

## Property rights regimes across Europe - A comparative survey-based overview

Sonia Guelton, Malgorzata Barbara Havel, Andreas Hengstermann, Nikos Karadimitriou, Sina Shahab, Vida Maliene, Müge Tunaer

Property rights are recognised to play an increasing role in addressing pressing policy challenges (Needham 2006; Davy 2012), such as climate change (van Straalen / Hartmann / Sheehan 2018), reduction of land take (Lacoere / Leinfelder 2023), or affordable housing (Debrunner / Hartmann 2020). Especially land use policies have to comply with the understanding and practice of property rights if it is to have a chance of implementation. However, there exists a notable shortage of comprehensive knowledge regarding the social understanding of property rights in land across different countries and their property rights regime: ‘the set of economic and social relations defining the position of each individual with respect to the utilisation of scarce resources’ (Furubotn and Pejovich 1972, p. 1139). This study aims to bridge this knowledge gap by presenting a survey-based overview of property rights regimes across Europe providing an overview that will help policy decision-makers at a time when new policies are to be designed all over Europe. Taking advantage of a European network of leading land and property experts, we have conducted a survey inquiring about the legal, political and historical characteristics of the national property regime in 25 countries, including EU member states and some non-member states. Both post-socialistic countries in Central and Eastern Europe and Mediterranean and Northwestern states are represented. Methodically, the survey is based on the approach of Cultural Comparative Law (Zweigert / Kötz 1998). It pursues a cultural interpretation of the law related to the respective historical, political and social context (Michaelis 2012) – in contrast to a black letter-understanding of legal texts. The method involves three essential analytical steps. First, the actual political subject is defined – in our case the property rights regime to land. Second, the respective national laws that influence this subject are identified. In the present study, this varies from country to country. Thirdly, the results are contextualised by several cultural frameworks. This study therefore also addresses philosophy, history and land market conditions. The result is a multi-layered consideration of the regime of property rights which structure the possibility to implement a land use policy. In several countries the considerations of absolute property rights will not be discussed nor restricted by any regulation or by very few collective considerations, while in other case some public interest will lead to many direct contributions or indirect constraints or obligations.