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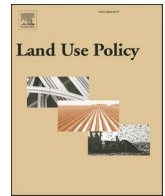
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Revisiting (neo)liberalism in land policy: Trends in property rights regimes across Europe

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ABSTRACT

Property rights regimes play an important role in shaping land policy and planning policy. This paper presents the findings of comparative research on property rights regimes across Europe. Based on the survey responses of experts from 24 countries, the analysis offers a deeper understanding of various property rights regimes, and their evolution during the late 20th and early 21st centuries. The paper analyses property rights regimes in various socio-economic, political and historical contexts and explores the foundational philosophical understanding of property rights in a range of countries. It highlights the diversity of approaches employed in the protection and regulation of property rights and unveils the libertarian character of the changes which occurred in liberal Western European regimes from the 1980s onward, as well as the libertarian foundations of the post-communist regimes put in place in Central and Eastern Europe after 1989. The paper therefore highlights how so-called 'neoliberal' approaches to land policy and planning policy, reflect a turn towards a libertarian understanding of property rights. The hope is that this understanding of the philosophical underpinnings of property rights regimes across Europe could facilitate a more informed debate around contemporary land policy and planning policy.

1. Introduction

Examining property rights as a way to understand the concept of property is a well-established approach (see Hohfeld, 1913), which looks at property from a legal point of view. It is frequently concerned with the historical process of how property rights regimes evolved (North, 2005; Williamson, 2000) or the treatment of those rights by the courts (De La Sala and Alterman, 2024). In this paper, the term 'property rights regime' refers to the combination of legal rights, such as those concerning access to and utilisation of land resources, and the broader institutional and normative framework in which those rights are defined, enforced, and contested. This includes the balance between public and private land rights, questions of land value and land

development, and the underlying principles that guide how property is understood and governed in any given context (Schlager and Ostrom, 1992; Gerber, Gerber, 2017; Slaev and Shahab, 2026). A property rights regime, therefore, relies on a set of assumptions and principles about the nature of property rights and their role in society. However, these assumptions do not fully determine how the bundle of rights (Schlager and Ostrom, 1992) is defined, or which specific benefits and income streams are included. Property rights are not simply about ownership, but encompass a range of entitlements, such as the right to use, transfer, exclude others, or derive income from the property. These rights are shaped by legal, social, and economic contexts, and their precise scope may vary across regimes. It is through the practical definition and allocation of these rights that the property rights regimes have been

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structured (Hartmann et al., 2025).

Many of the differences in property rights regimes between the countries analysed in this paper, are due to the legal tradition a country's legal system was predominantly influenced by (e.g., German civil law, French civil law, Scandinavian civil law, or English common law). Such differences are apparent in how property rights are defined (Macfarlane, 1998; 111–112), which by and large reflects the diverse philosophical foundations of these legal systems.

Apart from legal issues, which have been more thoroughly studied, this paper addresses why it is important to develop a comparative understanding of the various legal, social, and historical contexts that shape property rights regimes. It shows that a comparative understanding of these different legal, social, and historical contexts shaping property rights regimes is becoming increasingly important in addressing contemporary land-use challenges. These include climate change, natural resource crises, the shortage of affordable housing, biodiversity loss, and land degradation. In a time marked by unprecedented global environmental, social, and economic challenges, the link between property rights and land policy has attracted growing attention from scholars, policymakers, and environmental agencies (Rebelo, 2017; Hartmann et al., 2025). Property rights, the legal and social constructs that determine who has control, access, and ownership over resources, are crucial in shaping how actors utilise environmental assets (Davy, 2023, 2012; Gerber, Hartmann, and Hengstermann, 2018). Consequently, the property rights regime has significant implications for the sustainable management of resources and land in particular (Ostrom, 2015; Gerber et al., 2009). As a vital part of broader planning policy, land policy translates the definition and governance of property rights into practical decisions about land use, value, and distribution, making a nuanced understanding of these rights essential for effective territorial governance (Needham, Buitelaar, and Hartmann, 2019).

The way "property rights" and "property rights regimes" are conceptualized and framed allows us to develop more appropriate and effective solutions. For example, only by understanding and critically analyzing who makes decisions regarding land and resource use, and the underlying motivations and processes, can we establish more effective approaches for engaging landowners and stakeholders in sustainable land management.

Although property regimes across European countries are linked by history and geography, as well as by similar social foundations, their differences are rarely the object of scientific inquiry. The research objective of the article is to explore how political and legal dynamics influenced the development and function of property rights regimes among 24 European countries. A comparative analysis of this topic across multiple European countries is unique in the property literature. Property rights regimes shape the legal and social framework within which land is allocated, distributed, and managed (Demsetz, 1966). Various theories of property (e.g. Lockean, libertarian, utilitarian/law-and-economics, personhood, Kantian, human flourishing etc.) approach the concept of property rights differently (see in particular Alexander and Peñalver, 2012). In the most common understanding, property rights constitute a typical example of an institution (Buitelaar and Needham, 2007). Overall, property rights theories state that many different rights are attached to a given piece of land (bundle of rights) (Alchian and Demsetz, 1973; Schlager and Ostrom, 1992), and the distribution of these rights matters for efficiency outcomes in general (Coase, 1960) and for efficient land-use (Fischel, 1998; Boudreaux, Lipford, and Yandle, 1995; Lefcoe, 1981; Vejchodská, Shahab, and Hartmann, 2022). Therefore, the study of property rights can improve our understanding of the allocation of resources in an economic system (Libecap, 1989).

However, there is no consensus on the degree to which the influence of market forces and the ownership established over the attributes of a piece of land are sufficient conditions for leading an economic system towards economic efficiency (Demsetz, 1966). There is an ongoing discussion about the impact on market operations of the cost of creating

and policing contracts that establish ownership, i.e., of transaction costs (Webster, Wai-chung, 2003; Falco et al., 2024), political power (Libecap, 1989; Gerber and Debrunner, 2023), the process of social creation (Needham, Buitelaar, and Hartmann, 2019) and/or the significance of path dependency (North, 1990).

The property rights approach has been extensively utilised for the analysis of land use planning and the functioning of land and property markets (Buitelaar and Needham, 2007; Vejchodská et al., 2022; Webster, Wai-chung, 2003). This body of research has explored how the design, allocation, and enforcement of property rights affect land development processes and planning outcomes (Havel, 2014; Shahab, 2021). It has demonstrated, for instance, how reconfiguring land rights or introducing market-based mechanisms can influence the achievement of planning objectives (Hengstermann and Götze, 2023; McAllister et al., 2018; Shahab et al., 2020; Valtonen et al., 2018). More specifically, studies in urban contexts have shown how the initial configuration of rights (who holds what entitlements, and under what constraints) shapes the possibilities for redevelopment and the distribution of costs and benefits (Eckart, 1985; Louw, 2008; Adams et al., 2008; Hou et al., 2020; Hong and Needham, 2007). These insights underline how important it is to understand property rights regimes not merely as legal constructs, but as dynamic institutional arrangements that structure relations between public authorities, private actors, and land itself, thereby shaping the direction, inclusiveness, and outcomes of urban development and policy (Blomley, 2004).

Based on this key idea, the research aims to understand how political and legal dynamics influence the development and function of property rights regimes in Europe. It explores the ways in which historical, philosophical, and institutional contexts have shaped property rights in 24 European countries. It also attempts to decipher recent trends in the evolution of property rights regimes, and highlights the influence of right-libertarian political philosophy in the changes that shaped property rights regimes across Europe in recent decades, while 'neoliberalisation' unfolded across the continent (Olesen, 2014). The term 'right-libertarianism' is used here to describe the strand of libertarianism which prioritises free-market capitalism, strong private property rights and very limited (if any) state intervention. This approach to property rights is distinctly different to 'left-libertarianist' approaches which advocate for more egalitarian-oriented, communal-rights based, ownership of natural resources (see Bevir, 2010, 811).

1.1. Neoliberalism and right-libertarianism

The late 20th century witnessed the emergence of what David Harvey (2006, 145) labelled neoliberalism. Harvey defines 'neoliberalism' as a "theory of political economic practices which proposes that human well-being can best be advanced by the maximisation of entrepreneurial freedoms within an institutional framework characterised by private property rights, individual liberty, free markets and free trade" (see Table 1). Although this paper advocates for a more nuanced understanding of the core principles of neoliberalism when it comes to property rights, it will utilise this widely accepted working definition of neoliberalism to facilitate communication.

During that time, governments in several developed capitalist economies effected the retreat of the state from direct economic management and welfare provision, favouring instead policies of deregulation, privatisation, and market liberalisation. Olesen (2014, 290), draws on Purcell (2009), to clarify that 'neoliberalism' is rooted in the conviction that markets are always more effective than states at organising social and economic life. 'Neoliberalisation', in turn, refers to the process by which this rationality becomes institutionalised in public policy (Olesen, 2014). In developed capitalist economies this process often manifested as a shift from redistributive and universalist welfare-based mechanisms for provision of goods and services like housing, health and education to competitive, market-driven and residualist approaches (Swyngedouw et al., 2002).

Table 1

Outline of the central terms used throughout the article.

Term	Description	Reference
Neoliberalism	“Theory of political economic practices which proposes that human well-being can best be advanced by the maximisation of entrepreneurial freedoms within an institutional framework characterised by private property rights, individual liberty, free markets and free trade”.	See Harvey, (2006) , 145
Neoliberalisation	Process by which the rationality ideological orientation of neoliberalism becomes institutionalised in public policy.	See Olesen, (2014) , 290
Capitalism	Economic system premised on the commodification of goods and services, where the ability to generate profit is fundamentally contingent upon private control over productive resources, secured through property rights.	See Gerber, (2025)
Right-Libertarianism	Political philosophy that has most strongly advocated for the institutional configuration of ‘neoliberalism’	See Alexander and Peñalver, (2012)

The ‘neoliberal’ approach to public policy is distinctly different to the classical liberal principles which underpinned property rights regimes in many European countries for much of the 20th century. Liberals advocate regulations that balance property rights against social welfare concerns. Even during Locke’s era, the legitimacy of the public’s authority to establish, modify, or regulate property was recognised as necessary to serve the public interest ([Davy, 2012](#)). Within the classical liberal tradition, government intervention, including spatial planning, is generally accepted as means to regulate markets, address social inequalities, and provide public goods and services. It is contemporary (right-)libertarianism which asserts that private property rights must be robust enough to curb state power—even when the state acts with majority consent ([Alexander and Peñalver, 2012](#)). The near-absolute nature of property rights, derived from the non-aggression principle, is distinctly different to Locke’s original and essentially liberal, position, that property rights should have to contend with some restrictions (the sufficiency proviso and the spoilage proviso).

This distinction is of fundamental importance because (private) property rights are the cornerstone of economic value generation in a capitalist economy. According to [Gerber, Gerber \(2017\)](#), property rights are not simply legal constructs, but foundational institutions of capitalism. In this context, capitalism can be defined as an economic system premised on the commodification of goods and services, where the ability to generate profit is fundamentally contingent upon private control over productive resources, secured through property rights ([Gerber, 2025](#)). Property rights thus provide the legal infrastructure that enables investment, capital accumulation, market exchange, and profit-making. The seminal work of [Acemoglu and Robinson \(2006\)](#) and [De Soto \(2000\)](#) argues that certainty over, and security of, property rights is key in facilitating investment and therefore economic development. However, [Acemoglu and Robinson \(2012\)](#) argue explicitly that certainty and security of property rights require a strong, effective and efficient state mechanism to provide public goods and guarantee property rights.

Importantly, therefore, right-libertarianism’s is the political philosophy that whose approach towards property rights most closely resembles the approach towards property rights of the institutional configuration which Harvey called ‘neoliberalism’. As discussed, right-libertarianism, as a normative doctrine, prioritises individual liberty above all else and regards property rights as extensions of personal autonomy. Unlike classical liberalism, which often accommodates state intervention to correct market failures or to ensure social welfare, right-libertarianism views any state interference, especially in matters of

private property, as a threat to individual freedom. This view supports a maximalist and near-absolute conception of property rights, whereby regulation is legitimate only when it protects property rather than redistributes or restrains it ([Alexander and Peñalver, 2012](#)). Ironically, neoliberalisation relies on significant state intervention and regulation to reshape economies ([Harvey, 2005](#)). [Brown \(2015\)](#) sees neoliberalism as following a ‘governmental rationality’ aimed at reconfiguring the state to serve market logic and reducing citizens to market actors, thereby undermining the foundations of democracy.

In this light, when it comes to property rights, what Harvey called ‘neoliberalism’ can be understood as the political-economic expression of a right-libertarian view: whereas right-libertarianism provides the philosophical justification for strong, minimally restricted property rights, neoliberalism operationalises this principle in policy frameworks that privilege the unhindered operation of market actors over public provision mechanisms. Thus, while capitalism refers to the economic system made possible by property-based market exchange and capital accumulation, right-libertarianism represents the political philosophy that underpins a very individualist version of this system, and neoliberalism is the policy apparatus for putting in place this version of capitalism in the late 20th century.

This tripartite conceptualisation (capitalism as economic system, right-libertarianism as political philosophy, and neoliberalism as policy apparatus) helps to unpack the logic behind recent transformations in property rights regimes across Europe. From the late 1970s onwards, many European countries, starting with the UK under Thatcher, witnessed reforms across various policy fields ([Cooper et al., 2022](#)) including planning ([Gerber, 2016](#)) gradually reconfiguring property rights in line with right-libertarian principles. In line with the prevailing political zeitgeist of the time ([Peck, 2010](#)), these changes prioritised private autonomy over collective claims and weakened the social function of property, long embedded in European legal traditions. In urban development, this has meant that property-led policy initiatives and public-private partnerships were privileged over other modalities of delivering public goods ([Karadimitriou et al., 2013](#)), while spatial planning’s capacity to constrain private rights in the public interest was marginalised ([Allmendinger, 2016](#)). This paper offers insights into the diverse approaches used to protect and regulate property rights across Europe. The analysis highlights the significant diversity in legal and institutional arrangements related to property rights and provides a historical overview of the assumptions and principles underpinning societal understandings of them. Despite the heterogeneity in specific rights, their definitions, the balance between public and private land rights and associated benefits or income streams, there is a noticeable trend towards a weaker social function for property in most European regimes, influenced by a right-libertarian understanding of property rights. The influence of right-libertarianism in shifting that balance is well demonstrated in the use, or not, of land value capture (LVC) instruments for the purpose of funding infrastructure necessary for urban development (see the discussion in [Section 4.3](#)).

1.2. Plurality of regimes across Europe

In Europe, a wide array of political regimes, following distinct historical trajectories marked by periods of significant transformation, has led to the development of various property rights regimes ([Nadin et al., 2024](#)). In many European countries, private property rights are often viewed as inherent individual rights, akin to the right to life or equality under the law. This classical liberal conception, rooted in the philosophies of Locke and Bentham, considers and defends property rights as fundamental individual rights - echoing John Adams’s assertion that property must be secured or liberty cannot exist ([Davy, 2012](#)). In this context, a key objective of property regimes is to ensure that an individual’s rights to land are recognized and protected, although the extent of this protection and the balance between private and public land rights have evolved over time. Broadly speaking, liberals advocate

regulations that balance property rights against social welfare concerns. Even during Locke's era, the legitimacy of the State's authority to establish, modify, or regulate property was recognised as necessary to serve the public interest (Davy, 2012). Within the liberal tradition, government intervention, including spatial planning, is generally accepted as means to regulate markets, address social inequalities, and provide public goods and services. In particular, the influence of social democratic ideologies in Europe during much of the 20th century has legitimized comprehensive planning systems' and regulatory authorities' intervention in private property rights (Davoudi et al., 2018). This approach stands in stark contrast to right-libertarian approaches to property rights, especially in the form these were expressed in the late 20th century via neoliberalism.

Several countries in Europe have experienced substantial shifts in their property rights regimes, reflecting broader socio-political and economic transformations, such as when private property was abolished in favour of social property (Marx and Engels, 1848). After the collapse of communist regimes in those countries from 1989 onward, private property rights were re-established and protected once again. In this paper, we argue that the changes occurring in property rights regimes in these countries from the 1990s onward were strongly influenced by right-libertarian principles (Havel, 2022). The remainder of this paper is structured as follows: Section 2 describes the study's research design and methodological approach, including a description of the general approach (Cultural Comparative Law) and the way the expert survey was conducted. The findings are presented in two parts, first the general understanding of property rights across Europe (Section 3), and second the historical, political and social context as well as the land market situation and the understanding of property rights (Section 4). In Section 5, the findings are discussed across those three parts and across the 24 countries covered. Conclusions are presented in Section 6 along with reflections on the implications for planning.

2. Research design and methods

2.1. Cultural comparative law

The paper's analysis is based on the approach of Cultural Comparative Law (Zweigert and Kötz, 1998). Under this approach, law is understood as an expression of a social and political process. Instead of merely repeating the written law functionally, this approach pursues a cultural interpretation related to the respective historical, political and social context (Michaelis, 2012). This allows for a comparison of the different legal systems in a "practice-reflecting" way, even if no "transplant" of law is possible (Watson, 1974). Accordingly, cultural comparative law focuses on the underlying mechanisms (also referred to as *mentality*) rather than looking purely at the written law (*black letter law*). In the present study, this method is used to look at the property rights regime from a cultural perspective and to compare it across different countries.

The method involves three essential analytical steps (Zweigert and Kötz, 1998). First, the political subject is defined. The present study focuses on the property rights regime for land. Second, the national laws that influence this subject are identified. In the present study, this varies across countries. Under most legislation, the constitution in several countries (with exceptions, like Belgium) establishes property rights principles. The rights and obligations of landowners may be administered under various laws, such as the Civil Code (Belgium), land laws (Germany), planning laws (Norway, among others) or in the case of the United Kingdom, common law and regulation via Acts of Parliament. Thirdly, the findings 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.

2.2. Data collection

To gain insights into property regimes across the continent, an expert survey was conducted in 2020. To ensure that enough experts responded and to cover as many countries as possible, the survey invitation was sent to country representatives of the COST Action project [name redacted for review]. Experts from 32 countries were invited to participate. 24 experts accepted the invitation answers (see Table 2) and provided, a response rate of 75 %. All the experts have an academic approach, however they come from different disciplinary backgrounds, such as law, planning, urban and real estate economics, geography, management, architecture, and civil engineering.

The survey was designed to gain comprehensive and detailed expert responses. It consisted of a structured questionnaire with 35 open-ended questions (see full list, including codes, in the Appendix). The questions were organised into six sets (see Table 3). The purpose of the survey was to obtain an understanding of the main frameworks and factors which may influence property rights laws and policies – including the general cultural context. It did not focus on academic analysis, nor did it aim to summarise references or factual legislative content.

The questionnaire was put together based on insights gained by five country cases discussed in the context of the COST action (Belgium, Malta, Norway, Poland, and Switzerland). It was trialled in a working group with 15 representatives. Nevertheless, the responses show that some questions were interpreted differently across countries. For example, responses to the question on political transformations (Q2C) include minor reforms in some countries and only major transformations in others. Questions which respondents interpreted in different ways were not considered in the results.

Participants also had the option to skip questions, as certain topics are not relevant in every country. For instance, some countries did not undergo major political changes over the last decade, or the availability of social housing is limited. Another reason is that participants didn't know how to answer, often because they didn't have enough information. For certain questions, this resulted in a very low response rate, e.g., the questions regarding the largest landowners in the country (Q3E) or the development process (Q5). These questions were also not considered in the results.

Most of the questions were qualitative in nature. The respective experts were asked to give their professional opinion on certain aspects and back this up with corresponding national references. A few questions focused on quantitative indicators such as the ownership rate. For these questions, a retrospective data check (on OECD and EU statistics, when available) was made to ensure the data was comparable.

We ended up with a pertinent sample of answers covering 4 fields (definitions, legal system, context and market situation) and 15 questions (Q0A to Q0C, Q1A to Q1E, Q2A to Q2E, Q3A and Q3B), on which we based our analysis.

2.3. Reflection on data quality

The data for the present study was compiled based on an expert survey, which helps to provide an overview of property rights regimes across Europe. Of particular importance is that the survey contains a standardised set of questions which cover a set of realities and have some cultural relevance in most countries. This ensures that the required

Table 2

Overview of countries (and their country code used) represented in this study.

Country	Country	Country
Austria (AT)Belgium (BE)	Greece (GR)Italy (IT)	Poland (PL)Portugal (PT)
Croatia (HR)Czechia (CZ)	Latvia (LV)Luxembourg (LU)	Serbia (RS)Slovakia (SK)
Estonia (EE)	Malta (MT)Moldova (MD)	Slovenia (SI)Switzerland (CH)
Finland (FI)France (FR)	North Macedonia (MK)	Turkey (TR)United Kingdom (UK)
Germany (DE)	Norway (NO)	

Table 3
Question sets incl. the question coding system.

Code	Question in primary questionnaire (see Appendix)
Q0	Preliminary 3 Sub-questions coded Q0A to Q0C plus one question regarding the experts personal data
Q1	Legal system and the philosophy of property rights - Description of the regime 7 Sub-questions coded Q1A to Q1G
Q2	Context / description of property rights regime 5 Sub-questions coded Q2A to Q2E
Q3	Market situation 6 Sub-questions coded Q3A to Q3F
Q4	Urban development situation 4 Sub-questions coded Q4A to Q4D
Q5	Role of actors in the development process and possibility of capturing land value 8 Sub-questions coded Q5A to Q5H plus 1 matrix-table question

information is included and while the data has a certain consistency. The survey method also made it possible to include many countries, which would not have been possible with in-depth case studies. Finally, it covers countries whose property rights contexts are barely known outside their borders (e.g., Croatia, Moldova and Norway).

Although the expert survey method has many advantages, it also has certain limitations. Although the survey covers 24 European countries, the selection is not limited to countries that are traditionally the focus of much research, e.g., Northwestern European countries. Instead, our country selection includes various countries with different political systems and trajectories from the various corners of Europe. Despite its broad coverage, the survey does not claim to be exhaustive. The national experts answered the questions to the best of their knowledge. A pre-test with an international panel also attempted to identify and clarify possible interpretations. Nevertheless, we cannot guarantee that all experts interpreted certain questions the same way - certain legal terms have different connotations in different languages and legal systems. Also, individual experts may have specialised backgrounds or practices which influence their answers, even if they are interested in and aware of local developments. They may attach more importance to certain political, legislative or social factors, or under-evaluate others. In view of these aspects, we considered that the advantages of the chosen method outweigh the disadvantages in terms of generating an overview of European property rights regimes.

3. General understanding of property rights in terms of the legal system and the philosophy of property rights

Property rights regimes are embedded in different legal systems emanating from different philosophical traditions. In response to the objective to point out what may have influenced property regimes in Europe, the research explores the philosophical tradition by analysing the legal tradition of the property rights system (e.g., civil code vs. common-law), its perception of the property rights regime (e.g., market-driven vs. state-controlled), its legal tradition (from civil code system via case-law system to customary law-system), and its land management system (cadastre system or customary right of occupancy).

3.1. Philosophical tradition of property rights

Almost all European countries use civil law, except for the UK and Ireland. Also, some countries have a mixed or hybrid legal system. For example, Malta is historically a civil law country; however, the common law and sources of English law have been absorbed by the system owing to the influence of the British Empire on the country.

The understanding of property across European countries varies. In many of the European countries surveyed, the legal understanding of property draws upon Roman law whereas the right to property is

explicitly considered as a fundamental human right and private property rights can only be 'harmed' in the public interest (whichever way this is understood). Several countries' systems are rooted in the Napoleonic Code and French Civil Code tradition that focus on safeguarding public property and public benefit more broadly. Some systems are influenced by the German civil code - a variant of the Roman / civil law tradition where the role of the State is to safeguard individual rights while guiding the management of private property rights. Within our dataset, there is only one country (the UK) that has a common law legal tradition.

3.2. The most recent legal reform of property rights

Table 4 shows that property rights are comparatively stable over time and that most of the major legal revisions of property rights date back several decades. Only six countries have indicated that property rights have been overhauled since the global financial crisis. Our data includes seven countries whose property rights regimes changed after the collapse of communism and the shift towards capitalism in the 1990s. In eight countries, the legal definitions of property rights are much older - with one country's system even dating back to the Second World War. In four cases, no specific legal reform was referred to, which may reflect the respondents' interpretation of what constitutes a "major revision". Overall, property rights remain comparatively stable and are usually only changed after major epoch-defining events.

4. Historical, political and social context of property rights regimes

Looking at the recent transformation in property rights regimes in our sample of European countries enables us to consider how the social function of property and changes in philosophical background have shaped property rights regime and influenced government intervention and regulation, especially in spatial planning and land policies.

4.1. The social function of property

In France, Italy, Portugal, and Slovenia, the social function of property rights requires government intervention, which is largely accepted by the population. Serbia and Moldova do not refer to the social function of property rights as a reason for the limitations imposed by the government. In Malta and Switzerland, the limitations go back to the philosophy of the enlightenment. Other countries refer to a liberal view (Table 5).

4.2. Changes in philosophical background

For socialist countries, the main reason for changes in philosophy is the political transition post-1989. After the fall of the Berlin Wall and the dissolution of the Soviet Union, many countries went through political changes. The transition to capitalism involved changes in the approach to property rights. The policy issue in the late 1980s and early 1990s was how to acquire the economic standing of developed countries. Private property rights were considered a precondition for the creation of democracy and capitalism (Jacobs and Paulsen, 2009). The philosophy of strong private property promoted by the economic advisors and proponents of the *property rights school* influenced the transition path chosen

Table 4
The most recent major legal revision of property rights. N = 21.

Period	Time	No. of countries	countries
Post-WWII	1945–1990	8	AT BE CH DE HR IT PT TR
Post-communism	1990–2006	7	EE FI LV MK PL SI SK
Post-financial crisis	> 2006	6	CZ FR GR MD MT RS

Table 5
Social function of property. N = 21.

Social function of property rights	No. of countries	countries
Autonomy-based liberal conception	11	AT BE CZ DE EE FI HR LV NO SK UK
Libertarian	5	GR LU MK TR PL
Traditional liberal conception	4	FR IT PT SI
Neoliberalism	2	MD RS
Philosophy of enlightenment	2	MT CH

(Bromley, 1991). Pressure from the US government, the International Monetary Fund and the World Bank, as well as the prospect of EU membership led to the adoption of radical property rights reforms, largely in alignment to the *Washington consensus*.

Other European countries have also faced political transitions that affected property rights regimes and the balance between public and private power (Gerber and Debrunner, 2023). For example, such political transitions have occurred due to the end of a monarchy, a dictatorship (Portugal) or a protectorship (Malta). Although the social understanding of property rights is influenced by political philosophy, the triggers to changes in the property rights approach of a country seem to be linked to various economic shocks such as the 2008 financial crisis, environmental stress or to the influence of powerful actors, including large landowners or international financial players. Their preference for certain types of institutional intervention or regulations on property rights may either enable or discourage Public Value Capture (see Section 4.3).

4.3. The evolution of property rights regimes

The experts surveyed underscored the complex interplay between philosophical assumptions, legal frameworks, and socio-economic factors in shaping property rights regimes and their operational dynamics within urban development processes. Urbanisation and globalisation have also significantly influenced property rights regimes in many European countries.

Typically, the development of planning regulations has significantly affected property rights in many countries. Limitations on individual rights to use and develop land became necessary during periods of population growth, rapid urbanisation and industrialisation. Since the late nineteenth century, the extent to which planning should interfere with private property rights has been a critical question.

In European countries that were not communist, the right-libertarian approach started to influence the political system gradually since the 1970s, affecting the institutional structures of well-established planning systems and property rights systems. In those countries, the basic elements of spatial planning systems, especially the approach to property development rights, were established in the second half of the twentieth century (Allmendinger, 2016). Over time, planning intervention became widely accepted in the Western world, allowing governments to control land development through regulations and even to expropriate land in the public interest in return for compensation. The degree of intervention varies by country and period, reflecting political issues that are subject to different ideological responses (Davoudi et al., 2018).

Conversely, in communist countries, Marx's philosophy advocated for the elimination of private property rights. Therefore, in Poland, the nationalisation of industry in 1946 and agricultural reforms in 1944 led to significant expropriation of large private holdings. However, around 70 % of agricultural land and 66.7 % of the housing stock remained in the hands of private individuals (Havel, 2016; Kirejczyk and Jacek, 1997). After 1989, big efforts were directed at shaping formal institutions, the protection of private property, and achieving a balance between public and private rights to land.

In the broader context of private property rights and a government's ability to regulate these for the public good through planning, various

specific rights exist within urban development processes. The primary rights include the development rights and the economic rights to land development (Havel, 2020). Development rights concern the development of land. Economic rights within the land development process are defined as various partial legal rights that determine who the residual claimants are over the development value, who pays the cost associated with the development process and how compensation for interference with property rights is provided. Finally, expropriation and pre-emption rights also serve as cases where a balance between public and private land rights in urban development must be struck in any property regime. These two rights are considered fundamental in explaining the property rights regime within which the land market functions, because they refer to the scope of state interference with private property rights in urban land development.

In Poland (Havel, 2020; Izdebski, 2013), as in other post-communist countries such as Czechia (Jilkova, 2018) or Serbia (Nikolić 2016), the concept of property rights in post-1990 legislation emphasises the primacy of private property rights over the public interest). This prioritization has led to a weak planning system, resulting in a spontaneous and haphazard pattern of spatial development. Consequently, Poland has extensive compensation rights for planning losses, while public value capture (PVC) instruments are limited (Havel, 2017, 2020).

The influence of right-libertarian ideas is clear in the limited development of Value Capture (VC) tools in Poland and several other post-communist European countries. VC tools existed in pre-communist regimes; however, it has been very difficult to reinstate them or introduce new VC tools within a legal framework that treats property rights as absolute. Even when such tools were institutionalised, applying them proved challenging. Consequently, the responsibility for funding the infrastructure necessary for functional urban development was transferred to the State, either de facto or de jure. The institutionalised transfer of funds from society to the real estate development sector highlights the contradiction between the right-libertarian principles of near-absolute property rights enshrined in law and the adoption of policies and institutional frameworks that require significant State intervention and investment, often using tax revenues, to create more sustainable, functional, and marketable urban environments.

Very often, the debate surrounding more adequate and effective approaches to developing sustainable built environments focuses on introducing new mechanisms and instruments. Current debates on LVC exemplify this situation. However, the case of post-communist countries highlights the importance of how property rights are conceptualised in shaping who makes decisions on land and resource use, why they do so, and how they do it. If societies aim to develop alternative approaches to address climate change, housing affordability, or resource management, they need to balance private property rights with broader societal responsibilities. Such reform efforts must start with how property rights are conceptualised and enshrined in law.

5. Discussion

This paper highlights the diverse philosophical and legal traditions that provide the foundation of property rights, with the objective to reveal similarities and differences across different countries. The results consider political and legal influence in how these rights are perceived and implemented (5.1) and provide an original overview of the convergence or divergence of property rights regimes in Europe (5.2). In addition, they point to the influence of cultural tradition and macro-economic pressure in the local understanding of property rights (5.3). Finally, they open the way for land policy comparisons (5.4).

5.1. Philosophical trajectories

Regarding the philosophical traditions of property rights, most participants mentioned liberalism as the dominant tradition. Much of the land in European countries is owned by individuals, corporations, or

other private entities. Private property ownership is prevalent and is often strongly protected by legislative systems in the countries surveyed. In almost all of the countries surveyed (with 2 exceptions) the preservation of private property rights is anchored in the national constitution or the civil code. This reflects a strong tradition of private autonomy in terms of the approach to property rights by the courts.

In several countries, like Belgium, North Macedonia or Czechia, absolute property rights cannot be challenged nor restricted by any regulation. Very few collective considerations have any effect on those rights. In the case of France, Italy, Finland and Germany, the public interest can justify direct contributions or indirect constraints or obligations. Overall, the justification of public interest required by legislation (Q1) and the scope for public limitation of property rights (Q2) is rather limited in all countries, however libertarianism is explicitly mentioned in just one case.

5.2. Convergence or divergence

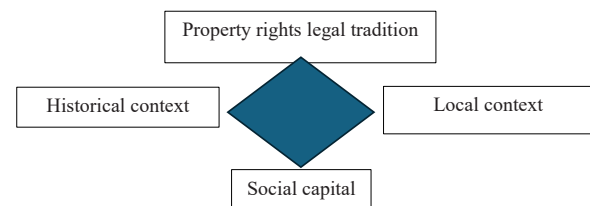
The survey provides insights into the convergence or divergence of property rights regimes across Europe, highlighting trends toward more right-libertarian approaches in most countries. While specific national contexts remain important, two major trends are apparent. Firstly, post-communist countries have transitioned to market economies with stringent safeguards for private property rights, complicating the pursuit of the public interest through planning and value capture. Secondly, many countries adopted right-libertarian policy attitudes due to the scarcity of public funds and the pressure from landowners and other major interests.

After 1970, in certain countries (Portugal, Greece, Malta) and in 1989 in post-communist countries (Czechia, Latvia, Moldova, North Macedonia, Serbia, Slovakia, Slovenia, Poland), the lack of confidence in public institutions and planning systems and/or the concentration of ownership among private institutions has been reflected in a more right-libertarian attitude to planning. In other situations (in Norway for example), especially under economic pressure, the public sector may be willing to take more responsibility in land markets to increase control over land allocation and land value. After 2000, several countries (France, Malta and Portugal) introduced new ownership responsibilities with an enhanced sense of social responsibilities. Others (Greece, Croatia and Turkey) rely on corporate or public ownership and financial motivation to achieve political objectives.

Overall, despite diverse national contexts and diverse trajectories, private property rights have generally been strengthened across Europe since the late 1970s, while direct state intervention and market coordination have declined. Identifying such common trends underscores the value of broad comparative research. In particular, the spread of right-libertarian influences highlights the need to situate property rights within their wider legal, social, and historical contexts. Addressing contemporary land-use challenges at a global scale requires policies that take this trend into account.

5.3. Cultural understanding of property rights

Property rights ideologies across Europe are moving in a similar direction despite the diverse historical contexts. There appears to be an influence from local/contextual macro-economic pressure as well as from the tradition of property rights empowerment and the sense of community (social capital), which may allow for public limits to property rights. Legal traditions across Europe, rooted predominantly in Roman law, underscore the importance of safeguarding private property rights while accommodating public interest in land development. However, countries with a communist history adopt an even more cautious approach towards 'harm' to property rights, reflecting their experiences of socialised property rights. [Graph 1](#) illustrates the main factors which influence the cultural understanding of property rights based on the survey.



Graph 1. Determinants of the cultural understanding of property rights.

Legal tradition: In most of the European countries surveyed, property rights were defined in a legal tradition drawing from the German Civil Code (Germany, Slovenia) or the Napoleonic or French Civil Code (France, Portugal, Italy, Switzerland, Luxembourg). Only the UK follows a common law tradition out of all the countries covered in this study, although Ireland and Malta have been influenced by it. These legal traditions sit comfortably within the broadly liberal political tradition of Western European countries and the post-1989 regimes in Central and Eastern Europe. However, the post-1980s right-libertarian turn in Western Europe and the post-1989 introduction of right-libertarian principles in the way post-communist countries are organized has been more influential on Common Law and Roman Law regimes. Regimes drawing from the Napoleonic, French Civil Code and German Civil Code appear to be more resistant to right-libertarian influences because of their more accommodating philosophical treatment of the role of the State when it comes to private property rights, which deviates somewhat from the much more restrictive philosophical foundations of Roman Law.

Historical context: Before 1989, private property rights were limited or absent in communist countries, but in the last 50 years, several other countries (Portugal, Greece, Malta) have had to contend with major political transformations. A third of countries – mostly in Western Europe – were in a relatively stable political situation post WWII. However, this did not preclude a conceptual change in property rights management and urban policymaking and planning (the 'right-libertarian turn'). At the same time, some degree of collective control still exists in most European countries, although the justification for this control may vary depending on social understandings or market conditions.

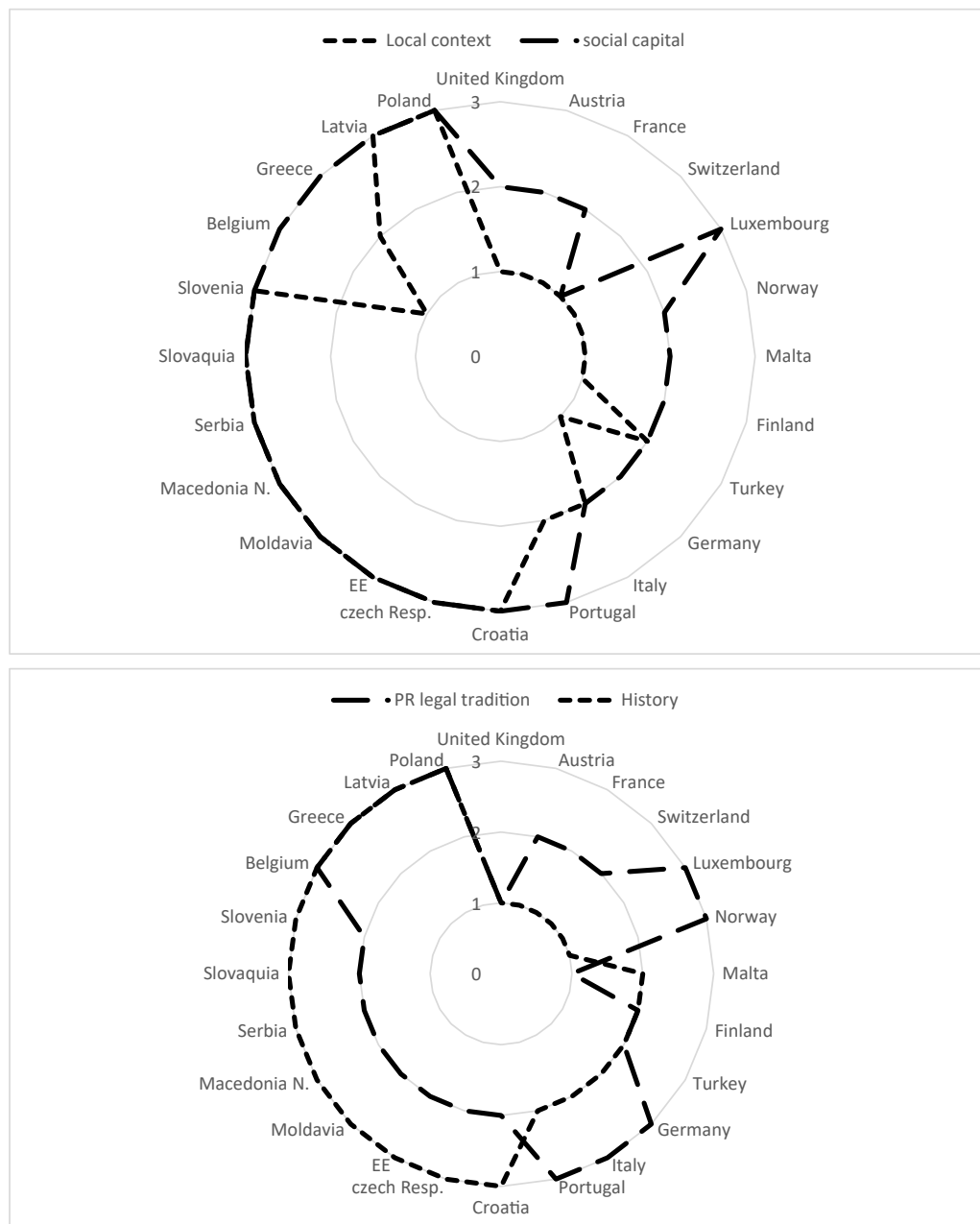
Social capital: In more than half of the countries surveyed, predominantly in central Europe and southern Europe, the limitations placed on the social function of private property are a major concern from a public policy perspective. The courts will protect private property rights and curb government control or other attempts to 'harm' private property. This can be explained by the political importance of widespread land ownership or by the influence of certain large landowners or investors. The sanctity of private property rights appears connected to the tradition of property as social capital.

Local context: The influence of economic pressure on the local context has been key in terms of the balance between private property rights and the social function of property. Crises such as famine or an increase in land prices are mentioned in the survey as factors which led to more public control.

Considering these four factors, [Graph 2](#) shows how each country can be characterised according to a perception of either strong protection of private property rights (marked 3 on the graph) or weak protection of private property rights (marked 0 on the graph). The evaluation is based on a qualitative interpretation of the answers provided by the respondents to the survey.

5.4. Relationship to land policy

The relationship between property rights and land policy is complicated and the influence works both ways. Land policy determines how land is allocated (between land uses) and accessed, as well as how



Graph 2. Property rights protections in the context of social capital, socio-economic and historical conditions.

land value is managed within a society. As such, it influences whether land ownership will be concentrated in the hands of governments, placed under the control of certain (usually larger) actors, or distributed broadly among the population. Historical traditions, economic objectives, considerations of social justice and political priorities influence the nature of land policy.

Institutional variations in property rights regimes create differences in the degree of market orientation, and influence governance approaches to urban land development (Muñoz Gielen et al., 2017). As Demsetz (1966) points out, market transactions are the exchange of bundles of property rights. Well-structured (defined, enforced, traded) property rights reduce transaction costs and market failures (Barzel, 1997; North, 1990; Shahab et al., 2018). Since externalities give rise to market failures, there is a strong argument in favour of state intervention to internalise such externalities. Thus, active and passive land value capture mechanisms may be regarded as reflections of the property rights regimes and the degree of market orientation (Hengstermann

et al., 2025).

Right-libertarian market institutions rely heavily on deregulated housing markets, private housing and passive land value capture (Hengstermann et al., 2025). However, market economies where the state plays a greater strategic coordination role in the economic system provide larger stocks of social housing, regulated housing markets and active land value capture mechanisms. Based on our survey, the UK and Ireland are more right-libertarian market economies, while Germany, Switzerland, Belgium, the Netherlands, Sweden, Denmark, Norway, Finland and Austria are comparatively more coordinated (Hall and Soskice, 2001). In addition, the survey highlights that Austria, France, Switzerland and Germany are underpinned by a system where the State plays a more substantive role.

The study reveals that European countries have diverse models for managing land value changes, and for determining how changes in land-value are – or should be – distributed between the landowner and society (e.g. by granting development rights) (Alterman, 2012). Some countries

prioritise public benefit, but in most cases value increases belong to the landowner (Halleux et al., 2022; Organisation for Economic Cooperation and Development OECD, 2022). Overall, only a handful of countries have a formal definition of land value capture (Switzerland, Germany and Finland) (Alterman, 2012; Hengstermann and Götze, 2023). Broadly speaking, in most countries, expropriation is allowed for the public benefit, and compensation is provided (Lacoere et al., 2023). Nevertheless, land value capture is rarely, if ever, very high on the policy agenda in any country, especially as regards private property.

Furthermore, there are differences in the nature of land policy and in the means of land value capture (Hengstermann et al., 2025). More right-libertarian market economies like the UK and Ireland rely on deregulated housing markets and passive value capture mechanisms. Conversely, more strategically coordinated market economies like Germany and the Netherlands have more regulated housing markets and active value capture strategies.

6. Conclusion

This paper deepens our understanding of the political, legal, and philosophical dynamics that shaping property rights regimes across Europe and their impact on public policy, particularly in spatial planning and land development. By examining institutional contexts in 24 European countries, the analysis shows that property rights regimes are not just legal constructs but complex systems of social and economic relations. They embody the interaction between individual entitlements and societal obligations, influenced by historical trajectories, philosophical traditions, and prevailing economic systems. Recognising these aspects is crucial to understanding how property rights influence modern governance and the management of land.

The findings critically challenge long-held views in the so-called “property rights school,” which has often depicted private land ownership as essential for economic growth. Based on De Soto (2000), much international policy advice has focused on formalising, assigning, and registering property rights as a way to generate capital, boost productivity, and create wealth. However, the evidence presented here indicates that while formalisation is often necessary, it is not always enough. Without clear rights and enforcement of the social function of property, formal systems risk reinforcing inequalities rather than producing efficient or fair land markets. Experience in both Western and post-socialist contexts shows that registration alone does not ensure market stability, especially where inequality and polarisation are severe (Irazábal, 2009).

In Eastern Europe, the transition from socialism produced hybrid systems that did not neatly align with notions of free markets and private property. Studies of these “fuzzy” property rights (Verdery, 1996, 1999) reveal that ambiguity and contestation are key features of post-socialist property relations (Stark, 1996; Lampland, 2002). In cities like Warsaw, vibrant urban growth continued despite unsettled or questionable ownership arrangements, highlighting the resilience and adaptability of property regimes (Kusiak, 2019).

These examples suggest that future debates should go beyond formalist legal and economic doctrines to consider how less absolute concepts of property rights can help develop institutions better suited to addressing emerging societal, technological, and environmental challenges. A key conclusion of this study is that, despite national differences, there has been a general trend towards strengthening private property rights since the late 1970s. This shift, influenced by right-libertarian ideas, has diminished the scope for welfarist state intervention in land development and weakened the capacity of planning systems to strategically coordinate markets.

While this trend reflects broader ideological currents, it carries significant consequences for land governance. By prioritising private entitlements over public goals, society’s ability to tackle urgent issues such as affordable housing, climate adaptation, and urban inequality is restricted. Planning systems find it hard to balance market outcomes

with social and environmental needs because the ideological shift favours minimal interference with property rights. In light of these findings, the study advocates for policy frameworks that respect historical, legal, and institutional diversity while strengthening the social function of property. Such frameworks should aim to reconcile private and public interests, promoting fair access to land, sustainable land use, and resilience against global challenges. Addressing climate change, housing shortages, and resource pressures demands moving beyond narrow property definitions towards more balanced regimes that incorporate social responsibility into ownership.

Last but not least, future research should closely examine the roles of international organisations such as the European Union, the World Bank, and the International Monetary Fund in shaping property systems, alongside the political influence of landowners and changing public perceptions of land. Comparative case studies of land development processes could offer valuable insights into practical operation of property regimes and how to reinforce the social function of property. This study also contributes conceptually by clarifying the links between capitalism, right-libertarianism, and neoliberalism in the realm of land development and property rights: capitalism as the economic system, right-libertarianism as its political ideology, and neoliberalism as its policy framework. However, it also indicates that the term “neoliberalism” might be somewhat misleading when used to describe the changes seen in European property regimes. These changes represent a right-libertarian shift away from the classical liberal, social-democratic, and socialist traditions that shaped post-war land governance in Europe.

CRediT authorship contribution statement

Sonia Guelton: Writing – review & editing, Writing – original draft, Validation, Supervision, Project administration, Methodology, Investigation, Formal analysis, Conceptualization. **Andreas Hengstermann:** Writing – review & editing, Writing – original draft, Validation, Supervision, Formal analysis, Conceptualization. **Małgorzata Barbara Havel:** Writing – review & editing, Writing – original draft, Validation, Methodology, Investigation, Formal analysis, Conceptualization. **Sina Shahab:** Writing – review & editing, Writing – original draft, Validation, Investigation, Formal analysis, Conceptualization. **Karadimitriou Nikolaos:** Writing – review & editing, Writing – original draft, Validation, Supervision, Project administration, Methodology, Investigation, Formal analysis, Conceptualization. **Tunaer-Vural Burcak Müge:** Writing – review & editing, Writing – original draft, Validation, Investigation, Formal analysis. **Vida Maliene:** Writing – review & editing, Writing – original draft, Validation, Investigation, Formal analysis.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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Appendix

Table A1
Questionnaire incl. question codes

Code	Question
0	Personal Details
0 A	Name
0B	Professional background
Q0	Preliminary
Q0A	Is there a legal definition of Land Value Capture in your country? Does it specify the circumstance in which land value increase can be recovered by public institutions?
Q0B	Is a principle stating that no citizen should accumulate wealth that does not result from his/her efforts present (unearned income) in the constitution of your country, or in some other document?
Q0C	Is the principle of "social function of property" - i.e., an obligation to use property (including land) in ways that benefit society - present in the constitution of your country or in some other document?
Q1	Legal system and the philosophy of property rights - Description of the property regime
Q1A	Which philosophical tradition underpins the property rights regime in your country? Can you characterize it?
Q1B	On which legal tradition(s) are they based?
Q1C	Which types of ownership of real property are more common?
Q1D	Which were the key revisions concerning property rights in the last 20 years?
Q1E	What kind of practice or statement offer protection for private real property rights?
Q1F	Is there a court or practice authorised to annul laws?
Q1G	Are there different laws/ rules/ practices governing rights for urban/rural land ownership & use?
Q2	Context/ description of property rights regime
Q2A	Did your country undergo major political transformations which affect the property system (post 1945)?
Q2B	What were the key revisions concerning property rights during the last 10 years?
Q2C	By who were they promoted?
Q2D	How did these transformations affect the property rights regime?
Q2E	What did these transformations concern?
Q3	Market situation
Q3A	Are there more residential owners or renters in your country?
Q3B	Are there more owners or renters in your country for commercial and office property?
Q3C	Can you validate or comment upon your country's definition of the Housing Europe network ^a definition of social housing?
Q3D	How is the social housing sector ² managed in your country?
Q3E	Who are the 10 biggest landowners in your country – incl. public landowners?
Q3F	Can you evaluate the % of land owned by the biggest landowners?
Q4	Urban development situation
Q4A	Can you describe the type of urban development projects occurring in your country according to their key characteristics?
Q4B	Are some of these types of development already covered by certain LVC instruments?
Q4C	Can you describe the situation of public infrastructure provision in your country? What is the role of the public sector?
Q4D	Are some of these projects regularly financed through LVC instruments?
Q5	Role of actors in the development process and possibility of capturing land value (LVC)
Q5A	Who are the main actors in the land development process?
Q5B	Can you explain the role of local authorities in land development as regards land ownership, land servicing and infrastructure provision?
Q5C	At which stages and for which functions in the development (or re-development) process is the state involved?
Q5D	Who pays for what?
Q5E	What are the main uses of public land and to which types of uses is public land put in new development?
Q5F	What are the main policies regarding the use and development of public land?
Q5G	With what mechanisms can public land be developed?
Q5H	With what mechanisms can public land be managed?

^a <http://www.housingeurope.eu/section-14/research?topic=&type=country-profile&order=datedesc> ² <http://www.housingeurope.eu/resource-1323/the-stat-e-of-housing-in-the-eu-2019>

Data availability

No data was used for the research described in the article.

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