold with direct ownership to property
 - Commonhold with association or co-operative
 - Limited company for housing
- Decision-making body is typically the general assembly. Decisions are often made on majority basis
- Routine administration may be issued to an administrative board and/or commonhold manager

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8

Object and registration, transactions: Commonhold with direct ownership

- Object of ownership is the private unit and a share of the common part combined. Typically they cannot be separated in case of mortgage or transaction.
- Private units are assigned to each owner either by right of ownership or an exclusive right of use.
- The scope of ownership of the common area can be defined as a specified percentage or it can remain totally undivided

Type of possession to private unit	Countries
Exclusive right of use	Austria, Norway, Switzerland
Right of ownership	Belgium, France, Germany, Poland, Slovenia

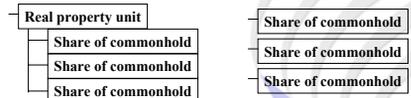
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9

Object and registration, transactions: Commonhold with direct ownership

- The share of a commonhold is typically registered under the original real property in the Land Register
- Another approach is to divide the original property into individual real property units when creating a commonhold system
- Regulation concerning transactions of real property typically apply



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10

Objec! and registration, transactions: Commonhold with association...

- Main purpose of the association or co-operative is to provide dwellings with advantageous conditions to their members
- Association or co-operative is the title holder
- Shareholders/members have a right of use to specified unit (flat)

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11

Objec! and registration, transactions: Commonhold with association...

- Share in an association or co-operative is registered either in the Land Register or an unofficial register
- Development has been towards official registration, due to the need to increase security value of the share and publicity of ownership
- Shares are often considered as movable property, which has implications on transactions, registration and taxation in comparison to direct property ownership.
- In Norway, the Act on Real Property Transactions also applies to shares in housing co-operatives

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12

Object and registration, transactions: Commonhold with limited company

- Housing company is the title holder in Land Register
- Individual shareholders are not registered publicly, but by the company.
- Considered as movable property, formal requirements of real property transactions do not apply.

Discussion

- Systems of structuring the ownership and possession of property have been created in all countries studied.
- Main distinctive features are the object of ownership and rights related to it, as well as the regulation concerning transactions and registration.
- Understanding of these differences are of importance when capital markets integrate and real estate ownership internationalizes:
Implications on both individual (movement of persons) and market level (legal protection of pledge and ownership)



Thank you for your interest!