



**Abstracts**

## **W09- Legal Aspects of Housing, Land and Planning**

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## **Conservation policy of historical settlements and cultural assets in Turkey**

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In Turkey, nowadays, conservations rules and regulations are changed. There are different approaches to the conservation policy. Rehabilitation of the old settlements requires much more expenditure than any other assets. Therefore, Government has developed new policies for conservation of immovable historical and cultural assets since 2005. In some views, new regulations helped to preserve old structures and settlements, in another view it didn't. Sustainability of the historical settlements and cultural buildings repairment is depended on the lage financial funds. In my paper it will be discussed on the usefulness or defects of the new conservation regulations for a while. The role of the local actors will be criticized for this issue and stressed the importance of national and international acts also. At the same time, difficulties of the planning in these type of areas, planning realizations will be discussed in the paper with comparisons before or after the regulations for Turkey.

## **New models to attend to seniors housing needs in Spain and the US: The role of public initiative**

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This paper deals with the important topic of housing for seniors citizens. The policies developed in Spain show us that a new public intervention must be implemented. At the same time, the author analyzes the role of the market and the comparison with another legal system as it is, the United States housing for the elderly policy. The author brings here her experience as fellow at the Joint Center for Housing Studies at Harvard, and as a Visiting Researcher at the Virginia Center for Housnig Research, and as a Law professor at Malaga Law School in Spain, to show us that other solutions are possible.

## **Enforcement of building regulations: From public regulation to self-regulation; a theoretical approach**

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A number of construction-related incidents at the beginning of the 21st century, some of them fatal, sent local building control straight to the top of the Dutch political and public agenda. For some time now national government, local building control authorities and private organisations work together to come to more effective and efficient building control processes; however, a general view upon enforcement strategies seems to be absent. In this paper a range of conceptual enforcement models will be introduced on a continuum of total public control (through governmental actors) to total private control (through market players). The models will be based on both notions from literature on self-regulation and notions on Neo Institutional Economics and clarified with examples of international building control systems.

## **Homeland security and emergency management for lawyers and policy makers: Lessons from the hurricane Katrina catastrophe**

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Focusing on lessons to be learned from experiences with Hurricane Katrina, the largest natural disaster to impact the United States in many years, this paper is intended to provide lawyers and leaders from government, the academy, and the private sector, a better understanding of

the issues that can arise from a catastrophic event as it affects housing and land use planning. When such events occur, lawyers and planners from the public and private sectors need to understand the potential impact on land use planning in a new environment after the devastation, how to prepare for and provide replacement housing, and what problems and issues to anticipate in restoring and making the surviving dwelling units accessible and livable in the Recovery Phase.

### **Transposing legal instruments for common property rights: The examples of condominium and land readjustment**

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The potential for transnational harmonisation of law and practice is now generating academic research. Land titling systems are increasingly seen as a necessary role for the modern nation-state. Hernando de Soto's *Mystery of Capital* emphasises the need to integrate plural legal systems, and researchers are now re-examining the relation between communal land tenure regimes and the state, and UN Habitat is developing a Global Land Tools Network.

This paper examines transposition of land management tools between different socio-legal cultures, using two examples. Prerequisites include: a legal regulatory framework for property rights; appropriate cadastral records; appropriate management or development agencies; appropriate technical expertise; political acceptance and cultural values supporting property-sharing; and a functioning land market.

The condominium (also known as commonhold, strata title, sectional title, subsidiary title and unit title) is an instrument for managing multi-storey private apartment blocks. The basic elements are separate ownership of each unit, and proportional ownership of the land and the common parts, with management by a body corporate comprising the owners, subject to statutory regulation. Pressures toward privatisation and diversified housing tenure types are likely to increase use of the condominium model.

Land readjustment (LR, known in different countries as land pooling, replotting, land re-assembly, parcellation, repartition, kukaku seiri in Japan, and umlegung in Germany) allows land assembly, especially when public funds for compulsory purchase and infrastructure provision are limited. The method facilitates development by: combining the assembly and reparcelling of land for better planning; financial mechanisms to recover infrastructure costs; and distributing the financial benefits of development (betterment). It can apply in various situations: pre-industrial ownership mosaics; peri-urban development; redevelopment after war or natural destruction; multi-level replotting to higher densities; sites within urban areas where land assembly may be difficult; so-called 'antiquated subdivisions'; and environmental protection areas.

### **Security in real estate titles: Prerequisite for an European housing market**

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The European Union's 'four freedoms' seem to provide a good basis for an increase of trans-border real estate transactions, and to open the mortgage markets in Europe. Although the single market for banking has been established by the Second Banking Directive in 1993, a real European real estate market seems still far away.

The report of the Forum Group on Mortgage Credit to the European Commission of 2004 identified the barriers to a smooth functioning of the Internal Market. In short a common European real estate market requires:

- 1) Transparency of mortgage products
- 2) Transparency of information from national land registries
- 3) Uniform level of certainty concerning rights and interests in real property.

The first two issues are addressed by existing initiatives. A way to tackle the differences between the mortgages within the EU, and to reach the needed transparency to compare the products of bankers is the Eurohypotheec as proposed by the Eurohypotheec Research Group. EULIS (European Union Land Information Service) aims to provide access to cross-border information about the rights on real estate, using the information in the computerized databases of the participating land registries.

The third issue, uniform level of certainty concerning rights and interests in real property, has so far remained unaddressed. How can we provide the required transparency and certainty to sellers, buyers and their bankers? In this paper we will discuss how the required transparency and certainty can be achieved through a common way of land registration in Europe. Further, we will discuss whether the utilization of such a common standard should be left to the private sector (by the concept of title insurance) or the public sector. In our analysis, we will take into account the situation in the USA where similar issues have been dealt with in the past.

**Dynamics of building regulations in Europe**  
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The context of general trends in the regulatory sciences, particularly with reference to Europeanisation studies. Within the regulatory sciences, there is broad consensus about the trend towards deregulation and privatisation in recent decades. Studies conducted under the rubric of 'Europeanisation' analyse the effects of European policies on the policy frameworks of the member states in more detail. Are the systems converging or diverging? Although the history of this kind of research is short, most authors agree that European policies have had a profound impact on the policies of the member states, but that this impact has not been uniform.

In this paper, we analyse privatisation and deregulation trends within the building regulatory systems of eight European countries, and we consider whether the systems appear to be converging or diverging. We focus on three elements: the scope of the technical requirements, the building permit procedures and the division of control and inspection responsibilities. The analyses reveal no evidence that the scope of technical requirements in European countries is diminishing. Through its directives, the European Union exercises a convergent influence on the contents, scope and formulation of these technical requirements. In addition, all member countries are taking steps to streamline their administrative procedures. The importance of the role played by private organisations in checking and controlling regulations is increasing across the board.

Dynamics in building regulations will be a topic for our research for the coming years. In 2007 and 2008 we are updating and extending our data on dynamics of regulatory systems in Europe.

**The new Dutch Land Development Act as a tool for value capturing**  
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In many European countries in recent years house prices have risen sharply. In these countries the gap between the agricultural value of land and the value of land to be urbanised (the residual value of the land) has increased.

An interesting question is, who profits from this increase in land value. Besides the agricultural landowner, the different parties involved in the development process are interested to have a share in these profits. Often also the government develops methods and strategies to capture (part of) the value increase for public purposes. In some countries the government itself is involved in land development, trying to acquire land to be urbanised. As a developer, the government can capture the value increase directly.

Besides this active strategy, other strategies can be followed as well in which the government is indirectly trying to capture part of the value increase

Two different approaches can be distinguished:

- a strategy based on taxation: the government is levying a tax to capture (part of) the development profit
- a strategy based on cost recovery: the government obliges the developer to pay for certain costs and (public) facilities

In the Netherlands, in 2008 a new Act will come into force, which will strengthen the position of the government in land development. In the paper, the main characteristics of this new Act will be presented. The paper argues that, although the new system is formally based on the principle of cost recovery, the system also has some similarities with a tax based system.