Transparency in the EU's Residential Housing Market: A study of seven countries

Abstract

Purpose – The purpose of this study is to seek a further understanding of the issue of transparency in the residential property transaction market and to try to identify the state of transparency on the basis of a number of selected EU-countries: Sweden, Denmark, England and Wales, Germany, Poland, France and Spain, according to five dimensions, when carrying out cross-border housing transactions. The hypothesis is that the EU is far from transparent in this respect, and that the road to transparency will be long and winding. The purpose is also to identify the steps that are needed to enhance the transparency.

Design/methodology/approach – The paper is based the studies of written sources on the seven countries with respect to these five dimensions. Both primary sources such as legislation, and secondary sources such as literature, reports and information on the webpages of those countries, the home pages of professional branch organisations and other authorities, have been studied. A multiple case study research strategy is applied.

Findings – Based on this study, the state of transparency is identified. The essential points are that some of the aspects analysed in the study are far from transparent while others may be considered as relatively transparent. The extent to which the Internal Market may be considered as transparent is related in some way to the definition given to transparency. Something may be considered as transparent based on certain criteria but not on others, particularly when the concept is a relative one and subject to changes. The study raises certain key aspect as a basis for a discussion on encouraging transparency. The study indicates that a primary objective in seeking to improve transparency would be for Denmark to remove rules on the ownership of holiday homes, which make it difficult to acquire a secondary home in Denmark.

Originality/value – The study addresses the issues of transparency in real property transactions by providing an analysis of various aspects of a transaction.

Keywords – Residential transaction, housing market, real estate/property transaction, transparency.

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1 Introduction

1.1 Background

There are no statistics on the number of cross-border residential transactions in Europe. There is, however, a lot of information on the commercial market. According to Jones Lang LaSalle (2007), over 50 percent of transactions in most European market are now cross-border. In 2006, Europe became the world's most active real estate investment market. Cross-border investment accounted for 61 percent of total investment (Tellechea 2008, p. 217). In 2010, Sevills ranked the UK first on the list of European countries in terms of commercial investment volume, followed by Germany, France and Sweden. Spain was in sixth position and Poland ninth. As is noted in NAR (2009), real estate is local, but not all property buyers are. Those buyers should be able to acquire a property in another EU-state without any major constrains. They should not have to risk a complex and problematic transaction deal (see e.g. Invest Sweden 2011; PropertyEU 2011).

Thus, in step with globalisation and more interrelated markets, the concept of transparency has become more commonly used; reference is made to the age of transparency. However, in a cross-border residential transaction market, the concept is somewhat unexplored. The Jones Lang LaSalle's Real Estate Transparency Index indicates, for example, that transaction process transparency is high in Europe (as well as around the world). On the other hand, the precise measurement of transparency remains unclear.

Some research on the degree of real estate market transparency has also been carried out by Schulte, Rottke and Pitschke (2005), in a study concerning Germany. Seidel (2005; 2006) and Kertscher (2004) have also studied transparency in the German real estate market. However, the focus here was on valuation issues. Indirectly, the transparency issue has also been studied through modelling of real property transactions, for example, in research carried out by Stuckenschmidt, Stubkjær and Schlieder (see e.g. Stuckenschmidt, Stubkjær & Schlieder, eds., 2003); Zevenbergen, Frank and Stubkjær (see Zevenbergen, Frank & Stubkjær, eds., 2007); and Mattsson (see e.g. Mattsson 2008). Ploeger and Van Loenen (2004; 2005; 2007; 2008) have focused their studies on harmonisation of land registries. Besides the transaction modelling and land registration issues, research has also to some extent been conducted in the area of finance. However, these studies have focused on the improvement of transparency rather than on an understanding of the actual concept, and on a discussion in a wider perspective of the different dimensions in residential transacting. In the preview article by the author (see Lindqvist 2011), the essential factors that need to be addressed with respect to transparency have been identified. The next step is to now move towards an assessment of the actual state of transparency.

The analysis of transparency in this study is concerned with increasing knowledge about more informed choices rather than just increasing information. Disclosures improve decision making and enable actors to coordinate their actions. The consumption choices of households linked with equity market performance are of decisive importance for the well-functioning housing market in Europe. Transparency is not only about the expanding scope, accuracy and quality of the information, but is also concerned with expanding the use of information by transaction parties and making information more standardized and comparable. Market participants may become more aware of the risks and costs associated with cross-border transactions and the range of services available, and may gain insights into matters that are relevant for them.

The five aspects of transparency dealt with in this study that generate a demand for information, comprise procedural, regulative and economic features. They are the following: (1) transparency in transaction procedure, (2) transparency in legal information, (3) transparency in financing, (4) transparency in taxation, and (5) transparency in transaction costs. Those aspects are linked to synchronized uniform legal systems, simplicity, neutrality and legal security, as well as standardized transaction practices.

1.2 Purpose and method

The aim of this study is to seek a further understanding of the issue of transparency and to try to identify the state of transparency in the European residential transaction market when carrying out cross-border housing transactions. The analysis is conducted in terms of the five aforementioned dimensions. A number of EU-countries have been selected for study: Sweden, Denmark, England and Wales, Germany, Poland, France and Spain. The hypothesis is that the EU is far from transparent in this respect, and that the road to transparency will be long and winding. The purpose is also to understand the aforementioned dimensions and to identify the steps that are needed to enhance the transparency. Thus real property transactions are set within a context of different dimensions and used as a basis for understanding and analysing transparency issues in the cross-border transaction market.

The method consists of the studies on written sources on those countries with respect to those five dimensions. Both primary sources, such as legislation (laws and regulations) and secondary sources comprising literature, reports and information on the webpages of those countries, home pages for professional branch organisations and other authorities, have been studied. The study gathers information on different aspects according to the identified dimension. Analysis provides an overview of the characteristics of the countries. Only residential transactions are covered, primarily privately owned properties. The properties are fully owned, although other ownership forms – indirect ownership – are covered, where it appears to be relevant. However, some of this information may also be relevant to the commercial transaction market. Indirect ownership is of secondary importance, however motivated. The review of various dwellings is aimed to flag for an additional dimension within the transparency issue, ambiguity from the consumer perspective in what they are buying (since different rules and right can be discern in different countries).

The transaction process is defined including a pre-contract stage and not limited particularly to the conveyancing process. Primarily, the study concerns the secondary property (resale property) transaction market. However, the primary property (new property) transaction market is also covered to some extent. The study is designed as a multiple-case study. The transparency issue is treated from a citizen's perspective.

1.3 Structure

This report is structured as follows: Chapter 2 describes the method. Chapter 3 provides a brief overview of the concept of transparency in the real property transaction market as well as some background on the discussion on transparency issues in Europe. Chapters 4-8 present seven countries in respect of five dimensions and try to identify the state of transparency based on those countries. Each chapter is followed by a concluding discussion. Chapter 9 covers the analyses of the studied material and the area of studies, as well as a final discussion and a presentation of main conclusions. The key findings and the proposals on enhancing

transparency - what the main problems are, and the reforms that are needed, are summarised at the end of Chapter 9. Lastly, there are references and an appendix.

2 Methodology

2.1 Case study research strategy

The scientific approach adopted in this study is known as a case study research strategy. As mentioned in Mills, Durepos and Wiebe (2009), the definitions used to define this kind of research strategy (Mills, Durepos and Wiebe (2009) describe it as a research strategy rather than a method or methodology since it cannot be reduced to a single method) may vary across disciplines dependent on the underlying philosophies or paradigms. However, common threads can be found. Furthermore, the case study may involve any combination of methodologies and methods. This kind of research strategy may be defined as a detailed (in-depth) study of a particular phenomenon (as, for example, a person/participant, group, unit or structure). Stakes (1995, p. xi) writes: "Case study is the study of the particularity and complexity of a single case, coming to understand its activity within important circumstances." The case study can be used for exploratory, descriptive and explanatory purpose (Yin 2009, pp. 7-8; Tellis 1997). Yin (2009, pp. 19-20) writes, moreover, about four different applications of how the case study strategy may be used: to explain, to describe, to illustrate and to enlighten. As is the case with all research strategies, the case study has certain strengths and limitations.

Flyvbjerg (2001, p. 66; 2006, p. 241) argues that the conventional wisdom about case-study research is wrong since it is oversimplified and misleading. Some of those aspects are also brought up by Yin (2009, p. 6), who questions the hierarchical view of the case study; i.e. it is only used in the exploratory phase of an investigation. Referring to different researchers, Tellis (1997, p. 3) also raises the issue of a single case and a generalizing conclusion as well as contending that the immaturity of sociology as an academic discipline constitutes a further drawback of the case study approach. Flyvbjerg (2006, p. 221) points to five misunderstandings: context-dependent knowledge which is considered less valuable, limitations in the ability to generalise, a usefulness restricted to the preliminary stages, a bias towards verification, as well as difficulties in summarizing and developing general propositions. Flyvbjerg argues that context-dependent knowledge is as important as a rule-based (depending on the area), as it makes it possible to reach the highest levels in the learning process, i.e. virtuosity and true experience. Moreover, since predictive theory in social science does not exist, context-dependent knowledge is valuable. The case-study approach is well suited to produce this knowledge. Thus the case study is useful for both generating and testing hypotheses. However, it is not limited to these activities. As far as generalisation is concerned, it can be carried out for a single case, depending on the case and how it is chosen. A case study may be central to scientific development via generalization when it acts as a supplement or alternative to other methods. Generalization is, moreover, overvalued (Ibid., pp. 223-225, 228-229). According to Flyvbjerg (2006, p. 237), the question of subjectivism and bias toward verification applies to all methods, though the case study also contains a greater bias toward falsification. Since case studies often contain a substantial element of narrative, they can, however, be difficult or impossible to summarize. The question is whether it is always desirable. In some circumstances, a case study may be kept open since a case story may itself provide the result. Thus summarizing case studies is not always useful and may be counterproductive (Ibid., pp. 237-239).

Thus the case study in this research may provide some kind of indication regarding the design of systems in different countries and the problems that may be encountered by consumers in Europe when dealing with cross-border transactions. It is also about flagging the differences

and the transparency issues, as consequences of those differences, although not for that reason alone.

2.2 Research tools

As is mentioned in Mills, Durepos and Wiebe (2009), the case study approach is not reduced to a single method. Different research tools may apply. In this study, the collection of information on different countries was conducted through several sources, both primary, such as laws and regulations, as well as secondary sources, such as literature, reports and information on the webpages on those countries, home pages for professional branch organizations and other relevant authorities.

The reports/articles on different countries which were mainly used are:

- Real Property Law and Procedure in the European Union (EUI & DNotI 2005);
- International real estate handbook; acquisition, ownership, and sale of real estate; residence, tax and inheritance law (Kälin, ed., 2005);
- Transaktionsprocess och transaktionskostnader för småhusfatigheter: En internationell jämförelse (Lindqvist 2006);
- Conveyancing Services Market and Conveyancing Services Market, Country Fiches (ZERP et al. 2007a, 2007b);
- Real Estate Conveyancing in 5 European Union Member States: A Comparative Study (Murray 2007);
- Real property transactions. Procedures, transaction costs and models (Stubkjær, Frank & Zevenbergen 2007);
- Process of Sale in the Nordic Countries – Comparison (Mattsson 2008);
- The International Comparative Legal Guide to: Real Estate 2009 (respectively 2010). A practical insight to cross-border real estate work (Cookson, ed., 2009; 2010) (which can also be found in a digital version at www.iclg.co.uk)

There are also some projects, organizations or websites collecting information on different countries, which were reviewed in this study, as for example:

- European Council of Real Estate Professions (CEPI) with its section Immolex, compiling information on the legislation related to the access to property and related to co-ownership (see www.cepi.eu);
- Global Property Guide (GPG), a site for residential property investors (www.globalpropertyguide.com);
- Worldproperties.com, the official website of the International Consortium of Real Estate Associations (ICREA), with some information on their member countries (see www.worldproperties.com).

Thus the accuracy of the reviewed and collected information was insured by consulting several information sources.

During the research process outside experts in some of the studied countries have also been consulted. Regarding Spain, the researcher (author) has undergone a training course on property transactions in Spain, which was arranged by the Association of Swedish Estate Agents, and led by Bo Wennertorp, Global Accounting & Auditing SL (a Spanish accounting and auditing firm that has Swedish staff and at the same time is a Swedish accounting and auditing firm operating in Spain). Bo Wennertorp has substantial experience in the Spanish transaction market and lectures annually at the ”Buying Properties Abroad” exhibition in

Northern Europe. The researcher has also completed a course in Danish real estate law at Malmö University, as well as CIPS (Certified International Property Specialist) courses in International Real Estate for Local Markets, Europe and International Real Estate, and The Americas and International Real Estate.

2.3 Selection of countries

As already mentioned above, this study is designed as a multiple-case study. The reviewed countries are: Sweden, Denmark, England, Germany, Poland, France and Spain. As in the case study research, the samples here are also selected strategically rather than randomly (see e.g. Blejinbergh 2009; Flyvbjerg 2006). The criteria for choosing those countries were as follows:

Sweden was chosen as a starting point and a reference since it is the author's home country. It was also seen as a suitable object in a two-way country comparison (country to country comparison in both directions). Denmark was selected as one of the Nordic countries. Since Norway and Finland already featured in the former research carried out by the author, the intention was to broaden the spectrum of the studied countries. Some initial research has already been carried out by author on England and Poland, although certain changes have occurred in these countries since the completion of the earlier research in 2006. England, moreover, belongs to the four largest markets (besides Germany, France and Italy), and represent the Anglo-American legal family (system) in Europe. Furthermore, Germany, Poland, France and Spain represent the same regulatory model (categorised by ZERP et al.), i.e. the highly regulated Latin notary system, while Denmark and Sweden represents the Scandinavian licensed real estate system and England represents the lawyer-based system (see ZERP et al. 2007a, pp. 3-4).

Though those different countries represent different legal families, the German/Central European family (also called the Germanic legal family) – Germany, the East European family - Poland, the Code Napoleon (also called Napoleonic or the Romanistic legal family) – France and Spain, the Nordic legal family (also called the Scandinavian family) – Sweden and Denmark, the British Isles system (also called the British family or the Anglo-American legal family) - England and Wales (see EUI & DNotI 2005; Zweigert & Kötz 1998; Newman & Thornley 1996). There were also indications of certain differences within the countries' territory as, for example, in France in relation to former Germany territory. Spain and France are also of interest because many Europeans want to retire there. Other aspects, such as knowledge of the language also affected the choice of the countries.

It can be argued that it is a relatively limited number of countries, namely 7 of 27 Member States. However, the intention of this study was not to provide a detailed review of all Member States in order to look at transparency issues at national levels, but to use those selected countries as examples, by identifying certain specific features and characteristics and illuminating the transparency issues in cross-border property transactions. It can be argued that problems of one country affect the functioning of the common market as whole.

At the same time, it can be argued that the studies of seven countries may make it difficult to immerse oneself in each country. The study may thereby be considered to lack depth since less work is devoted to each country. Nevertheless, the study undoubtedly captures essential points since the countries were compared in a systematic fashion, according to selected dimensions.

2.4 Dangers of comparable descriptions

In this kind of study, there are inherent dangers in making comparable descriptions. Stubkjær, Frank and Zevenbergen (2007, p. 9), write: "Achieving comparable descriptions, where no common terminology and conceptualization is available, is a challenge." Thus, it is important to set comparable elements against one another to determine similarities and differences (Bogdan 2003, pp. 56-57).

Studies of foreign legislation and other material add a further dimension. Bogdan (2003, pp. 40-41) remarks that one assumes, consciously or unconsciously, that, for example, a variety of legal concepts or interpretative methods in one's own legal system may also be found in the foreign system. This could, for example, be related to forms of ownership. Moreover, certain foreign terms and concepts have no equivalent in other languages. As Bogdan (2003, p. 48) remarks, even if there is a similar term in another language, it does not mean that the meaning of the term is the same. Therefore, the legal terminology in particular can be somewhat problematical. These difficulties are, however, not unique.

Zweigert and Kötz (1998, p. 34) also remarks that in law, the only things which are comparable are those which fulfil the same function (as functionality is a basic methodological principle of comparative law). Moreover, "the legal system of every society faces essentially the same problems, and solves these problems by quite different means though very often with similar result" (Ibid.). Therefore, it can be problematic to look at a foreign system through the eyes of one's own system. Though the legal institutions in different systems may differ (historically and conceptually), they may still perform the same function. Furthermore, as Zweigert and Kötz (1998, pp. 34-39) point out, in some cases comparatists must look outside the law, for example, when a function performed by an institution in one country may be performed in other way in a foreign country (as an example, they name the function performed by the German land register which is performed in the US by the files and books of Title Insurance Companies).

However, direct comparison and search for similarities and differences between the countries play a minor role in this study. This is usually the case with multicase study (see Stake 2006, p. 83). The countries are chosen for a better (increasing) understanding of transparency issues in a wider perspective that extends beyond a single country.

2.5 Discussion on methods and validity of the study

Validity is about measuring what is relevant in a particular context. It is more or less an issue of research quality (Yue 2009). Yue (2009) writes: "Validity is largely concerned with whether the claims, implications, and conclusions found in a piece of research can be justifiably made." Thus, validity relates to legitimacy, quality control, and, to some extent, trustworthiness (Ibid.).

As already mentioned, the accuracy of the collected information on the countries was guaranteed by using several information sources. Those multiple sources of evidence were also aimed at reducing subjectivity. However, when working with seven countries, it can be quite challenging to ensure that all the information is up to date, given the rapid rate of change in areas of the real estate market. Additionally, the views of other researchers, particularly if they largely agree or move in the same direction, may influence interpretations.

It can also be argued that other complementary methods could contribute other perspectives to the study, for example, interviews on transparency issues with professionals involved in real estate transactions or buyers/sellers of properties in other European countries. Another method could involve participant-observation in cross-border transaction processes. However, this study is only a first step in order to understand the issue of transparency in the residential transaction market and by identifying actual conditions with aid of examples, form an opinion on this issue. Consequently, the views of other actors have been eliminated at this stage. However, they will probably be taken into consideration in future studies. Nevertheless, to a certain extent, it must be said that the views of other researchers comprised in this study reflect other perspectives.

3 Transparency concept and the five dimensions

This chapter provides a brief overview of the concept of transparency in the real property transaction market (by linking to a previous article by the author, see Lindqvist 2011), as well as the background to the discussion on transparency issues in Europe. An institutional approach is used in order to understand the functioning of the market. The chapter also examines challenges facing transparency issues and the research that illustrates both differences and common structures in European countries.

3.1 Common market of EU

The fundamental aim of the EU is to create a strong association not only between states but between European citizens. The establishment of the common market was considered as the fundamental way to achieve this economic fellowship. The Internal Market, which is the end result of the stage of the common market, is an area without internal frontiers and is built on the principle of free movement of EU's fundamental production factors, i.e. free movement of *goods*, *services*, *persons* and *capital*, the so-called "four freedoms". However, the right to establish oneself in another member country can be seen as the fifth freedom, but is often seen as a part of the free movement of services (Bernitz & Kjellgren 2007; Europa.eu 2007).

The free movement of services and free establishment means that the self-employed citizens of the EU are allowed to move between member states in order to provide services on a temporary or permanent basis. The principle of free movement of persons gives the flexibility to live, work, study and retire in any preferred member state (Bernitz & Kjellgren 2007). This presupposes the lowering of administrative formalities and recognition of professional qualifications of other states. The free movement of capital permits movement of investments, for example, property purchases (NE 2008). Three of these freedoms are directly linked to property purchase issues. As Ploeger and Van Loenen (2007) remarks, the freedoms can be considered a good basis for transaction market development.

Thus counteracting trade obstacles, preventing discrimination based on nationality grounds and harmonising legislation, are just some of the EU's important goals and common market principles. Not only direct discrimination is forbidden but even indirect discrimination, for example, the regulations that ostensibly draw up other criteria for special treatment than grounds of nationality. In practice, they produce the same result, as is seen in the case of non-legitimated settlement requirements (Bernitz & Kjellgren 2007).

On the other hand, Article 345 TFEU (Treaty on the Functioning of the European Union), states: "The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership", which is interpreted in terms of the exemption of property law from the influence of European law. Hence, Member States' systems for real property law fall outside the authority of the EU, as long as there is no discrimination. Property rights are only relevant when they have to be subordinated to the policies covered by Community law (EU law), and where the policy is necessary and proportionate to restrict the exercise of these rights.

However, there is some research that indicates that the Article is not interpreted consistently by both the European Institutions and by certain Member States. Akkermans and Ramaekers (2010) refer to research that shows that neither the scope of application nor the exact meaning

of the Article is clear from its wording. According to Akkermans and Ramaekers, there is no reason to assume that the Article would form an obstacle to the development of a European property law. Yet, they emphasize that (despite the ambiguity of the phrasing and its inconsistent use) the application of the Article provides a limit to the development of the Internal Market.

Many people consider that free movement is linked to a common stance on the real estate sector in the EU. Hence, they advocate that the EU's authority should be expanded to cover real property law, with the argument that a well-functioning system of property law goes hand in hand with economic prosperity, one of the EU's goals.

3.2 Property transfers and concept of targeted transparency

As cross-border transactions are considered an important part of the EU's real estate market, it may be necessary to clarify the structure of the transaction market and real estate services. Moreover, as remarked in ZERP et al. (2007a, pp. 1, 20), the market for conveyancing services is of direct interest to consumers and of substantial overall economic significance. Consequently, it can be argued that the effective, secure operation of cross-border transactions requires transparency; the term often associated with globalization issues (see e.g. Florini 1998, p. 52; Williams 2003, pp. 7-8, 26-27). However, it must be noted that though significant structural differences between markets and different regulatory systems can be observed, the transaction market cannot be assumed to function unsatisfactorily.

The transparency concept can also be somewhat elusive and may have different meanings. It may also prove difficult to measure (see e.g. Williams 2003, p. 7; Gnabo & Lecourt 2005; Eijffinger & Geraats 2006). Nor in the context of the real estate market is transparency clearly defined. Furthermore, according to Florini (1998, pp. 60-62), transparency might aggravate conflict since it reveals behaviour rather than intent, which leads to situations in which information can easily be misused or misinterpreted. According to Fung, Graham and Weil (2007, pp. 31-34, 44), small imperfections in information may also have behavioural consequences. Disclosure is, moreover, insufficient per se as a basis for informed choices. The way the information is presented and the alertness and engagement of the public will also be essential factors.

An extensive discussion on the concept of transparency can be found, for example, in Florini (1998; 2007), and in the Working Group on Transparency and Accountability (WGTA) (1998). In the latter, transparency is referred to as an opening up of the decision-making process by making others a part of actions and decisions. The disclosed information becomes visible, accessible and understandable. The more information is disclosured, the less opportunity there is for parties to act in their own interest. The extent and type of the disclosed information is, however, related to the context in which transparency is used, for example, the reason of revealing information and the nature of the parties involved (see e.g. Williams 2003, p. 7). The key elements of disclosure policy are: comprehensiveness, timeliness, accuracy and accessibility (for instance, place, language, costs) of disclosure. Furthermore, the proprieties and capacities of diverse audiences are of decisive importance (see WGTA 1998; Nelson 2001, pp. 1836-1846; Fung, Graham & Weil 2007, pp. 2-6, 56).

Thus, in the real property transaction market, the term may be refereed to as the ability of transaction participants to observe information concerning the property transfer, as well as increasing their knowledge to make informed decisions. Greater transparency could mean less

complicated and more standardized practices and legible regulations. While the importance of transparency is clearly emphasized by different actors in the real estate market, the measurement of transparency is, however, unclear, although some attempts have been made by Jones Lang LaSalle in the commercial real estate market (see RETI, Real Estate Transparency Index).

The focus in this study is on the second generation of transparency, i.e. the concept of targeted transparency evolved from right-to-know transparency which is more specific in its goals and requirements then the first generation of transparency (see Fung, Graham & Weil 2007). Consequently, transparency in this study does not just concern with increasing information but also with increasing knowledge, in order to make more informed choices and with expanding the use of information by transacting parties. Thus the question is not just whether information is available. Rather it is whether the available information makes informed choices possible.

Moreover, in the targeted transparency, the released information is required to be standardized and comparable (see Fung, Graham & Weil 2007, pp. 5-6, 25-28, 39). Hence, successful policies, according to Fung, Graham and Weil (2007, p. 11), focus on needs and interests of both users and disclosers as well as on the comprehension ability of users and on the capacities of disclosers. In addition, the policies must be sustainable, i.e. must gain in use, accuracy, and scope over time. The influence on choices and behaviour of users and disclosers accords with the assumptions made regarding some type of information asymmetry between users and disclosers, which are linked by an action cycle. The action cycle works as follow: Produced information influences the actions of users. Accordingly, the choices made by users, on their part, give rise to a response by disclosers which in turn advance policy aims (Ibid., pp. 40, 53-54).

3.3 The issue of transparency in transaction market – an institutional approach

It can be argued that transparency in cross-border transaction market is associated with the efficiency of the market since improved transparency makes markets more efficient. Efficiency in turn is linked, for example, with synchronized legal systems, legal security, simplicity, easy accesses to accurate and quality information, uniformity of systems etc. As it is a relative concept, efficiency may, however, be viewed from different perspectives. Keogh and D'Arcy (1999, pp. 2401, 2411-2412) point out that from an institutional perspective the efficiency of the property market should be assessed in terms of efficiency for particular groups rather than across the market as a whole, since the property market can only be efficient for certain participants and not for others. According to Keogh and D'Arcy (1999, p. 2408), "There seems little point in trying to assess the global efficiency of a market from the abstract perspective of 'society' when the market is designed institutionally to favour the interest of specific individuals or groups". In their paper, Keogh and D'Arcy also bring up the concept of informational, operational, allocative and adoptive efficiency, all interacting with each other (see pp. 2401, 2409).

In Tiwari and White (2010, p. 118), a discussion can be found on the maturity of markets. Here it is argued that immature real estate markets could be seen as being less transparent. They see the concept of maturity and transparency as relative ones, since they are subject to changes. The concept of mature market should not be understood as the market reached at the end of process of the change. Though transparency improves and maturity increases, it is an ongoing process, which, moreover, does not necessarily run along one road (Ibid., pp. 11-12,

192). Furthermore, as noted in Tiwari and White (2010, p. 125), market development does not always progress at the same speed and direction across countries. Nevertheless, despite remaining differences in market characteristics, it can be argued, as remarked in Tiwari and White (2010, p. 11), that there is significantly more market information today than would have been available in, for example, the 1990s. Nicholls (2004, p. 171) also raises the significance of contemporary barriers compared with a century ago and in the future.

There is no doubt that real property transactions are procedures that are necessary (see e.g. Stubkjær, Frank & Zevenbergen 2007, pp. 7-8). As mentioned in Seabrooke and Kent (2004, p. 35), each transaction is the outcome of a transacting process influenced by institutional arrangements, which affect the existence, behaviour and operation of the property market (Tiwari & White 2010, p. 58). Stubkjær, Frank and Zevenbergen (2007, p. 3) write: "Because land and building are so important, society has constructed safeguards to regulate real property transactions, which require that specific procedures be followed.". To achieve legal validity of transfers, multi-steps procedures, according to national laws, must be followed in order to protect the involved parties and other public goals (Stubkjær, Frank & Zevenbergen 2007, p. 8).

Transactions are frequently complex as well as time and money consuming. The characteristics of the property market are, for example, limited and asymmetric information, heterogeneity, infrequent trading, no central trading place, and in some cases relative illiquidity (Tiwari & White 2010, pp. 56, 59). Furthermore, transactions are framed by formal rules, directly or indirectly determined by wider institutions outside the property sector. There are also informal conventions or the unwritten 'rules of the game' (Ibid., p. 87). In some cases, irrational market behaviour could be added as well. All these characteristics affect efficiency and transaction costs.

Keogh and D'Arcy (1999, p. 2408) view the property market as an institution as it is "a network of rules, conventions and relationships which collectively represent the system through which property is used and traded." They illustrate a three-level hierarchy of property market institutions. At the top level, there is an institutional framework defined by the political, social, economic and legal rules, and convention. The property market itself as an institution (with characteristics determining its structure, scope and function) is situated at the next level while organisations operating in the property market are located at the bottom level (Ibid., p. 2407; see also Tiwari & White 2010, p. 42). However, institutions and organisations interact within and between levels, and respond to each other's actions (Keogh & D'Arcy 1999, p. 2407). Furthermore, institutions provide structure and certainty to market activities, and transaction costs are seen as their consequences (Ibid., p. 2411).

3.4 Transparency challenges

As may be concluded from the above, transparency may give rise to challenges. For example, particular groups which benefited from information advantages may be weakened (Tiwari & White 2010, p. 193). The same author also point out, inter alia, that although information levels have increased in many countries, there are still barriers to cross-borders transactions in the form of barriers to entry or higher costs. Essential distinctions between the markets are also mentioned in Nicholls (2004, p. 157), who raises the issue of a common real estate market. He points out that free movement of real estate services is not only about adopting common standards, but also about working according to these standards require, for example, knowledge of national and local laws, customs, culture as well as an ability to communicate

with locals. Tiwari and White (2010, pp. 5, 10, 60, 110, 117-118, 189) talk, for example, about countries' different institutional characteristics, differences in taxes, lack of market information, lack of accuracy in transaction records, problems with information interpretation, lack of standardisation of rules, practices and processes and differences in professional standards.

Zevenbergen et al. (2007) agree that the actors and procedures in countries with comparable economies appear to differ. Though many countries have adopted the Euro (or are a part of ERM2; European Exchange Rate Mechanism), exchange rate risk and price uncertainty remain in countries outside the monetary zone (Ibid., pp. 59, 106, 109). Moreover, Nicholls (2004, p. 171) remarks that it takes more than a single currency to remove barriers comprising highly diverse people and cultures. Investments in other countries are considered to be more risky than domestic ones. Not only national differences, but also local differences in market characteristics may be found (Tiwari & White 2010, pp. 4, 11, 191).

According to Seabrooke, Kent and How (2004, pp. 8-9), decisions in familiar markets are complex enough. Hence, markets in other countries add an additional degree of uncertainty. The aspects that investors focus on in familiar markets may be inadequate in unfamiliar markets. A local party, moreover, may possess valuable information about the rules of the game and trading environment that the foreign party lacks (Ibid., p. 14). Seabrooke, Kent and How (2004, p. 31) mention three problematic areas of transacting in unfamiliar markets, such as the aim and purpose of the task, the actual rules of the game including local variations, as well as the nature of the transaction environment. Furthermore, since local participants rely on local social networks, foreigners lack these social and cultural cues and connections, for example, information about relevant arrangements (Seabrooke & Kent 2004, p. 43). The increasing involvement of international players in local markets, however, contributes to a greater supply of information (Nicholls 2004, p. 170).

It can be also argued, as for example noted by Newsum (2004), that observes from outside may sometimes have a clearer picture of the market than the local participants (Newsum 2004 in Seabrooke, Kent & How 2004). Tiwari and White (2010, p. 110) also acknowledge professional involvement in the transactions. Though the absence of a similar body in another country does not necessarily mean a lack of professionalism, it indicates different rules (Ibid., p. 10). Furthermore, although professionals are aimed to minimise transaction costs, they are associated with costs. As mentioned in Seabrooke, Kent and How (2004, p. 19), imperfect knowledge inducing uncertainty may be reduced or contained but can never be eliminated. Reducing uncertainty incurs costs; but at the same time, accepting it, carries the risks.

3.5 Earlier research

There are several studies illustrating significant differences between the countries regarding the actual conduct of real property transfers (and the common structures), for example, EUI and DNotI (2005), Lindqvist (2006), ZERP et al. (2007a; 2007b), Murray (2007), Mattsson (2008). Furthermore, ZERP et al. (2007a, p. 1) draw attention to voices that raise concerns about the quality and integrity of service providers, particularly Latin style continental notaries. Their findings indicate that deregulated systems or systems with lower levels of restrictive regulations produce better outcomes for consumers overall in terms of price and choice. They found no evidence on the relationship between higher levels of regulation and higher prices, on the one hand, and service quality, on the other. Furthermore, according to them, Latin notary countries are more expensive than the lawyer-based system or

Scandinavian system (especially for higher value transactions). They also question whether the mandatory use of professionals in conveyancing is at all necessary or whether it places an unnecessary financial burden on consumers and business. They emphasize that the freedom to choose is the essence of every well functioning market and fundamental right of every informed consumer (Ibid., pp. 15, 18).

The study of EUI and DNotI (2005, p. 8) chose, however, not to make any recommendations on harmonisation issues since they only aimed to describe existing land laws and to identify certain common structures in the different legal systems. They also sought to show how the various parts of the national systems can only be understood jointly since they are interdependent. Lindqvist's (2006) study of five countries, including four European countries – Sweden, Norway, Poland and England – shows, inter alia, that transaction processes differ considerably between these countries. Transaction costs vary as well; and it is difficult to arrange the countries in any clear way according to their rules, since countries may resemble each other in certain aspects but differ in others.

According to Murray (2007, pp. 127-130), the comparison of the costs and efficiency of conveyancing professionals in residential real estate has little meaning unless the quality of services and the degree of public policy implementations are taken into account. He emphasized that only transactions of average value should play a primary role in a comparative study, since the proportion of higher value transactions is small. Based on the studied countries, he found no indication that conveyancing costs represented a significant burden on the real estate market. He also found that conveyancing costs in notarial jurisdictions were relatively low for average value residential transaction. In common-low jurisdictions (e.g. UK) their costs were higher for average value transactions but somewhat lower for higher value transactions. The studied countries were, however, restricted to Estonia, France, Germany, Sweden, UK and the USA. He also suggested that independent legal advice is necessary for participants (especially buyers) in order for transaction to be successful completed. Moreover, he points out that the parties are assured of high quality neutral legal advice in Estonia, France and Germany, and to a lesser extent in the UK. However, he indicates that there are certain interest conflicts in Sweden. Due to the system of notaries, Estonia, France and Germany are also considered to be in a good position to maintain a high level of quality in the title registration systems.

Murray found no evidence that deregulation of conveyancing services led to lower costs or higher efficiency. He also did not see any reason to foster standardization in conveyancing regulations, practices or costs within the EU since the differences are not sufficiently significant to hinder market development. A potential transaction model suggested by him comprised a single neutral professional who took care of the legal aspects of the transaction and direct access to a public registry in order to complete the title transfer. This in contrast to models of collaborating party-retained conveyancers in fully deregulated models.

A standard model (applying to a normal purchase) based on five Nordic countries (with a focus on Denmark, Finland and Sweden) is developed in Mattsson (2006, p. 576; 2008, p. 14). The model includes an estate agent and bank, and a surveyor. According to Mattsson, the model can also be useful in a simplified form for the simplest possible purchase (i.e. without estate agent), in which the parties trust each other are able to manage everything by themselves. Mattsson (2008) mentions, moreover, that the absence of a requirement for notaries in the process contributes to a lowering of transaction costs.

3.6 Five aspects of transparency

The following chapters (4-8) are an attempt to understand the issue of transparency in property transfers as well as an attempt to identify the stage of transparency (measured by disclosure and actual practices) on the basis of a number of selected EU-countries: Sweden, Denmark, England and Wales, Germany, Poland, France and Spain. As there are some differences within the United Kingdom, only England and Wales have been chosen to this study since no significant differences have been identified between these two countries. In the study reference is made to England, although the collected information refers to both countries.

Transparency in relation to residential cross-borders transactions may be defined as the release of complete information on a timely and consistent basis that is relevant for potential buyers and sellers in their evaluation of transactions and which gives them a basis for decision-making due to inter alia, obtained legal information, evaluation of property value, financing options and transactions costs. However, how does one become the owner of a property in another Member State? This is the question confronting people who are hunting for a home in another EU-country. It will require information on how to obtain legal and other relevant information on the object, on how to finance the property and on how much the whole transaction is going to cost, both directly and indirectly. Hence, the five dimensions of transparency that generate a demand for information are the following: (1) transparency regarding transaction procedure, (2) transparency in legal information, (3) transparency in financing (financial arrangements), (4) transparency in relation to taxation, and (5) transparency in transaction costs.

In this study transparency in relation to transaction procedure concerns access to information on the object, as well as the design of transaction processes including assisting professionals. Transparency in legal information refers to national land registries, certainty of rights and interests in the property, as well as the forms of ownership and other relevant legal aspects. Transparency in financial arrangements focuses on financial options and the structure of the mortgage products. Questions of taxation and transaction costs raise concerns about the structure of the tax systems and the direct and tangible cots of the transactions respectively.

In order to discuss transparency issues in residential transactions on the EU's internal market, it is important to understand that the market consist of countries with differences in law, custom, technique, transparency and language, which Newsum (2004) actually calls the vital ingredients of the market. A transaction process involves a variety of participants. The process frequently encounters obstacles which make it difficult for decisions to follow a straight and narrow path. Transactions are already complex in familiar markets. Hence, unfamiliar markets raise additional dimensions that need be taken into consideration (Seabrooke, Kent & How 2004, pp. 8-9). As most transactions do not occur with perfect knowledge of all relevant factors, the process incurs costs in order to overcome an information deficit, i.e. to minimize uncertainty, in this case the uncertainty linked with the rules of the game in unfamiliar markets (Ibid., pp. 14, 19).

Thus transparency in this study is concerned with minimising the uncertainty that is generated in unfamiliar markets. According to Seabrooke, Kent and How (2004, p. 33), uncertainty may arise from imperfect and asymmetrical distributed information, differences in standards of behaviour and veracity between parties (leading to lack of mutual understanding, trust and predictability). In this study the analytical factors are differences in transactions procedures, legal information, financing options, taxations issues and transaction costs, which are directly

linked to uncertainty regarding transaction outcome. The analysis of different countries provides a basis for an understanding of transparency issues.

The summaries of the information on the dimensions in each country are based on the information in the Appendix. In order to make the text more readable, the references are not quoted here. In the case of information not contained in the Appendix, the references do appear in the text. The detailed description of the various aspects of each country may be found in the Appendix.

4 Transparency regarding transaction procedure

Some of the aspects of transparency in a transaction procedure include access to the information, assistance in the process as well as the design of a transaction process. Those three aspects are summarised below. It must, however, be noted that a discussion on transaction procedure in this study includes the easy of availability of market information since it affects the procedure.

4.1 Access to information on the object

Getting access to the information on the potential object is a first step in a buying process. In all the reviewed countries, research may be made by looking on the Internet or by contacting a real estate professional in one's own country or in the target country. In Sweden, for example, a Danish estate agency may be contacted when looking for a home in Denmark. Finding a property in France from Sweden can be done by contacting a Swedish agency working with French properties or by contacting a Swedish speaking agency situated in France (intended for Swedish customers). Thus different options may be identified: (a) contacting a professional in the country of origin who in some way acts as a mediator regarding properties in a target country or who has some form of collaboration or cooperation with a professional in the target country; (b) contacting a professional in a country of origin whose activity is mainly directed at potential buyer of properties in a target country; (c) contacting directly a professional in a target country whose activity is focused on buyers from particular countries; or (d) contacting a professional in the target country.

Furthermore, some of the countries have one predominant database for home search where more or less all properties for sale in the country may be found, for example, Boligsiden (http://www.boligsiden.dk) in Denmark or Hemnet (http://www.hemnet.se) in Sweden. The French professional organization FNAIM **(**Fédération Nationale de l'Immobilier) has the largest property marketing website in France (see www.fnaim.fr), and ImmobilienScout24 (www.immobilienscout24.de) is the largest Internet marketplace for properties in Germany. In Poland the first nationwide real estate advertising portal FAGORA.PL (http://www.fagora.pl) is in the final phase of construction. There are also still countries where many different databases need to be used to ensure that all available items are reviewed, for example, England and Spain have a lot of different national property portals.

Besides the information on properties, the useful information on different aspects of a transaction can usually be found on the sites as well as on the Internet as a whole (for example, data on transaction markets, information on transaction processes, financing, moving to other countries etc.), since the Internet is the major source for property advertisement. Some language constrains can still, however, be encountered. It can also be noted that in Spain, for example, the same property may be found at different agencies for different prices.

4.2 Professional assistance

4.2.1 Actors involved

In all the reviewed countries, there is a particular professional who can be involved in a residential property transaction, namely, an estate agent or broker. There is a difference in

definition between those two terms: “agent” and “broker”. They suggest respectively a partial/impartial relationship to the client. However, these terms are often used alternately. Since the study does not aim to examine this issue, the term “agent” will be used.

However, the involvement of an agent is voluntary in all the reviewed countries. There is also a difference between the countries in the way that actors can be involved in a transaction process. For instance, in Denmark, Danish advocates (registered at The Danish Bar and Low Society) may also under particular conditions be involved in a selling/buying process. Subject to particular conditions, the same is also true of banks, real credit institutes (mortgage banks) and insurance companies. However, the involvement of professional is not a mandatory part of the process in Denmark. The same conditions also apply to Sweden. In addition to estate agents, Swedish attorneys-at-low (registered with the Swedish Bar Association) may also be involved in the transaction process. Yet, this is not common with regard to residential transactions. An agent in Sweden handles the entire transaction process.

In England, besides an estate agent, solicitors or licensed conveyancers (both called *conveyancers*) may be involved in a transaction. None of these professionals are mandatory, although they are commonly used in practice, especially estate agents and solicitors. In France, besides an estate agent (l’agent immobilier), a notary is involved in the transaction process. It is a notary who plays a central part since her/his involvement is mandatory and s/he has a monopoly on a transfer of title. In Germany, estate agents and notaries are mainly involved in the transaction process. As in the case in France, the services of a notary are compulsory. The intervention of a notary is also required in Poland. In Spain, a property may be purchased with the help of an estate agent or advocate and a notary, which is also mandatory in Spain; but the services of a notary are required for the registration procedure rather than for a valid transfer of property. A notarial contract in the form of a deed (“escritura”) is mandatory for the registration procedure. Another professional who may be involved in the execution of a notarial deed, for instance, registration and taxation, is the “gestor administrativo” who is often affiliated to mortgage banks.

As already mentioned, some of the countries (Germany, Poland, France and Spain) require the mandatory participation of a notary, while in other countries (Denmark, Sweden and England) the transaction may be carried out by the parties themselves with the exception of the title registration). Furthermore, the role of a conveyancer and the extent of her/his tasks differ between the countries. As already mentioned, conveyancing can be carried out by a notary, solicitor, licensed conveyancer, or an estate agent, depending on the country. Whereas a notary is associated with impartiality and acts as a civil servant, an exception may be found in France, where a notary may be allowed to act as estate agent (see also EUI & DNotI 2005, p. 25). According to ZERP et al. (2007a, pp. 3-4), the studied countries represent the Latin notary system characterized by the mandatory involvement of notaries (Germany, Poland, France and Spain), the lawyer system (England) and the Scandinavian licensed estate agent system (Sweden and Denmark). Mandatory and common involvement of professionals in conveyancing can be summarized in the following Table 4.1:

Table 4.1 Mandatory and common involvement

Country	*Mandatory professional (however not always for a valid transfer of property)*	*Commonly involved professional at conveyancing*
Sweden	-	Estate agent
Denmark	-	Estate agent for seller and buyer representant (e.g. lawyer) for buyer
England	-	Conveyancer (solicitor or licensed conveyancer)
Germany	Notary	
Poland	Notary	
France	Notary	
Spain	Notary	

4.2.2 Role of estate agent

The role of an estate agent varies in different countries. An estate agent in Denmark normally represents a seller, while a buyer is represented by either an advocate or another estate agent (an agent cannot represent both parties in the same transaction). According to ZERP et al. (2007a), an estate agent acting for a seller is used in approximately 90 percent of transactions in Denmark whereas a lawyer acting on behalf of a buyer is used in approximately 80 percent of transactions. An estate agent in Sweden usually acts, instead, as an intermediary between a seller and a buyer. S/he is usually commissioned by a seller and is an impartial middleman. The involvement of an estate agent in Sweden is very common. According to the VärderingsData, agents in Sweden are used in approximately 80 percent of one-family house transactions (according to VärderingsData in ZERP et al. (2007b), 84 percent of all houses sales are made with the help of an agent). According to Murray (2007), up to 95 percent of residential transactions involve the services of an agent.

An estate agent in England usually acts on behalf of the seller and is remunerated by the seller. However, the parties are not both represented by an agent. Instead the buyer deals with the seller's agent. The agent is, however, not involved in contract drafting as it is usually a conveyancer's task (both parties each have their own conveyancer). According to ZERP et al. (2007a), 90-95 percent of residential property sales in England and Wales involve estate agents; and according to Murray (2007), estate agents participate in approximately 70 percent of all residential transactions. In France, an estate agent may act on behalf of a seller or a buyer. Still, the most common arrangements are that the client is a seller. Murray (2007) and Davey (2006) note that approximately half of the transactions in France involve agents, while ZERP et al (2007a) indicate that approximately 35-40 percent of private persons engage agents in France.

Agents in Germany are usually appointed by the sellers, but they can also be appointed by the buyers. The agent may work for one party or act as a neutral mediator for both parties. Agents in Germany, according to ZERP et al. (2007a) and Murray (2007), are involved in approximately 50 percent of the transactions. An estate agent in Poland acts either for a seller or a buyer, or as a dual agent for both parties. ZERP et al. (2007a) remark that agents are involved in approximately 25-50 percent of residential transactions in urban areas. Agents in Spain may act as a representative of a seller or/and buyer, although s/he usually represents both parties since a separate buyer or seller agency in not common. According to ZERP et al.

(2007a), agents in Spain are involved in 25-50 percent of all transaction. Voluntary involvement of professionals is summarized in Table 4.2. It must be noted that those numbers provide only rough estimates rather than statistics.

Table 4.2 Voluntary involvement expressed in % terms (ZERP et al. 2007a, pp. 37-38, 185; Murray 2007, pp. 30, 39, 50-51, 59, 274, 315; Davey 2006, p. 120)

Country	*Voluntary professional*
Sweden	Estate agent (80-95%)
Denmark	Estate agent acting for seller (90%) Lawyer acting for the buyer (80%)
England and Wales	Estate agent (70-95%) Two solicitors, one for each party (97%) Licensed conveyancer (3%; not more than 5%)
Germany	Estate agent (50%)
Poland	Estate agent (40% (25-50%))
France	Estate agent (35-40%)
Spain	Estate agent (25-50%) Lawyer (often foreign buyers) Gestor administrativo

The role of an estate agent in each respective country may be summarised as follow (see Table 4.3):

Table 4.3 Role of estate agent

Country	*Client relation*
Sweden	Intermediary
Denmark	Represents client, normally seller, can also represent buyer but not at the same time
England and Wales	Represents client, normally seller, however buyer deal with seller's agent
Germany	Represents client or intermediary
Poland	Represents client or intermediary
France	Represents client, normally seller
Spain	Represents client, normally seller or represents both parties

As it may be noticed, the agent position in a transaction may vary (s/he may, for example, act as a conveyancer – providing legal services – or just act as a matchmaker) according to the way s/he is commissioned by the parties. Yet, it can be argued that despite different information on who bears the cost of the agent when there is only one agent involved in a transaction; it is ultimately the buyer who bears the cost as the cost may be included in the property price. It can also be argued that the service of an agent in a country and the service as a foreign agent in the same country may differ. Some of the foreign agents are aware of how the agency works in their own country and what a foreign client from their own country may expect. The profession is strictly regulated in some countries and more or less deregulated in others (see also EUI & DNotI 2005, pp. 25-26; ZERP et al. 2007a, p. 32). According to ZERP et al. (2007a, p. 33), the involvement of estate agents seems to oscillate around 70 percent in

most European countries; it tends to be higher in countries where estate agent performs legal services.

4.2.3 Other professionals

Besides an estate agent and a conveyancer, there are also other professional actors who can or, indeed more or less, must be involved in a transaction process, such as, for example, technical experts, valuers or energy performance experts (accredited energy assessor). Technical experts or valuers may be required when financing a home by a mortgage (mostly by banks), as, for example, in England and France (ZERP et al. 2007b, p. 33). The Energy Performance Certificate (a consequence of the European Energy Performance Directive (Directive 2002/91/EC) is mandatory in all the countries.

Nor should the institution of land registry be forgotten, as it is one of the most important actors – if not the most important. Credit providers need to be mentioned as well. This is also an important issue, although it is not discussed in depth in this study.

4.3 Transaction process

As Mattsson (2008, p. 2) remarks, comparison between processes of real estate purchase in different countries can focus on a variety of aspects, for example, cost, rapidity and simplicity of the processes, risk elimination and legal safeguards. As the aim of this study is to identify a degree of transparency, attention is only being paid to the main characteristics of the transaction procedure in order to emphasize similarities and dissimilarities, and to evaluate the actual state of the issue.

The general procedure could be divided in the following stages: *pre-contract stage* (which includes marketing, collecting of information, matching and negotiations), *contract drafting* and *transfer of ownership*, *registration* and *concluding stage*. Mattsson (2008, p. 4) divides the process into the following phases: *preliminaries* (which include parties finding each other as well as negotiations on sale conditions), *contract-drafting* (when a binding contract is drafted), *registration* (application for registration), and *conclusion* (sale profit tax, if any, is paid). It must be noted that the process may vary depending on the option that is chosen by a seller or buyer respectively. The parties' choice affects the process, its course, length and costs. However, some choices are unavoidable depending on the law's wording. The succession of different stages may differ between countries.

As already mentioned above, in countries like Sweden, Denmark and England, there is no stipulation that a particular professional has to be involved in a transaction process, while in Germany, Poland, France and Spain, a notary is required. Thus a normal transaction usually involves (in addition to the main and necessary parties) an estate agent and bank or other financial institution. A briefly description of the chosen countries is given below in order to capture the essential points, which may be of interest when examining transparency issues.

In the preliminary stage of the process, an estate agent is engaged, the value of the property is assessed and purchasers' creditworthiness is investigated. As already mentioned before, in Sweden the estate agent must safeguard the interests of both seller and buyer, whereas in Denmark s/he only has to represent the interest of the seller. The buyer has to find her/his own representative (it is usually an advocate or a bank). Although the agent in England usually acts on behalf of the seller, the buyer deals with the seller's agent. In Germany and Poland the

agent can work for one party or can act as neutral mediator for both parties. In France the agent may act on behalf of a seller or buyer, whereas in Spain the agent can act as a representative of a seller or/and buyer.

Different kinds of agency agreements can be found to be more or less similar in certain countries. The agreement between the agent and the principal in Sweden, for example, is compulsory and must be, according to the law, in writing. Two different kinds of agreement, an exclusive agreement (sole agency) and open one (agreement without sole agency), are used in Sweden, where the exclusive agreement applies for a maximum period of three months. The agreement in Denmark is signed for a maximum of six months. In German and Poland exclusive and open agreement can also be found, but they must be in writing to be valid. In England four main types of agency contracts can be discerned: sole agency, sole selling rights, multiple agency and sub agency. In France, in addition to exclusive and an open mandate, a mixed mandate (trust mandate) can also be found. The agreement in France is compulsory and must be in written as well. Open agreement is common in Spain.

Different types of bidding procedure exist. In Sweden, for example, an oral bid is the most common form. It may also be given in writing. However, the bid is not binding. Neither the seller nor the buyer is bound in Sweden by an agreement until a written purchase contract has been signed by both parties. So-called close and open bidding models are used in Sweden; the latter being much more common. As the bidding process is regulated in Denmark, a bid may be given under an assigned time. However, a bidder may retrieve her/his bid or change it. All the bids are undisclosed under this period. After the respite elapses, the seller may decide to accept one of the bids or reject all of them. In England, a written (non-binding) offer to purchase is usually made. Although the offer is accepted by the seller, the deal is not legally binding until the purchase contract is exchanged.

When the buyer's offer is accepted in Germany, and the parties have agreed on the economic terms, the notary takes over. A non-notarial contract can only serve as an informal record of negotiations in Germany. In Poland individual negotiations are usually in place. In the case of an agent working for the seller, a written tender from the potential buyer is handed over to the seller and the agent, in the seller's name, negotiates with the buyer. However, if the agent works for both parties, s/he assists both parties to reach an agreement. In France, an offer to purchase is signed by the seller, which can be followed by a form of pre-sale contract (different types exist) or preliminary contract. In Spain, if a property is found and parties agree on the price, a reservation is made by the buyer by paying an amount of approximately 1 percent to the agent, in order that the property can be taken off the market. If the buyer reneges on the acquisition, the fee is forfeited in Spain.

When the transaction is settled, the contract-drafting stage is entered. The involved parties are usually seller, buyer, respective financial institutions, estate agent, solicitor (or other lawyer or conveyance – one or one for each respective party) and notary. The contract stage usually consists of a sale contract (can also be called pre-contract), which settles the sale conditions and a sale deed which confirms that necessary conditions have been satisfied and the transaction can be registered. In all seven studied countries, two contracts are normally used: sale contract and deed. An advance payment is common in connection with the sale contract. Both, the sale contract and the document on transfer of ownership (deed) usually require a specific form.

In Germany, a sale contract and an agreement of transfer are usually contained in the same document. If this is not the case, both contracts are required in a notarial act. In Poland, only a final agreement requires a notarial act (and must be signed by both parties). In France and Spain, a sale contract does not require any particular form (with the exception of a newly-build properties in France). A transfer document does, on the other hand, require a specific document since only a notarial act can be registered. Although no special form is legally mandatory for transfer in Spain, the notarial deed or public document indicates the legal conclusion of the transaction and is a condition for ownership registration. A deed can be replaced by a court settlement. In England a signed and witnessed deed is required for the sale contract to be binding. A sale contract there must be in writing, including all of the terms and signed by both parties. The conveyancing is then completed by the execution and delivery of deed handed over in exchange for the purchase price.

In Sweden and Denmark, there is no requirement for an authentic act (notarial act) for the sale contract and deed for the purchase to be valid. Both contracts must contain certain particular elements to be valid (for instance, in Sweden a statement of purchase price, a seller's declaration on transfer as well as the conditions for the completion). The same form applies to both the sale contract and the deed in Sweden. Both documents are signed by both parties (and the sellers signature is normally testified by two witnesses). Though the deed finalises the purchase in Sweden, the parties are already bound by the sale contract, and the deed is a receipt for the purchase price. Further, only the deed is required for registration.

The contracts are then usually drafted by lawyers or estate agents. It depends on the country whether or not this is required. In England when the contract is handled by solicitors, two solicitors are always involved. In Germany, Poland and Spain, where a civil law notary is involved, as in Sweden, where an estate agent is involved, a contracting is handled for both parties with the conveyancer acting as an independent intermediator. However, in Denmark, an estate agent formulates the contract and the buyer's advocate checks it. In France, both parties may have one notary each, although this is not required by law (cf. EUI & DNotI 2005, pp. 47-51). Furthermore, in Denmark, for example, the purchaser has the right to cancel the purchase agreement within six weekdays and in France within seven days.

Between the first and second contract (sale contract and deed), the parties complete credit arrangements or certain necessary inspections if inspections have not already been carried out. Inspections may be arranged by, for example, a seller, buyer or their conveyancer or an estate agent. They are usually arranged at the beginning of the transaction or between the signing of the sale contract and the deed. The sale or the purchase price is then made dependent on the outcome of the inspection (cf. Mattsson 2008, p. 12). In Sweden the inspection is arranged by the buyer, as it is (by law) in the buyer's best interest to order an inspection, since the seller is only liable for those defects which the purchaser cannot reasonably discover for her/himself. In Denmark it is an estate agent's task to prepare a report on the property (if the agent is used), since it is a seller's duty to inspect the condition of the property. The agent in Denmark helps to arrange for a structural inspection and preparation of homebuyer's report. On the basis of this report, a hidden-defects insurance may be taken out, with each party paying half of the premium.

In England, as the doctrine of "caveat emptor" applies, the seller is not obliged to disclose defects in the physical conditions of the property, and the buyer is recommended to commission a home inspector. In Germany the buyer is advised to check the property for any major defects, and the seller is required to disclose any hidden defects that s/he is aware of

(not the obvious defects). In Poland and France the buyer is advised to check the physical condition of the property. However, the seller is liable to the buyer for any physical or legal defects in the property that the buyer cannot reasonably discover. The seller is required to inform the buyer of any hidden defects s/he is aware of. In Spain the seller is also required to disclose any information of which s/he is aware that affects the property. In all the studied countries, energy inspections are required.

The mortgage system also differs between the countries. In Denmark, for example, two credit providers can be discerned: bank which handles short-term loans and real credit institutes which handle long-term loans. In Sweden usually one credit provider is used. In some countries mortgage deeds are separated from credit document (e.g. in Sweden). The reader should consult Chapter 6 for details of the particular characteristics in the study countries.

Payment is sometimes made at the same time as the contract is concluded (in declaratory systems as France, Poland, Spain and Sweden) or before the transfer is registered (in constitutive systems as England and Germany). However, if the purchase price is paid at contract signing, a preliminary note is made in the register. In England payment is effected at completion into an escrow account of seller's solicitor and in Germany a priority notice is registered for the buyer's safety (EUI & DNotI 2005, p. 54).

As is mentioned in EUI and DNotI (2005, pp. 54-56), several methods of synchronised payments and transfer of ownership may be identified: (a) payment can be effected at the same time as the contract transferring ownership is concluded (possible only in declaratory systems, for example, by using a bank drawn check, an escrow account (e.g. Poland) or contracting at the buyer's bank (e.g. Poland and Sweden); (b) the process is made step by step where delivery cannot be obtained without fulfilling obligations (e.g. priority notice in Germany); (c) payment and title documents can be delivered to an intermediator in escrow (e.g. England); (d) the transfer can be conditioned upon payment (only in some declaratory systems, e.g. Spain; when a contract is conditioned upon payment in Poland, an additional unconditioned contract is required); (e) the seller transfers ownership but retains a seller's mortgage (seller's mortgage may be created by contract). Possession (keys are handed over) is usually transferred upon payment (Ibid., p. 56).

At a registration stage, both a sale deed and a mortgage deed are registered to secure ownership title against third parties and to secure a mortgage. Non-registration, however, does not mean that the transaction is invalid (cf. Mattsson 2008, p. 7). The registration of the sale is mandatory in Sweden, but not in Denmark (though it is done), even if the registration, similarly to France and Spain, is merely declaratory. Registration in France, for example, only renders the transfer enforceable in relation to third parties. However, it is not necessary for completion of the transfer of title; transfer passes on the signing of a valid contract. In England ownership is transferred by registration, while in Germany on an agreement on the transfer of ownership and the registration (as title in Germany is transferred upon registration, the gap between the payment and passage of the title is protected by preliminary notation (dormant registration) in the registry; the possession usually changes when the purchase sum is paid but the legal title does not pass until re-registration) (cf. EUI & DNotI 2005, p. 52). Registration in Poland has a declaratory effect. In addition, in Denmark the municipality must attest the deed before it is sent to the registration authority.

In some countries, transfer tax is paid to the tax authority in advance, since a receipt is necessary for the ownership application, whereas in other countries the tax is pay afterwards.

In Denmark a stamp duty tax is payable with the application, while in Sweden the tax is payable afterwards (cf. Mattsson 2008, p. 5). In Germany, the request for registration is submitted after the certificate of tax payment is received from tax authority. In Poland and France, the tax is withheld by the notary at closing. In Spain and England, the transfer tax is also a prerequisite for registration.

At the conclusion stage, a tax on sale profit may occur. In all the studied countries a profit tax may be liable (see Chapter 7).

4.4 Concluding discussion

It can be argued that despite some of the more or less significant (procedural) differences between the studied countries that have been identified, access to the information on those countries is relatively easy as a consequence of Internet expansion, which enables searches for customized information. As globalisation has expended, multilingual agencies have established themselves across Europe in order to offer services to their compatriots. Some agencies target this kind of activity. It is relatively easy for, for example, a Swede to look for a property in Spain with a help of a Swedish speaking agent there. As was mentioned earlier, the agencies in the country of origin (domestic country) may also have some kind of collaboration or cooperation with professionals in the target country (foreign country).

Furthermore, different trade fairs are arranged throughout Europe with a focus on buying property abroad, for example, exhibitions such as "Buying Properties Abroad" in Northern Europe (see http://www.fairmedia.se). It is advantageous for potential buyers, as it is in some countries, that much the entire range of available residencies is collected in one data base, as getting a review of the supply market abroad is not easier, if not harder, than that of the local, regional or national market. Some language constrains may, however, still be encountered, not only on the Internet but also in an actual transactions (disregarding service provider, e.g. agent), as some of the main actors, such as notaries, are (and must be) citizens in the respective country. They are not expected to be multilingual. In addition to the range of residencies, other useful information on transaction issues may also be found on the Internet.

The range of professionals involved in a transaction process, such as estate agents; legal service providers, such as notaries, lawyers, or other conveyancers (e.g. licensed conveyancers, "gestor administrativo"); technical experts (e.g. surveyors, engineers, architects); and credit providers may make it difficult for a potential buyer to establish which actors are actually necessary according to the law or which are just a normal part of the process. The difference between the services they offer and how to coordinate all of the professionals involved may be a complex task. Theoretically, the professional services of a consultant or adviser may be employed. However, every additional actor may imply higher transaction cost (if the costs that can be saved by minimizing risks can be ignored). It can be questioned if this is the way it should be.

According to Mattsson (2008, p. 12), who studied the Nordic countries, the basics of residential transaction process are essentially the same, while the processes evolved in the countries under consideration still differ to a greater or lesser extent. A similar conclusion may be drafted here. Mattsson questions whether the existing models are necessary in their entirety or whether opportunities of efficiency improvement are discernible. He argues that the rule of law and its complexity does not explain the features of the processes. Each country is likely to claim that its particular process exists for the security of all parties.

There are different factors that can make it difficult for a customer from another country to evaluate transaction security issues. In the case of registration, for example, it is not stipulated in all the studied countries. Accordingly, it is difficult to know their actual proportion. Hence, the total security of the transaction cannot be guaranteed. For a buyer from a country where an estate agent safeguards both parties' interests, it may prove difficult to guarantee the interests of the respective parties. Inspection is another issue. For a buyer from a country where a seller (or estate agent) arranges the inspection, it can be difficult for a buyer to have an understanding of the risk of inspecting property without a guarantee on buying. Someone else can step into the process, and the same property may be inspected several times. The costs to the buyer of investigating the property may be wasted. The apportionment of liable for the defects may be difficult to establish if one has experience from another system. The degree of responsibility is also a function of the age of the building.

Nevertheless, differences between different European countries do not automatically mean that transparency is low, if the information about those differences is relatively easy to access. The questions are, among others, whether those differences make transactions overly difficult and complex? Where is the line to be drawn? Does accessible information make it possible for market players to make informed decisions with as low risk as possible?

5 Transparency in legal information

Openness of information from national land registries on property rights and interests, forms of ownership and other relevant information on national legislations together with the degree of certainty in relation to these rights and interests, are among the transparency features encountered in relation to legal information.

5.1 Restrictions on foreigners

There are no specific restrictions on foreign ownership of residential property by EU/EEA citizens in any of the seven countries: Sweden, Denmark, England, Germany, Poland, France and Spain. The prerequisite in Denmark is, however, that the property is a home used for all-year residence.

5.2 Form of ownership

In all seven countries, different homeownership options can be found. They comprise more or less full ownership or indirect ownership (where exclusive possession of an apartment may for example be obtained without owning it as a property). Classification of two different types of 3D properties can, for example, be found in Paulsson (2007, p. 28): independent 3D properties and the condominium (apartment ownership). Paulsson (2007, pp. 39-42) also provides a brief description of indirect ownership (tenant-ownership, limited company and housing cooperative) and granted rights (leasehold, servitude and other rights).

Since the main focus in this study is on transparency, buying an apartment in, for example, Sweden, where indirect ownership is predominant, suggest that there are good grounds to cover this type of ownership. For instance, definitions, rules and rights differ between the countries, which affects the transparency of a transaction. However, it should be noted that the discussion on the land registry in the next section is not concerned with indirect ownership (as those units cannot be owner-registered).

In the countries studied, there are different forms of ownership of apartments (in a multi-apartment building), in addition to the more or less exclusive ownership of detached single-family house. In Sweden, for example, there are owner-occupied flats, the 3D property, and tenant-ownership (“bostadsrätt”), classified as indirect ownership. However, tenant-ownership is also to be found in Sweden in terrace houses, townhouses or semi-detached houses. Tenant-ownership means that the tenant buys membership in an association that gives a right to use a certain flat as long as the tenant fulfils certain obligations. Owner-occupied flats are relatively new in Sweden. They were first introduced in 2009. In 2007 approximately 56 percent of households in Sweden owned their dwelling, 38 percent had exclusive ownership and 18 percent tenant-ownership.

I Denmark there are also two different forms of home ownership: owned-occupied dwellings and housing society dwellings. The former includes, for example, detached houses, terraced houses, owner-occupied flats and holiday cottages. Thus flats may be divided into co-ops (housing society flats) (“andelsboliger”), which are classified as indirect ownership, and owner-occupied flats (“ejerlejligheder”), classified as condominiums. Housing cooperative dwellings account for approximately 7 percent of the entire housing stock in Denmark. Morover, in Denmark, a distinction is made between all-year residencies and holiday homes.

In England systems of leasehold and commonhold exist alongside freehold property. A commonhold, which is a relatively new form of ownership introduced by the Commonhold and Leasehold Reform Act 2002, was intended as an alternative to the leasehold system in properties such as blocks of flats. Under the leasehold system, homeowners are able to buy leaseholds that give them ownership of the right to occupy their flats (but not ownership of the building itself). Commonhold means that the occupants buy equal shares in a property. They own their flats (units) on a freehold basis and share responsibility for the common areas of the building. Thus the commonhold is a type of condominium (see van der Molen 2002, p. 8; Paulsson 2007, p. 39). Home ownership in the UK is approximately 69-70 percent. In 2004 approximately 75 percent of dwellings in England and Wales were owner-occupied (71 percent in England and 77 percent in Wales). Among owner-occupiers, 92 percent owned a house and 8 percent owned a flat.

Owner-occupied housing and housing cooperatives are the two ownership options in Germany. Housing cooperatives are considered to be a third alternative to rental housing and ownership. In the cooperatives, the members buy shares (the amount varies between different co-ops) which are repaid to them at nominal value when they move out. The property is owned by the cooperative and the tenants are the members. Most apartments in Germany are owner-occupied apartment (a type of condominium), and Germany is characterized by a low proportion of homeowners and a high proportion of private tenant-housing.

Owner-occupied housing and housing cooperatives are the principal home ownership options in Poland. Homeownership options concerning apartments consist of either owner-occupied flats ("lokal hipoteczny"), which are a type of condominium, and an ownership co-operative right to an apartment ("spółdzielcze własnościowe prawo do lokalu mieszkalnego"), classified as indirect ownership. While an owner-occupied apartment (condominium) is a separate property in a building, ownership co-operative right to an apartment is a limited real right, where the owner of the right has a right to occupy a particular housing unit, although the co-operative association (housing cooperative) is the owner of the property.

In France, approximately 56 percent of the population lives in owned dwellings. Apartment ownership (condominium ownership) is called "copropriété". The condominium ownership is operated under joint ownership; there are private areas and common areas, and each owner owns a proportion of the parts that are commonly owned and shared.

Apartments in Spain, like France, are in the form of condominiums. According to the Horizontal Property Act, the common elements of residential semi-attached or detached units or of an apartment building are co-owned by the owners of the apartment units. The co-owned parts are managed by the ownership community ("comunidad de proprietarios") and governed by the will of the community members. According to the Quality of Life Survey Year 2008 carried out by the National Statistics Institute, the homeownership rate in Spain is approximately 82 percent.

In conclusion it can be noted that in Sweden, Denmark, England, Germany and Poland, there are two main models of ownership of apartment, whereas in France and Spain there is only one. A type of condominium may be found in Spain, France, Germany, Denmark, England and Poland. With the exception of France and Spain, different types of indirect ownership can be found in the studied countries, for example, tenant-ownership in Sweden and housing society dwellings in Denmark. The two main apartment ownership forms found in the seven

studied countries may be summarized as follows: (1) apartment ownership (indirect ownership) constructed as a matter of corporate law there a corporation owns the land and the building while the apartment owners are shareholders. Each share grants the right to the exclusive use of a specific apartment (Sweden, Denmark, England, Germany and Poland); and (2) apartment ownership which is a combination of separate ownership of the apartment and joint ownership of the land and common structure of the building (Sweden, Denmark, England, Germany, Poland, France and Spain) (cf. EUI & DNotI 2005, pp. 19-20). Thus a distinction must be drawn between the apartment versus rights.

5.3 Land registry

Land registration in Sweden is managed by the Division of Land Registration within *Lantmäteriet*, the National land Survey of Sweden. The Land Registry in Denmark is operated by the Land Registration Court *Tinglysningsretten* in Hobro. In England and Wales land registration is conducted by Her Matjesty's Land Registry. In Germany the land registration system is called *Grunbuch* and in Poland *Księga Wieczysta*. Transfers of titles in France are recorded at the relevant *Bureau de Conservation des Hypothèques*, which maintains and manages the Land Registry (also called in French as the Mortgage Registry/Office). The land registry office in Spain is called *Registro de la Propiedad.*

According to EUI and DNotI (2005), these different registers represent different legal families, for example, the German/Central European family with land book (Germany, Poland), the Code Napoleon family with a mortgage register (France), the Nordic family (Sweden, Denmark), the British Isles system of the common law family (England and Wales). Furthermore, France, for example, has two systems depending on the territory, both land book (a German type land book on the former German territory on the left bank of the Rhine) and a mortgage register. In England, despite only one register, two different methods of registration can be discerned: the old registration of deeds and the new registration of titles (cf. EUI & DNotI 2005, pp. 27-28).

In some countries there is a separate cadastre authority, although it is usually more or less closely related, for example, in Denmark, France, Germany, Poland and Spain. In others, the cadastre and land register are separate branches within the same agency. In England (and other countries that have a common law system), the function of land survey and registering of titles are more or less merged, with one agency handling both functions in a single register. Furthermore, different types of organisation of the registers may be distinguished. The land register may be part of the court system, for example, in Germany, Denmark, Poland and Spain. The land register may also constitute an independent administrative body, for example, in England. In France, on the other hand, the land register is a subordinate administrative authority (cf. EUI & DNotI 2005, pp. 29-30).

As already mentioned, in some countries all property transfers must be registered within a specific period of time, for example, in Sweden, within three months from the completion. In Denmark, although registration is not stipulated, it is usually made in order to make the rights legally valid towards third parties. All property transactions in England and Wales must be recorded in the Land Register. Registration in Poland is mandatory as well. In France all transfers of titles should be recorded at the relevant register; registration is, however, not definitive proof, only a notice to third parties. The system is homogenous for the whole of the French metropolitan territory with the exception of Alsace-Moselle, which has inherited some features from German law. Registration is Spain is voluntary as it has only a declaratory

effect. As a rule, a mortgage must be registered to be valid. Table 5.1 shows if registration is stipulated in each respective country and the effect it has.

Table 5.1 Mandatory registration of ownership (cf. Mattsson 2008, p. 3; EUI & DNotI 2005, pp. 31, 34)

Country	*Stipulated registration*	*Effect*
Sweden	Yes	Merely declaratory (good faith protected)
Denmark	No	Merely declaratory (good faith protected)
England and Wales	Yes	Constitutive (good faith protected)
Germany	Yes	Constitutive (good faith protected)
Poland	Yes	Merely declaratory (good faith protected) (however constitutive for mortgages)
France	Yes	Merely declaratory (good faith not protected)
Spain	Yes	Merely declaratory (good faith protected)

Still, it must be noted that even if registration is mandatory in a country, this does not automatically mean that non-registration makes the transaction void (cf. Mattsson 2008, p. 3). Registration can also be required in a country though it has no constitutive effect and is only required for the sake of third parties. In England registration has been mandatory since 2002, which means that only transactions from 2002 have been mandatory to register (EUI & DNotI 2005, p. 31).

Moreover, there is also a distinction between registration of rights to the property and registration of titles, where either rights or documents are registered. Registration of titles tends to predominate in Europe. Registration of rights occurs in Denmark, Germany, England, Sweden and Spain, while in France deeds are registered. In Poland both rights and documents are registered (EUI & DNotI 2005, p. 32). In addition, registration can have a constitutive effect (the transfer of ownership or the contractual creation of a real rights in land is completed only with registration) or declaratory effect (the transfer or the real right is opposable to third parties only after registration). In some countries registration may be merely declaratory for the transfer of ownership. However, it is constitutive for the creation of limited rights in land (as for a mortgage), e.g. Poland and Spain (Ibid., pp. 32-34).

A comparative description of deeds versus title system can, for example, be found in Enemark (2000). However, there are different variants of each registration. Enemark divides land registration systems into four models: the French model, the German model, the English model and the Torrens-model. The countries in this study are classified into three of them (three first).

The French model is based on registration of deed. This registration does not, however, in itself entail legal protection of title. This lack of protection means that there may be some uncertainty as to whether the seller actually owns the property (which is solved by involving notaries). Registering does not mean that ownership is guaranteed to third parties as is the case in the German model. Hence, it is necessary to check the legal validity of the chain of ownership transfers (which precedes the actual transaction). The German model, on the other hand, is based on a previous cadastral identification of the individual plots/properties as a basis for protection of rights through the so-called Grundbuch-system. The model is available, however, in several variants. In the Nordic countries the systems are organized differently.

The English model is based on a topographical map-set in large proportions that form the basis for the protection of rights (title registration) with HM Land Registry (Ibid., pp. 365-384).

There is also a difference concerning access to the information on the registers. In some countries, there is public access, i.e. the access is available for everybody who wants to get information, for example, in Denmark, England, Sweden, Poland and France (with some exceptions such as protected identity). In other countries access is restricted to those having a legitimate interest (legal interest), for example, in Germany and Spain. Moreover, the files in the mortgage register which contain the more relevant information in a system registering documents are only accessible to those who have a legitimate interest (e.g. France and Poland) (see also EUI & DNotI 2005, p. 44). The information is usually accessible on line (in full or in a reduced version).

Furthermore, the effect of the registration affects the extent to which the buyer has to ascertain the seller's title (and encumbrances). In some countries title search may be limited to consulting the land register (e.g. England, Germany, Poland, Spain, Denmark and Sweden). In France, the whole chain of titles needs to be checked (Ibid., p. 57).

5.4 Concluding discussion

It is evident from the above that there are not any restrictions on foreign ownership of residential property by EU/EEA citizens in the reviewed countries. However, the fixed abode criterion regarding acquisition of holiday homes makes Denmark an exception. This legislation may have implications for the secondary home market. All-year residences in Denmark may also be marred by residency obligation. Although it has nothing to do with the purchaser's nationality, it may constitute a restriction on the secondary home market. Although the rule also applies to Danish citizens, the question can be raised as to whether it places limitation on rights in the European market. Theoretically it may be easier for a Danish citizens to acquire a second home in another EU country that in own's one.

Different ownership forms may create uncertainty regarding which ownership form to acquire and the rules to be applied. Even if some of those forms may show certain similarities, more intensive research will be required to distinguish between differences in their legal construction. Examples can be drawn from Sweden and Poland. In Sweden, a buyer of shares in an associations is required to apply for membership (the purchaser must be approved by the association), whereas in Poland this requirement has been removed. It is interesting to note that the price for the unit (share price) in Denmark is set by the association at its general meeting and not by the market, as in the case in Sweden or Poland. These are only some examples underlying the different classification of indirect ownership that consumers are expected to know about.

As it is mentioned in EUI and DNotI (2005, p. 20), apartment ownership is an area of great diversity in land law. It must be noted that the differences do not necessarily follow the classical legal families. Stubkjær, Frank and Zevenbergen (2007, p. 7) also point out that the ownership of land is sometimes separate form the property of the building erected on it. In addition to the two main apartment ownership models discussed by EUI and DNotI (2005, pp. 20-21) the authors take up various alternative models that exist in different EU countries, for example, leasehold schemes in England, already mentioned above. Paulsson (2007, p. 4) also remarks on the importance of clear rules concerning rights between neighbours and gaining

access for reasons of maintenance, repair or building work. The problem with rules that differ from country to country, the details of which are frequently not resolved in law, may provide an additional dimension of uncertainty or insecurity.

As stated before, transparency in legal information is not only about openness of information in relation to land registries but also about the certainty of the information and the need to ensure a high degree of legal security in a real property transaction, since the primary objective of a real property register is to identify ownership and related rights (Stubkjær, Frank & Zevenbergen 2007, p. 10). This issue is closely related to the mortgage market. De facto, the vision of an integrated mortgage market has still a long way to go. For instance, mortgaging a property across the border is not a self-evident matter. It may be an indication that the credit providers do not feel secure. They have difficulties in assessing the value of the information. Access to the reliable information is expected to be relatively easy, as well. The idea of uniform systems is considered by many to lie further ahead since the field of land law is generally considered to be difficult to harmonize. It can, however, be argued that a uniform level of certainty may, nevertheless, be obtained with the help of, for example, changes in technical standards and in the legal basis of the systems (by using classification models and standardized terms/definitions describing on legal content). Yet, there are at least three types of mortgages in the EU, which does not make things easier.

It is difficult to say how the situation is today. As noted in EUI and DNotI (2005, p. 58), title insurance in Europe is uncommon. This might indicate that an efficient registration system is in place or that there is a sufficient professional liability regarding notaries, solicitors, or estate agents. The institutions examined in the EUI and DNotI (2005) function reasonably well, according to them. Yet, a lack of available research makes it difficult to ascertain whether the concept of title insurance is widespread today in Europe. Nevertheless, it can be confirmed that there are title insurance companies offering services to the legal profession and banks (and other lenders) in securing the ownership and usage rights on behalf of a lender or owner, or both, not only in commercial properties but in residential properties. To what extent they function remains unclear. However, their existence de facto indicates that there is a demand or a need. In ICREA (2010), for example, the concept of title insurance in Spain was shown to be growing, e.g. Stewart Title Ltd (an UK based title insurance company), and directed at British citizens owning property in Spain. This it to be expected since there is no state guarantee of register/title.

From the reviewed information on the studied countries, it can be argued that the systems currently provide different level of legal certainty and are at different stages. Inter alia, historical influences, differences in legal, semantic and cultural nature form part of an explanation, since the systems represent different legal families. Non-stipulated or merely declaratory registration may be considered as one of the issues of uncertainty, which raises issues concerning transactions security. However, if registration is a guarantor against a third party, uncertainty is reduced. As shown in Simpson and Dahan (2008, p. 194), title registration has the effect of authenticating the title and guaranteeing its validity. The principle is that any person should be able to rely on the accuracy of the information in the register, since a reliable system of publicity can contribute to sufficient certainty in property rights.

An attempt to bring together several European land registrations within one internal portal is a positive step. However, many barriers remain, for example, in relation to language constraints. Although most of the information is translated, there is still the issue of

differences in definitions and legal content. According to Stubkjær, Frank and Zevenbergen (2007, p. 5), comparison across countries may be difficult, as the same term may be used differently and there is often no exact correspondence between concepts. For example, Stubkjær, Frank and Zevenbergen raise the issue of different kind of registers, for example, the registry of deeds in the United States and the Grundbuch in Germany. They serve the same overall function (namely listing the owners of land), but the legal consequences are different.

Stubkjær, Frank and Zevenbergen also note that every country selects appropriate words to describe legal concepts. Still, these terms do not have to have an equivalent meaning even between countries with the same language. The technical issues are unable to solve the problems of legal and organisational issues. Using classification models or standardization terms, differences may still remain that can be of decisive importance for a transaction. It can be argued that only a lawyer can actually possess knowledge to assess the legal content. However, there are no lawyers who have an education from several countries - they are usually experts in the legislation of a single country. A EuroTitle system would not have to come into question if all real properties and property transfers were registered. It is difficult to foresee the introduction of this kind of system on a voluntary basis as a complement to existing national systems. It would be difficult to know how many would follow it, particularly if it would mean additional costs. Who would then use such a system? Those wishing to reach the European market? Private title insurance also means additional costs, unnecessarily in countries with already secured systems.

6 Transparency in home financing

Transparency in home financing is concerned with a more open, integrated mortgage market that offers a wide choice of home financing products which may be purchased anywhere in the EU. This would make real property transactions easier as well as cheaper. Transparency is also about customer understanding of products, enabling customers to access information on those products and making informed and secured choices. It is about finding an alternative tool to facilitate the transfer of mortgages without substantial changes of existing legal systems.

6.1 Characteristics of home financing

There is a wide range of mortgage products in the studied countries. As mentioned in EUI and DNotI (2005, pp. 85-86, 89-90), different type of mortgages can be found in Europe. There are also several sub-types. The two main types are: Firstly, there are *accessory mortgages* whose existence depends on the claim that they are created to secure. They can be found in England, France, Spain, Sweden and Germany, and are usually called "hypothec" in civil law countries. They can be more or less strict. Secondly, there are *non-accessory mortgage*, also called abstract mortgage since they are created as an abstract security right where a land charge is used instead of mortgage, for example, "Grundschuld" in Germany.

These types of mortgages may also be referred to as strong or weak accessority, since different levels may apply. Simpson and Dahan (2008, pp. 198-199) talks about six levels of accessority, with strong accessority at level 5, weak accessority at level 1 and non-accessorty mortgage at level 0. Strong accessority means that the debt must already exist at the time of mortgage creation and must be fully specified, while weak "accessority" means that the debt does not yet have to exist at the time of mortgage creation and can be defined generally outside the scope of nay existing obligation or contractual framework. In the case of not-accessory mortgages, the debt does not yet have to exist and be defined at all, i.e. the mortgage exists independently from any debt (but would not be enforceable without a debt to relate to) and can be used to secure debts which are not in the contemplation of the mortgagor at the time of its creation, and which may become due to third parties who have no connection with the mortgagor at the time that the mortgage is initially created (Ibid.). It should also be noted that the definition of a mortgage may vary as well as the requirements for setting them up (see EUI & DNotI 2005, pp. 85-86, 89-90).

Property financing usually consists of different elements. As a rule, financing comprises both cash payments and borrowing. One or more credit provider may be used. In Sweden, for example, financing may consist of different elements, for example: first mortgage loan ("bottenlån"), second mortgage ("topplån") and cash payment (accounting for 15 percent of total expenditure since October 2011). Sometimes there is no distinction between mortgages, and one can have several mortgages with various loan terms depending on a contract. One credit provider is usually used in Sweden (acquisition is usually financed by a bank). If there is no distinction in Sweden between a first and a second mortgage, higher amortisation or additional collateral for the portion of the financing that has the highest risk will be required.

In Denmark two credit providers may be discerned: a bank that handles short-term loans and a real credit institute which handles long-term loans. Financing in Denmark usually consists of three parts: cash payment (normally 5 percent), real credit loan (mortgage credit loan)

("realkreditlån") (up to 80 percent), and post-financing (approximately 15 percent). Consequently, a real credit loan in Denmark usually represents the major part of the financing and is financed by bonds. The borrower then complement with post-financing, which may have different elements: a housing loan ("boliglån"), which is usually a personal loan raised in a financial institution or mortgage banks; or a purchaser's mortgage to seller ("pantebrev"), where a purchaser issues a mortgage deed to the seller. The cash payment may be also financed by a bank.

Mortgage loans in England can be raised from a variety of lending financial institutions, such as banks, building societies, investment houses, insurance companies etc. A deposit of at least 10 percent up to 25 percent is usually demanded. Real estate financing in Germany may be carried out through mortgage banks or any other banks or financing institutions. Mortgage banks fund loans in Germany by issuing mortgage bonds. Mortgage loan financing in Germany usually account for 60-80 percent of the property value. Loans exceeding this amount must usually be secured by additional securities, for example, insurance or other financial securities deposited at the institution. Mortgages in Poland are usually up to 80 percent (the majority are in the interval 50-80 percent). However, loans above 110 percent may also occur. The following institutions are involved in granting long-term mortgage loans in Poland: universal banks that have a 98 percent share in the credit market, mortgage banks as well as Houisng Savings Units/Savings and Construction Units.

As in other countries, a real estate transaction in France is usually financed through a mortgage loan. A loan may be obtained either through a French bank (even if non-resident) or through a foreign bank since it is possible to borrow on French real estate. The following principal financial institutions participate in the housing loan market in France: government (public) institution (investment bank) Caisse des Dépôts et Consignaions and the private bank Crédit Foncier de France. The average LVR in France is 80 percent (the maximum loan amount is generally no higher than 70-78 percent of value). Financing a property in Spain may be carried out with help of either Spanish financial institutions/banks or by foreign ones. Foreign financing is quite usual. Financing in Spain is usually up to 75-80 percent for residents (up to 100 percent in individual cases), and up to 50-70 percent for non-residents.

Loan interest may be fixed or variable or a combination of both. Other interest rate options are discounted rate, tracker rate, capped rate etc. An amortization period varies both between and within countries; for example, in Sweden it can be between 30-60 years. The common instalment period for a real credit loan in Denmark is 20-30 years, where the housing loan maturity period is up to 30 years. The typical amortization period for individuals buying a home in England is 25 years, while the typical amortization period in Germany is 10-30 years. Mortgages in Poland are usually for a maximum of 35 up to 50 years. In 2009 approximately 84 percent of all apartment loans were signed for a period of 30 years. The comparable figure for a period of 30-40 years was only approximately 10 percent. The period of amortization in France is relatively short. Previously, amortization periods longer than 20 years were uncommon. Nowadays, however, amortization periods of 25 years have been introduced. The typical amortization period in France is 15-20 years, and a maximum period for a mortgage is usually 35 years. The amortization period in Spain is usually 30-40 years, with a loan that must be usually fully amortized before the borrower is 70 years old.

In some countries, financial institutions are more flexible with mortgage payments in instalments. Up to 10 instalment free years may occur. The possibility of an amortization-free period exists, for example, in Poland (12 up to 36 months). Interest repayment

mortgages/interest-only mortgages may also be found in France and England. Financing in Germany is usually in the form of redeemable loans, while amortization free loans in Spain are unusual.

Regarding mortgage loan security, a mortgage certificate ("pantbrev") is issued in Sweden by the land registry, which maintains a mortgage register. As security for a loan in Denmark, a credit institute draws up a mortgage deed on the property and the mortgage is registered. The mortgage becomes legal interest in the property in England upon registration. A mortgage deed in England is usually prepared by a solicitor on behalf of the bank (the loan agreement and other documentation are prepared by the bank). In Germany the property is used as security for financing, granting accessory ordinary mortgage ("Hypothek") or non-accessory land charge ("Grundschuld", in most cases the so-called "Sicherungsgrundschuld") against the property. These mortgages are limited to 60 to 80 percent of the LVR. Mortgages and land charges are not binding in Germany against third parties until they are entered into the land register. In the case of Grundschuld, there is no mortgage deed (just registration). According to securitization of property assets, the German mortgage banks issue, as a refinancing tool, particular mortgage based bonds (covered bonds), so-called "Pfandbriefe" (Mortgage Pfandbriefe) equivalent to up to 60 percent of a property's mortgage lending value. However, non-Pfandbrief mortgage bonds are also issued by mortgage banks in case of mortgages that do not qulify for the Pfandbrief cover. The Pfandbrief is equivalent to, for example, real credit bonds in Denmark. Legislation which makes it possible for certain institutions to use this kind of finanicing option has also been introduced in, for example, France and Spain.

A home loan in Poland is usually secured by collaterals, for example, a mortgage. A bank may also require, for example, credit insurance, life insurance, property insurance etc., which must be registered in the Land and Mortgage Register. Registration has a constitutive character. The mortgage deed in Poland is drafted by a notary. The following three types of securities or charges against a loan apply in France: Conventional Charge (a conventional mortgage charge called "hypothèque conventionnelle"), which must be registered in the land registry. The process is undertaken by a notary (usually used by international buyers); Priority Lien Charge (called "hypothéque de privilège de prêteur de deniers"), which is also registered in the land registry. The process is also undertaken by a notary. However, it takes priority over all other mortgages on a property and is cheaper than a conventional mortgage (mortgages are available for existing properties and the amortization period is usually longer - up to 50 years); and Institutional Guarantee (called "la société de cautionnement"), which is widely used in France since it is generally cheaper. However, it is only available to tax-paying residents since there is no need for registration; the process is quicker and the mortgage may be used for short duration loans where the mortgage is based on the mutualisation of risk between the lenders and debt recovery in the case of no payment can be sought in a court. In Spain the mortgage must be notarised and entered into the land registry since only registered mortgages are recognized. Loan contract and mortgages securities are joined in one single notarial deed (there is no mortgage deed which must be kept by the creditor, only registration).

In some countries a purchaser has two options when financing an acquisition. S/he can either take up a new loan or take over the seller's debt, e.g. in Denmark. In England the existing mortgages are rarely assumed by new buyers. They are usually discharged at the time of sale. In England, different mortgage brokers can also be found. There are both tied (work for one single lender) and multi-tied advisers who give advice on products for a limited range of lenders. There are also independent ones, IFAs, who offer impartial advice from the entire

market. Different forms of compensation for arranging mortgages can be found as well. In all the studied countries, the debts may be usually expressed in local and foreign currency.

To borrow money in a local bank in one's own country to buy a property in another EU country can be problematical. In certain countries it is considered to be harder to get credit as a non-resident. It is also argued that it is easier to get a credit for properties in some counties in comparison to others. For example, in Sweden some banks are able to arrange a loan in e.g. Spain, France, UK, Switzerland, Finland, Norway etc., using a particular division (department) that is often situated in another country. In those countries where the mortgage deed on the property specifies that it cannot be used in another country, the financing institutions work with a so-called guarantor and refer to branches of their own or other banks with which they cooperate. Though the loan conditions for this kind of loan (amortization period and interest rate system) may be similar to the principles used in the domestic country, the arrangement costs are usually much higher. Banks usually cooperate locally with notaries and other experts in order to secure the legal aspects of a purchase. There may also be a difference in the financing ceiling between nationals and non-nationals. Financing for foreigners in Germany does not usually cover more than 60 percent of the purchase price, while German nationals are usually able to obtain a higher mortgage. Apartment loans in foreign currency in Poland usually require a higher credibility (approximately 20 percent higher). This is similar to the situation in Spain, where financing for foreigners is set at a lower limit.

6.2 Concluding discussion

It is evident from the above that despite the differences in property financing between countries, a certain cash payment is usually expected. However, in certain circumstances the cash payment may also be financed by a loan. In Sweden the cash payment of 15 percent was actually introduced for bank loans, in order to increase consumer protection and stop the over-extension of the credit market (see FI 2010). The highest risk portion of a housing loan usually requires higher amortisation or additional collateral. There are a variety of financing sources available in the studied countries, but there is no common pattern on who prepares a mortgage deed/certificate. It seems that in some countries foreign financing is more common than in others, or the average LVR is lower. How can this be explained? An increase in cross-borders transactions may be one reason. Some countries are more popular among foreign buyers than others. Lower LVR may, for example, be an indication of lower prices, giving the buyers more cash. People may not be willing to borrow, which may quite simply be due to traditional values. For numerous reasons, financing institutions may not be willing to lend. It may, for example, be due to a lower level of confidence in the secured claim, differences in credit access, or simply the financial climate in the country. Some kind of mortgage deed, mortgage certificate or notation is usually issued by the land registry or the mortgage registry. Theoretically this is a major advantage, considering the security issues involved. Besides, the registration of mortgage at the same register as property titles may facilitates the search process (see Simpson and Dahan 2008, p. 194).

The profession of a mortgage broker is more common in some countries, for example, England. The actual need for this type of profession in the context for real property transactions may be called into question. Negotiations can be made directly with the financing institutions particularly in the case of the broker who only represent one institution. On the other hand, the mortgage broker may negotiate a better deal on the mortgage. At the same

time it means additional costs. However, walking around from bank to bank asking for en offer and having to negotiate (especially if negotiating skills are not so high) also incurs costs.

The right level of customer expectation can also be discussed. Should a potential buyer be able to walk into a local office of a bank in order get help with financing abroad? Is it completely acceptable, on the other hand, to be remitted to a particular unit within the bank? In addition, the financing of property abroad is frequently arranged through another country. Moreover, in some countries the bank does not provide any tax reports to foreign countries. Should it be acceptable, as well, that the costs are higher when mortgaging property abroad? Or should there be a different ceiling for financing between nationals and not-nationals, as may happen today? To finance property through a bank in one's own country that has contacts with particular trustworthy professionals (as for example lawyers) in the target country may be beneficial. The bank may carry out the transaction. However, at the same time, it limits the borrower's possibility to choose her/his own representative.

The real property mortgage sector undoubtedly raises transparency issues in real property transactions. Finding a modern solution for the home financing issues, where both the creditor's/lender's and the debtor's/borrower's legitimate interest are concerned, can be seen as a way forward. As remarked in Lopez-de-Silanses (2008, p. 3), better institutions that fill up the information gap between lender and borrower should lead to wider credit markets and better financing terms.

There are evidently a wide range of mortgage products on the European market. The diversity of financial products may be observed not only between states but also within the states. The optimal choice of type of loan is highly individual since each type has both advantages and disadvantages. A high degree of diversity may be both positive and negative as it can make it difficult for a consumer to make a choice without avoiding any risks. Yet, at the same time it can lead, for example, to lower costs. Uncertainty over legal information may be considered an obstruction to the export of national mortgage products. It is also argued in EUI and DNotI (2005, p. 99) that the main obstacle to cross border refinancing is "accessoriness" rather than the diversity of the land law. The same mortgage law does not eliminate different country risks that the banks have to take into consideration. For example, there is a risk involved in not knowing a local market. Although there are a lot of financial platforms (based on the Internet) where collection of different financial products can be found and compared, both directly from different banks and from financial advisers/broker, there is no guarantee that consumers' choices will be more informed.

It can be argued that the prosperity of the mortgage market lies, moreover, on a reliable system for title/deed registration. This is necessary for ensuring a sufficient degree of certainty in relation to credit provider's rights since the credit provider's mortgage value depends on confidence in the secured claim (see Simpson and Dahan 2008, p. 194). In some countries mortgage deeds are separated from credit document, e.g. in Sweden. According to Mattsson (2008, p. 13), this is favourable for credit market competition.

7 Transparency in taxation

Taxes play an important role in real estate transactions (see, for instance, EUI and DNotI 2005). Transparency in taxation refers to coordination and harmonisation of taxation at EU-level, as well as interactions between the tax systems of the member states. Hence, transparency in taxation helps to facilitate economic integration. Since real property transactions are target for taxes, an additional layer of uncertainty to transaction outcome may be raised (Seabrooke, Kent & How 2004, pp. 16, 24-25).

Housing taxation discussed in this study includes annual property taxes as well as non-recurrent taxes, such as taxation on sale profit and property transfer taxes (or value added taxes if relevant), including stamp duty taxes. Property transfer taxes are, however, discussed in the next chapter as they constitute a direct transaction cost. A wealth tax is another relevant tax that is not discussed here.

7.1 Annually recurring taxes

Annually recurring taxes include some forms of property tax or property charge paid usually to a municipality. Taxes paid by the owners and possessors can be discern. Certain tax exceptions apply.

In Sweden, for example, the state property tax on finished homes was replaced by a municipal property charge from January 1, 2008. Property charges in Sweden are linked to changes in the income base amount, and there is no charge on newly constructed housing during the first five years (and only half of the charge is payable during the subsequent five years). The maximum fixed charge for single-family houses is SEK6,387 for the fiscal year 2010. At the same time, it should not exceed 0.75 percent of the tax assessment value for residential building and the accompanying land for each respective year. The chare for multi-unit dwelling (an apartment in an apartment building) is a maximum of SEK1,272 (fiscal year 2009). At the same time, it should not exceed 0.4 percent of the tax assessment value for fiscal year 2009. The charge is paid for the whole year by the person who owns the property on 1 January in that fiscal year irrespective of whether a change of owner subsequently took place. For private dwellings abroad, there is no longer a property tax or charge levied in Sweden.

In Denmark two different taxes related to property apply: *a property tax* (the municipal property taxes; land tax), paid for owning a house, an owner-occupied flat or a plot in Denmark, and *a property value tax* (”ejendomsværdiskatte”), paid when owning a house or an owner-occupied flat. The property taxes are paid directly to the municipality (local and county authorities) and are calculated on the basis of the actual property value – the land value. Each municipality assesses the tax. The tax paid to the local authority is usually between 6-24 per-mille of the land value and to the county authority 10 per-mille of the land value. The property value tax is paid on Danish properties as well as on foreign ones (taxable in Denmark). The tax is paid on Danish properties whether or not the owner is living in Denmark or abroad. A person living in Denmark has to pay the tax on property owned abroad. Property value tax is paid (calculated) on the basis of the taxable value of the property (the total property value), provided that the property is used or can be used by the owner as a private residence. The tax is 10 per-mille (1 percent) of the property value on taxable value up to DKK3,040,000). On the taxable value above that limit, the tax is 30 per-mille (3 percent).

For properties bought before July 1, 1998, a deduction applies (certain restrictions). Special rules applies for owners over 67 years (property owned by pensioners are subject to lower rates).

The only annual real estate tax in the UK is a Council Tax, which is set on properties that may be used as dwellings. The tax is payable by the owner or occupant/tenant provided that there is an assured tenancy to the local authority depending on the value of the property. Fifty percent of the tax is based on the property band to which the property belongs and the other fifty percent is based on the number of persons living in the property.

German property is subject to a land tax – "Grundsteuer". The taxable object is real estate, land and buildings. The land tax is divided into two categories: land tax A for agricultural businesses and forestry, and land tax B for other land (including improvements). Land tax B includes buildings and ancillary structures, and it covers leaseholds and owner-occupied dwellings. The tax is levied annually by municipalities. However, the tax code is uniform across the whole country, and the tax base is assessed on unitary value to which a multiplier is applied. A multiplier varies from district to district, and the tax depends on several factors including location, size, use, local municipal coefficient, etc. The tax is calculated as follows: the federal government determines a standard tax - uniform rules apply to all municipalities - by multiplying the rateable value (determined by a specific federal law) with a base rate. The base rate for residential properties is from 2.6 to 3.5 per thousand for properties in the former federal area and from 5 to 10 per thousand for properties in the new landing. This standard tax is then the basis for the municipal tax, whose base value is multiplied by a municipal leverage ratio. The municipal coefficient (leverage factor) is from 300 to 600 percent. The payment of the tax is made quarterly. Persons to whom the rateable value applies – normally the owner – are liable for the tax.

A real estate tax in Poland is an annual tax levied on the property owner or possessor. It is a local tax and depends on the location and type/use of the property. The tax is charge on land and buildings or their parts. The basis for the taxation is the area for land and area of use for the buildings or their parts. There are maximum tax rates. For example, the tax rates for 2010 are (tax per sq mt): for land – PLN0.39 (€0.10) and for dwellings – PLN0.65 (€0.16).

In France two types of real estate taxes apply: a property tax (ownership tax) (called "taxe foncière") and a residence tax (called "taxe d'habitation"). A property tax is a local tax levied by the municipality and may vary between regions. The tax is payable by the owner of the property and is a combination of tax on the building and on the land. The tax is levied on a collective basis by the local, departmental and regional councils. The amount is determined by the local councils. However, it is calculated and collected by the central government tax authority. The assessment base is notional rental value of the property. Some exemptions to the tax apply; for example, under some condition, new buildings or additions to existing buildings are exempted from the tax during two year. Full or partial (50 percent) exemption is available on classified new homes constructed to an energy efficient standard that is higher than the current regulations in force. Persons over 75 years of age are also able to receive tax exemption, subject to certain conditions. The average property tax during 2009 was €1052 per residency. An occupancy tax (a residence tax) is a tax imposed on the occupiers (on a permanent or semi-permanent basis) of a property (a house or an apartment) in which they were resident on January 1 of any given year, irrespective of whether the residency is furnished or unfurnished, i.e. the tax is payable by the resident irrespective of whether s/he is just a resident or owns the property. According to the law, the tax is payable where there is a

right of occupation and the property is habitable. Similar to the property tax, the tax amount is also determined by the local and county councils but calculated and collected by the central government tax authorities. The formula used is also based on the notional rent that the property might be expected to achieve in the open market. The formula is then applied to this notional rent based on the income that the authorities need to raise. Certain groups of persons are eligible for the tax relief or exemption. For instance, under certain condition, persons under 60 years of age are exempted from the tax and there is a relief for individuals who have children.

Annual real estate tax in Spain (called ”Impuesto sobre Bienes Inmuebles”, IBI) is a local tax and varies from the municipality to municipality (approximately 0.5-1 percent of the cadastral value (“valor catastral”; land plus building). The tax is usually charged to the property owners. Another tax payable in Spain by non-residents is *Income tax on benefit value* of the owned house or apartment in Spain. This is an imputed income tax on person use of property for residential purposes. It amounts to 0.5 percent of the cadastral value (the tax base is maximum 2 percent and the tax rate is 24 percent, having been previously 25 percent). The tax is paid on all holiday homes and may be paid at any time during the year, in relation to possession on December 31.

It is evident that all the studied countries have some kind of property (real estate) tax or charge and certain other taxes payable annually. The taxes are paid by the owner or occupier of the property. Those taxes are usually local and may differ from municipality to municipality. Tax basis and assessment basis can vary between countries. They can be calculated on the basis of the land value (cadastral value) or the total value of the property. They can, for example, be linked to some kind of index or multiplier or notional rental value of the property. The tax can also be paid on property abroad (for example, the property value tax in Denmark). A maximum amount can be defined. The taxes in each respectively country are summarised in Table 7.1.

Table 7.1 Annually recurring taxes

Country	*Taxes*
Sweden	Municipal property charge
Denmark	Property tax and property value tax
England and Wales	Council tax
Germany	Land tax
Poland	Real estate tax
France	Property tax and residence tax
Spain	Real estate tax Non-resident income tax on benefit value

7.2 Non-recurrent taxes - taxation of the sale profit

Taxation of the profits that accrue from the sale of a residential property is an example of a non-recurrent tax. This profit is usually taxable as income tax, e.g. Sweden, Denmark, Germany, Poland and Spain, or as capital gains tax in, for example, England and France. The tax base is determined by the difference between the gain and the deductible expenses (the sale price minus the purchase price, sale and acquisition costs, and improvemnt costs if appliacable). There are frequent exemptions in relstion to the sale of family homes. In certain countries, provided that certain criteria are fullfilled, the tax may be postponed or reinvested,

e.g. in Sweden, Germany and Spain. In certain countries, subject to certain conditions, the profit may be tax relesed, e.g. in Denmark, England, Germany, Poland, France and Spain (cf. EUI & DNotI 2005, p. 24). Tax rates differ between the coutries.

In Sweden, for exampel, the tax rate is 30 percent of the taxable profit, which is equvalent to 22 percent of the entire profit. Realised gains in Denmark are taxable as investment income for individuals. In England gains made until 22, June 2010 are charged at a flat rate of 18 percent, and subsequently at a rate of 18 percent and 28 percent respectively for individuals, depending on the total amount of taxable income. However, there are certain annual tax allowances, and gains below the allowance are exempt from the tax; for the 2009/10 tax year, it is £10,100 for each individual. From 2009, the flat income tax rate in Germany is 25 percent (plus a solidarity surcharge 5.5 percent). Profit from the sale can also be reinvested in another property, which means that, subject to certain conditions, no tax applies in this case. In Poland, from January 2009 there are three different rules for calculating the tax on sale profit, depending on date that the property was acquired. For properties acquired before December 31, 2006, the tax is 10 percent of the profit from the sale. The tax is, however, not payable if the taxpayer declares that s/he is going to invest the income from sale in the purchase of a new home within two years of the date of sale. For properties acquired between 2007 and 2008, the tax is 19 percent of the profit from sale, irrespective of the use of the sale proceeds. There is, however, a reduction in taxes in relation to registration for permanent residence during 12 months. For properties acquired after January 1, 2009, the tax is also 19 percent of the taxable gain from sale. The tax is, however, not payable if the profit from the sale is intended for the purchase of a new home, located in Poland or in other EU/EEA-country or Switzerland.

In France the tax rate is 19 percent of the net gain plus social charges of 12.3 percent for French residents; 19 percent for residents of the EU, Iceland and Norway, and 33.33 percent for non-residents of the EU. Income derived from capital gains in Spain (net gain) is liable to Personal Income Tax (“Impuesto sobre la Renta de las Personas Físicas”, IRPF) for residents and Non-Resident Income Tax (”Impuesto de la Renta de de No Residentes”, IRNR) for non-residents (solely for Spanish source income). It is levied as a flat tax rate of 19 percent both for residents and non-residents. However, it can also be 21 percent for residents, depending on the amount of the taxable gain. The flat rate only applies if the property is sold after owning it for more than one year; otherwise, the capital gain is added to the income and taxed at progressive rates. There are also some other differences between residents and non-residents in Spain. If a non-resident is selling, 3 percent of the sale value (of the declared value of the property) will be withheld directly by the purchaser or the notary and paid to the tax authorities within 30 days in order to guarantee tax liability. This amount will be then deducted from the total tax, which must be paid within 3 months. If there is a loss, 3 percent is returned back within six months. If the tax is not paid, the real estate itself becomes liable. This rule applies only to non-residents; for residents income-tax return is done together with other incomes.

If some criteria are fullfilled, for example, a replacemnet home has been acquired within a certain time, the tax can be postponed, for example, in Sweden. The replacement home may then be situatated in another EEA-country. Tha basic condition for the postponement in Sweden is that the profit (postponemnet amount) is at least SEK50,000 for each tax liable person and that the persons applying for the postponemnt are going to take up residence in their new home. The principal place of residence, which has been sold, must be a private residence and must be the tax liable person’s permanent place of residence, i.e. must have

served as the abode for at least one year immediately before the disposal or for at least three out of the last five years. The tax postponement is always in proportion to the amount invested in the replacement home. There is, however, a limit on the amount. The ceiling is SEK1,600,000, and the annual interest must be paid on the total postponement amount at 0.5 percent.

In Denmark, gains from the sale of private residences (single and dual family houses and owner-occupied flats) may be tax exempt, providing the residence has served as the abode for the owner or a member of the owner's household for a part of or during the entire period s/he has owned it and if the property meets certain conditions, for example, the total area of the land connected to the residence must be less than 1,400 square meters. Nor in England is Capital Gains Tax (CGT) payable on the sale of a principal residence, provided that the property is half a hectare (including the house) or larger if approved by the Appeal Commissioners. In Germany private residences that have bee held for more than ten years are also exempt from the tax, and in Poland the tax is not payable providing the property has been held for at least five years (counting form the end of the calendar year in which the acquisition took place).

In France properties held for more than 15 years (even if not a principal residence) are exempt from the tax. Sales of properties used as principal residences are also exempt from tax in France, provided the property has been held for more than five years. This also applies to sales for amounts of less than €15,000 (whatever the gain on the sale price). Under certain conditions, the elderly at retirement age, disabled persons, couples in the process of separation/divorce, or sale of residencies for family or work-related reasons are exempt from tax in France. After the fifth year of ownership, there is a reduction on a sliding scale of 10 percent a year of the net profit. Some exemptions to the tax may be found in Spain, as well. If the gain from the main residence is reinvested in the new main residence within two years of the sale, there is a hold-over relief (up to 100 percent) dependent on a proportion of the reinvested gain. The rule, however, applies only to tax-residents that have lived in the property for at least three years. If a person is over 65 and is a tax-resident (has lived in the main resident for more than three years), the gain is tax exempt. Taxation on sale profit is summarized in Table 7.2.

Table 7.2 Taxation on sale profit

Country	*Tax rate*	*Tax release (under certain conditions)*
Sweden	30% av taxable profit (22/30) = 22%	No, only postponement possibility
Denmark		Yes, e.g. principal residence and total area of land less than 1,400 squre meters
England and Wales	18 resp. 28%	Yes, e.g. principal residence and total area of property under half a hecter (including house)
Germany	25%	Yes, if held for more than 10 years
Poland	10% resp. 19%	Yes, if held at least 5 years
France	19%	Yes, if principal residence held more than 5 years, or not principal residence held more than 15 years
Spain	Owning a year or less – progressive rate; otherwise 19% resp. 21%	Yes, if the ownwer over 65 years old and a tax-resident

7.3 Concluding discussion

As remarked in Seabrooke, Kent and How (2004, pp. 24-25), property taxes may produce an additional layer of uncertainty to the outcome of the transaction. There are different taxes which have to be considered when buying or selling a real property such as a home. The treatment of taxes varies throughout the EU, although certain similarities of thoughts and patterns are evident in the system. Only property taxes/charges and taxes on the gain from sale have been taken into consideration in this report as those are the taxes directly connected to the ownership and the dispose of the property.

A common pattern emerges, for example, in the studied countries in relation to the local nature of property taxes/charges, which may vary from municipality to municipality. The calculation of the tax differs significantly between the countries. Accordingly, it may be difficult to gain a precise knowledge of the size of the taxes. The maximum amount, however, may to a certain extent minimize uncertainty. In some countries, newly built properties are tax exempted or offered tax relief during the first years. In other countries, the exemption concerns only properties that have energy efficient standards higher than current regulations require. Particular rules also apply to elderly people, although the age limit differs between the countries. In some countries, properties owned abroad may be taxable as well. Additional taxes are also payable in certain coutries, for exampel, in Spain, which has a particular tax on the benefit value.

Treatment of taxes on capital gain also varies considerable. In certain countries, capital gains are treated as normal taxapayer income and assessed as income tax liability. In others, particular rules apply. In almost all the studied countries, the prinicipal residencies (family

homes) held for a particular period of time, which may vary substantially or properties where the owner has filled a certain age, are not taxable. Sweden is an exception since it does not appear to have this kind of exemption. It has only the opportunity to postpone tax liability, although the annual rent on the amount must be paid. This type of postponement is also possible in other countries. The patterns for the assessment of the net gain seam to have certain similaries. The tax rates, however, differ between the countries. On the other hand, the income tax rates differ as well. In certain case this may be connected. In those cases, the gain can be postponed when the replacement home is situated in another EU/EEA-country. Tax rate between residents and non-residents may differ. In some countries, under certain conditions, elderly or disable persons, divorcing couples or other people selling due to specific circumstances, for instance, work-related resons, may be tax exempt.

All these differences and similarities represent only some of the examples of the system structures. It can be argued that the differencies are more marked than the similarities. In some cases, certain countries stand out more than others, as, for example, is the case with Sweden, where a capital gain on family homes can never be tax free. This could be questioned since other countries have this opportunity.

8 Transparency in transaction costs

Transaction cost is a comprehensive concept. The costs not only include the price paid for the product but may also include the following: costs for searching and collecting information in order to minimise uncertainty and correct information deficit as well as the costs for selecting the information. There are also the other party costs of advertising, costs of assessing the quality of the product and service, costs of bargaining, drafting and negotiating an agreement, costs of insurance and bonding in order to secure protection against risks, cost for identification of regulatory constraints, costs of transaction delay or understanding local business culture (Seabrooke, Kent & How 2004, p. 16; Stubkjær, Frank & Zevenbergen 2007, p. 13; Keogh & D'Arcy 1999, p. 2411). Some of the transaction costs are more or less tangible and easily measured, while others may be intangible and difficult to assess (Keogh & D'Arcy 1999, p. 2411).

Quigley (2002, p. 2) specifies five categories of transaction costs in the housing market: (1) search costs, which are the costs of identifying and evaluating the object/attribute (e.g. agent fee); (2) legal and administrative costs, which are the costs associated with title transfer (e.g. ad valorem taxes or stamp duties), legal aspects of the property (e.g. costs of conveyancers, lawyer etc. - all legal fees), assessing the legal status of the property, and costs of administrative procedures (e.g. title recording, costs of local services (fees and duties to public services)); (3) adjustment costs (out-of pocket costs and psychic costs, i.e. costs of moving possessions including furnishings rendered unusable after move, as well as costs revealed by the maximum amount that a household of static socio-economic characteristics is willing to pay to continue residence in its current dwelling); (4) financial costs associated with mortgage contracts; (5) the costs of uncertainty related to household uncertainty and expectations about the future, e.g. changes in interest rates, house prices, taxes etc.).

According to Stubkjær, Frank and Zevenbergen (2007, p. 15), the costs may also include the costs borne by the public, such as the provision of governmental services (land registries, land survey, courts) and the formation and organisation of the related professional services. According to Seabrooke, Kent and How (2004, p. 16), the costs incurred in minimising the tax burden may be include in transaction costs, although taxes are not classed as transaction costs. In this study, only legal and administrative costs are taking into consideration since those costs are relatively easier to identify and constitutive direct costs associated with transaction process. However, they may also be difficult to estimate.

8.1 Roundtrip transaction costs

According to the Global Property Guide (GPG) (2009), transaction costs vary across the EU-countries. Roundtrip transaction costs in studied countries are as follows (see also Table 8.1): According to GPG (2007), aggregated transaction costs in Sweden are low, ranging from 4.5 to 7.5 percent of the property value. Costs in Denmark are very low, at between 1.3 to 3 percent of the property value. Transaction costs in the UK are generally very low, at between 2.9 and 9.3 percent. Roundtrip transaction costs in Germany are estimated to range from 7.9 to 12.6 percent, according to GPG (2007), and from approximately 8 to 14 percent of the purchase price, according to other sources (see e.g. ZERP et al. 2007b, pp. 136-137; DIA/CEPI 2006; Alpha Real Estate Investment Ltd 2008; Expatica 2003). According to ERA Europe (2009, p. 44), the total transaction cost in Germany (including average commission, transfer tax and notary fees) is approximately 11 percent. In Poland, according to GPG

(2006), roundtrip transaction costs are low, around 5.5-9.9 percent; in France, according to GPG (2007) costs are moderate to high, ranging from 11 to 19.35 percent. In Spain costs are moderate, approximately 10-14 percent. However, according to ZERP et al. (2007b, pp. 338-339), total transaction costs are approximately 13-14 percent when the property in not mortgaged and 15-16 percent if the property is mortgaged. The following costs need to be taken into consideration: transfer tax; registration fee (or court fee) for both transfer deed and mortgage deed; estate agent; legal fees/services for both transfer documents and mortgage documents, e.g. notary fee; energy labelling costs; technical services; and other additional fees, such as bank costs, including for example, property valuation cost, administrative cost etc. The comparison between countries in GPG is, however, based on the assumptions that the property is purchased by a non-resident, the property is a condominium located in a major city worth €250,000 and the transaction is in cash. The costs include registration costs, estate agent fees, legal fees and sale and transfer taxes. It must also be noted that certain costs may vary depending on the complexity of the transaction or may be a subject for negotiations between the parties.

Table 8.1 Roundtrip transaction cost according to different sources

Country	*GPG (in %)*	*ZERP et al.**	*Lindqvist (2006)^*
Sweden	4.51- 7.50 / 6.54	4.15- 5.59	5.00
Denmark	1.31- 3.04 / 2.50	3.79- 6.96	
England and Wales	2.89- 9.26 / 5.03	3.18- 4.88	5.12
Germany	7.87-12.64 / 11.46	8.15- 8.38	
Poland	5.55- 9.93 / 6.61	11.67-12.72	10.32
France	11.06-19.35 / 16.30	8.75-14.81	
Spain	10.66-14.24 / 12.16	13.19-13.60	

*ZERP et al (2007b), properties with values of €100,000, €250,000, €500,000, no mortgage, costs include: estate agent, legal services (drafting + executing), land register fee, transfer tax/stamp duty

^Lindqvist (2006, p. 130), properties with value: Sweden €152,500, Poland €85,700, England €266,400, costs include: transfer tax/stamp duty, registration fee, estate agent fee, legal services, structural survey

8.2 Proportion of costs

According to ZERP et al. (2007a, pp. 7, 112), transaction costs incurred by the buyer and/or seller comprises fees to professionals (e.g. estate agents), for technical services (e.g. surveyor) and for legal services (e.g. lawyer, notaries, licensed conveyancers), as well as fees for land registration and taxes. ZERP et al. note that the costs (based on estimates of average fees which are based primary on the national reporters or publications and on fee schedules published by firms on the Internet) are as follow: taxes account for upwards of 40 percent of all transaction costs; fees for professionals vary mostly from 45 to 65 percent of transaction costs, predominantly for estate agent fees, accounting for at least 70 percent of professional fees on average; legal fees normally represent 15-25 percent of all professional fees, accounting for about 7-13 percent of transaction costs without a mortgage or around 11.5 percent of transaction costs for an average house transaction with a 100 percent mortgage. See Table 8.2 and Table 8.3.

Table 8.2 Proportion of different costs in the total transaction cost

Costs	*Proportion of the total transaction costs in %*
Taxes	40
Professionals' fees	45-65
Legal fees	7-13

Table 8.3 Estate agent fees and legal fees as a proportion of total professional fees

Costs	*As a proportion of total professional fees*
Estate agent fees	70
Legal fees	15-25

For properties valued at €250,000 and a 70 percent mortgage, average transaction costs are around 8.8 percent; for Denmark, England and Sweden the costs ranging from 1-7 percent; for Germany, the costs are in the range 7-10 percent; while for France, Poland and Spain, costs are in the range 10-15 percent. Taxes account for about 40 percent of total costs, registration fees for about 4 percent and professional fees for about 56 percent. Both taxes and professional fees each amount to about 4.2 percent of the average transaction value, whereas registration fees account for less than 0.4 percent of the average transaction value. However, there are considerable variations between countries. Taking into consideration only the seven countries reviewed in this study, the costs for the respective countries are presented in Table 8.4 below (see ZERP et al. 2007a, pp. 113, 119).

According to ZERP et al. (2007a, p. 130), the notary system is the most expansive one followed by the lawyer system. However, it is argued that for "lawyer countries" figures include the costs of two lawyers, which may offers best value for consumers in terms of security given that they are represented by their own professional. The interesting finding is that the ZERP's study was also unable to find any relation between prices and service quality.

Table 8.4 Transaction costs according to ZERP et al. (2007a)

Country	*Tax*	*Registration fee*	*Professionals' fee / proportion of legal fees*	*Total costs*
Sweden	2.90	0.05	3.48 / 0.20	6.43
Denmark	0.00	1.78	4.11 / 0.61	5.89
England and Wales	1.01	0.09	2.24 / 0.54	3.34
Germany	3.50	0.38	4.58 / 0.58	8.46
Poland	11.42	0.02	2.14 / 0.57	13.58
France	5.06	0.14	8.38 / 1.18	13.57
Spain	8.19	0.12	6.53 / 0.48	14.84

8.3 Legal and administrative costs

In this study, legal and administrative costs presented below include costs associated with title transfer, such as transfer taxes/fees or VAT if applicable, as well as registration fees. The costs include also legal fees, such as costs of conveyancers, lawyers etc. In those cases where the estate agent is a conveyancer, an agent fee is mentioned. It can be argued that all those costs are the essential (fundamental) transaction costs.

8.3.1 Transfer tax

The purchase of a home if often associated with some kind of transfer taxes, or VAT in the case of newly-built dwellings. In six of the seven reviewed countries, there is usually a specific tax on transfer. An exception is that of Denmark, where there is no transfer tax. However, the registration fee is regarded as a kind of transfer tax. The tax is usually calculated on the purchase price, although it can be calculated on the assessed value (the market value) if the purchase price differs significantly from the assessed value. The buyer and seller may be jointly liable for the tax, e.g. Sweden, Germany and France, or the tax may be paid by one of the parties, usually the buyer, e.g. UK, Poland and Spain. Though joint liability is common, in practice, it is usually the buyer who pays the tax, e.g. Sweden, Germany and France. The tax for the mortgage is usually calculated on the mortgage value.

For private persons, the stamp duty tax in Sweden is 1.5 percent and 2 percent for a mortgage. In the UK all land transactions are subject to Stamp Duty Land Tax (SDLT). However, certain exemptions or relief may apply, for example, when the transaction value is below a threshold. The SDLT is also charge as a percentage, where a higher percentage applies to higher-value transactions. The tax rates for residential properties are: 0 percent (up to £125,000 or for first-time buyers with a threshold of £250,000 from March 25, 2010 to March 24, 2012 inclusive, 1 percent (£125,000-£250,000), 3 percent (£250,000-£500,000), 4 percent (over £500,000), 5 percent over £1,000,000 from 6 April 2011. In so-called disadvantaged areas a higher threshold of £150,000 applies for residential properties. Generally, VAT is not payable in the UK on the purchase of residential real estate, even if the dwelling is newly built.

In Germany the transfer tax in all German states is 3.5 percent, except for Berlin, where it is 4.5 percent. No VAT is applicable for private purpose. For transactions that have a property value below €2,500 and for transactions between relatives, no tax is payable. A transfer tax in Poland, the so-called Tax on Civil Law Transaction (TCLT or PCC in Polish) is 2 percent (0.1 percent for a mortgage deed) and concerns secondary markets. Accordingly, the sale on primary market may be subject to VAT. The standard VAT rate is 23 percent. However, sales of new-built residential buildings and apartments are subject to a reduced VAT of 8 percent (including land). On sales in France, VAT (French TVA) applies or a registration fee (also called transfer fee/tax) if VAT is not applicable. The transfer fee (standard rate) is 5.09 percent. VAT at the rate of 19.6 percent is applicable on first sale of new buildings within five years of their completion. When the VAT is applicable, €125 will be added or a registration fee (Land Registry fee) of 0.715 percent.

The transfer of real property in Spain is either subject to VAT (Spanish IVA) or to transfer tax (Spanish ITP) when the VAT is not applicable, e.g. in the case of the second and subsequent transfers of urban buildings. New properties which are sold for the first time are subject to the VAT plus stamp duty (Spanish AJD) of 1 percent. As IVA is the responsibility of the seller, the seller charges the buyer and pays the tax to the tax authorities. The transfer tax rate is 8 percent, and the VAT is 18 percent. However, in the case of residential properties, the rate is reduced to 8 percent. Mortgage cost in Spain is 1 percent plus the value of future interest payments, which accounts for approximately 1.75 percent of the mortgage value. In Spain, the seller must also pay a local tax on the increase of the value of the land from the date the property was acquired to the time of the present sale (called “plusvalia”). The tax can also be paid by the buyer instead, depending on the agreement. The tax rate is set by the respective municipalities and is based on the administrative value (cadastral value) of the property. It is calculated on the rateable value of the property and the number of years that it has been in possession of the present vendor. The taxes are summarised in Table 8.5.

Table 8.5 Transfer tax/stamp duty in respective country (secondary market, no mortgage)

Country	*Percentage*
Sweden	1.5
Denmark	No tax
England and Wales	0-5
Germany	3.5 resp. 4.5
Poland	2
France	5.09
Spain	8

8.3.2 Registration costs

The land register fee is usually fixed or depends on the value of the property. It is usually paid by the buyer (though in the case of title deed, both the seller and buyer may be liable and in the case of a mortgage deed both the mortgagor and mortgagee may be liable, as in e.g. Denmark. In Sweden the fee is SEK825 per deed and SEK375 per mortgage deed. In Denmark the registration fee is an essential transaction costs, since no other transfer tax is added. The registration fee in Denmark on title deeds consists of a fixed fee of DKK1,400 per document plus 0.6 percent of the purchase price; if the purchase price is less than the official assessment, 0.6 percent of the assessment value is payable. The registration fee for a mortgage deed also consists of a fixed fee of DKK1,400 per document plus 1.5 percent of the loan amount. The Land Registry fee in England varies according to the value of the property and is calculated as follows: £50 (£0-50,000), £80 (£50,001-80,000), £130 (£80,001-100,000), £200 (£100,001-200,000), £280 (£200,001-500,000), £550 (£500,001-1,000,000), £920 (£1,000,000 and over).

The registration fee in Germany is around 0.2-0.5 percent of the purchase price. However, the costs are higher in the case of mortgages. In Poland applications to record a property/changing an existing record are liable to a fixed registration fee of PLN200 (approximately €52 in September 2010). The fixed fee for opening a new record is PLN60 (approximately €15 in September 2010). The Land Registrar fee to cover the salary of the registrar in France is 0.10 percent, but the registration costs are higher if the property is financed by a mortgage. In Spain the registration fee depends on the value of the property. It costs approximately €500 to register the deed; and in the case of a mortgage, there is an additional €500 (see Table 8.6).

Table 8.6 Registration costs (secondary market, no mortgage)

Country	*Registration costs*
Sweden	SEK825
Denmark	DKK1,400 + 0.6% of purchase price
England and Wales	£50, £80, £130, £200, £280, £550, £920
Germany	Approx. 0.2-0.5 of purchase price
Poland	PLN200
France	0.10% of purchase price
Spain	Approx. €500

8.3.3 Cost of conveyancer

A notary fee as well as legal counselling costs may be discerned as part of the costs of the conveyancer. Some of those costs are necessary (as e.g. the cost of notary), while others are more or less optional. It must also be noted that in some countries the agent acts as a conveyancer, though the agent is never mandatory. All the countries' agent fees are, however, reviewed in the next chapter.

The mandatory conveyancer, such as notary, may be found in Germany, Poland, France and Spain. A notary's fee in Germany depends on the service and the value of the transaction, and is fixed by law on a fixed fee scale. Flexibility exists only in relation to the execution of contract. The fee may also be higher when the price is paid via a notarial escrow account. The fee ranges between 0.5 and 1.5 percent. It is usually paid by the buyer, although both parties are liable. In Poland the notary fee is also regulated, and a maximum fee is stated. The maximum fee scale can be found in Appendix. In Poland, the fee scale depending of the value of the property is as follows (in PLN): 100 (up to 3,000), 100 plus 3 percent of the amount above 3,000 (3,000-10,000), 310 plus 2 percent of the amount above 10,000 (10,000-30,000), 710 plus 1 percent of the amount above 30,000 (30,000-60,000), 1,010 plus 0.4 percent of the amount above 60,000 (60,000-1,000,000), 4,770 plus 0.2 percent of the amount above 1,000,000 (1,000,000-2,000,00), 6,770 plus 0.25 percent of the amount above 2,000,000, but not more than 10,000 respective 7,500 in the case of relatives (above 2,000,000). The VAT of 23 percent is added on the amount. For the preparation of a notarial mortgage deed, 25 percent of the maximum rate is applicable. The notary fee in Poland is usually paid by the buyer or is divided between the parties. In France the notary fee is fixed by law and the amount is generally around 1 percent plus 19.6 percent VAT. A sliding scale applies, normally 5 percent of the purchase price for the first €3,050, with a reducing rate to 0.825 percent for amounts above the first €16,770, plus VAT. Mortgage arrangement raises the costs. The fee is usually paid by the buyer. When two notaries participate in a transaction, there is no extra cost, since the fee is shared between the notaries in accordance with their tasks. In Spain a notary is remunerated according to a statutory fee scale. However, the fee may vary within a range and can be reduced up to 10 percent. The fee covering the value that exceeds €6,000,000 may be freely negotiated. The fee is approximately €500 and is usually paid by the buyer.

Although counveyancers in England (solicitors or licensed conveyancers) are not mandatory, they are commonly used. Hence, it may be of interest to mention some of the costs as well. Legal fees in England may include costs of conveyancers, local authority searches, obtaining copies of documents etc. Costs of conveyancer may vary as they are based on the amount of time spent on the transaction; those can be charged as a percentage of a purchase price plus VAT (as for example 1-3 percent of a purchase price plus 20 percent VAT), or as a fixed amount, from e.g. five hundred pounds up to several thousands. According to a rough estimation, the costs are around 0.5-1 percent of the sale price. Local authority searches vary but can be around a couple of hundreds pounds. Both buyer and seller bear their own costs.

As buyers in Denmark are recommended to use the service of an advocate, it may be of interest to take a look at the costs of an advocate. Advocates are usually paid on an hourly basis, although a fixed fee may be agreed on as well. According to the study of the Danish Competition Authority from 2004 (referred to in ZERP et al. 2007b), the average fee (very rough estimated) was DKK9.500, i.e. €1.275 including VAT. According to GPG (2007), the cost of an advocate is between 0.1 and 0.5 percent of the property value (plus 25 percent VAT).

Although an advocate is not commonly used in Spain, it is frequently the case that her/his services are used in relation to foreign buyers. An advocate in Spain is usually remunerated on the basis of time spent and an hourly charging rate. However, a fixed amount for certain transaction may also be agreed. The cost for an advocate is approximately 1 percent of the purchase price; if each party has an advocate, the total cost of the transaction will be 2 percent. According to GPG (2007), the fee is usually 1-1.5 percent plus 18 percent VAT.

According to ZERP et al. (2007a, pp. 28-30), the following highly approximate estimates of fees for legal services, excluding costs associated with registering changes to mortgages and assuming average transaction prices, may be quoted for 2005: in Germany - €885 (130,863), in France - €2,711 (226,630), in Spain - €1,038 (172,630), in Poland - €677 (100,000), in England and Wales - €1,412 (297,750), in Denmark - €2,026 (221,743), and in Sweden - €500 (147,500).

8.4 Estate agent fee

The extent of assignments undertaken by agents differs between countries. It may be argued that in certain countries the agent acts more as a conveyancer, since no other professional is required in the process and the agent manages the whole transaction. This is the case, for example, in Sweden and Denmark. The costs, however, do not reflect this situation. In all the reviewed countries, the fee is negotiable. As there are no statistical data on the fees available, the fees mentioned here should be taken as are rough estimates.

In Sweden an agent fee is usually calculated as a percentage of the purchase price. A flat fee does, however, occur in some cases, for example when selling co-op flats. The commission is generally between 2-5 percent of the purchase price, although it may vary. The service is subject to VAT at 25 percent. Yet, in the case of consumer transactions, the VAT is always included in the commission. The commission payment in Sweden is usually borne by the seller. In Denmark the typical fee is 3-4 percent of the purchase price. In addition, a fee for collecting the documents and advertising, etc., may be added, which gives a total of 6-8 percent of the purchase price. The VAT of 25 percent is already included. According to other sources, however, the fees are lower. According to CEPI (2011), for example, the agent fee in Denmark is approximately 3-5 percent. The commission in England is also usually estimated as a percentage of the sale price and is paid by the seller. The fee is subject to VAT at 20 percent. The average fee ranges between 2-3.5 percent of the purchase price and is normally lower when only one agent is involved and higher when several agents are involved, e.g. 1.5-2 for sole agency and 2-4 for multiple agencies.

In Germany, according to different sources, fees vary markedly, ranging from 3 to 6 percent of the purchase price plus VAT at 19 percent. The commission is paid either by the buyer or the seller, or is split between the parties. This usually differs between the states. The agent fee in Poland is paid by the principal; which means that if the agent is assigned by both parties, the fee is paid by both parties. The fee varies, ranging from 2 to 3 percent of the transaction value from each party, i.e. 4-6 percent totally plus VAT at 23 percent. The agent commission in France ranges from 4 to 10 percent, although it is more commonly 5-8 percent plus VAT at 19.6 percent. The commission is paid by the principal, usually the seller; but can also be paid by the buyer (included in the advertised purchase price) or split between the parties. In the case of a notary acting as an agent, the fee is also negotiable; it ranges from 2.5 to 5 percent. However, it is usually lower than the agent fee. The agent commission in Spain ranges from 3 to 8 percent of the sale price and is on average between 5 and 6 percent plus VAT at 18

percent. In certain tourist areas, this figure may be higher. The commission in Spain is normally paid by the seller.

8.5 Other costs

The category of other transaction costs includes the costs of items such as the costs of various types of structural survey, energy declaration (energy labelling; energy performance certificate), financing, valuation etc. An energy performance certificate is mandatory in all the reviewed countries. The seller is required to ensure that a certificate is available (certificates are only valid for a limited period of time). There are no available statistics on these costs which may vary substantially with the studied countries. The following reviews a number of examples of these variations.

The costs of energy declaration may vary within the countries. According to Hus & Hem (2008), the price range for an energy declaration in Sweden varies from SEK3,000 up to SEK10,000. In Denmark, the maximum fees of energy labelling are regulated. The fees for a single family house are from DKK2,500 (approximately €317) up to DKK3,500 (plus DKK1,000 if the building was built before 1940 plus DKK500 if energy labelling was carried out for the first time) (approximately €445 resp. €572), including VAT. If the energy labelling is carried out in conjunction with a property conditon survey, the costs are reduced by DKK400 (approximately €50). The costs are usually borne by the seller. In England an energy performance certificate for an average-sized hosue costs apporximately £100 (see e.g. Directgov 2010; Residential Landlord 2010). In Poland, the cost of an energy performance certificate varies as well depending on the size of the property. The approximate prices for apartments are PLN300-700 and for one-family houses PLN500-1200 (see e.g. Matusiak 2009; Świadectowenergetyczne.net 2010; IKC 2010).

Different kinds of structural survey may also be carried out within the countries, depending on the actual needs in the particular case. The most common kind of survey in Sweden costs approximately SEK6,500-7,500 but may vary depending on the type of property, etc. (see e.g. Köpa-hus 2010; HedBtBe 2008; Korrekta besiktningar och värderingar 2010; Jan Källman IngByrå 2007). The inspection in Sweden is usually ordered by and paid for by the buyer. Property condition survey fees in Denmark (similar to energy labelling fees) are limited by law. The maximum costs are from DKK5,400 (approximately €679) up to DKK9,994 (approximately €1,258) includning VAT. A home-buyer's report in England ranges from between approximately £250-1000, depending on size of the property, the value and the region (see e.g. Home Buyers Reports 2009; Propertywide.co.uk 2010; GPG 2007; Home.co.uk 2010; Local Surveyor 2008; ZERP et al. 2007b, p. 91; Surveyors Report 2010). A full structural survey (a building survey) ranges between roughly £500-1500 (see e.g. GPG 2007; Propertywide.co.uk 2010; ZERP et al. 2007b, p. 91; Surveyors Reports 2010). In France, according to ZERP et al. (2007b), the fees for technical services usually range between €600 and €1000 and are paid by the seller. According to Davey (2006), a basic structural survey ranges between £200 and £500, and a full structural survey ranges between £500 and £1,500. Concerning Spain, ZERP et al. (2007b) provide some examples of the most usual fees charged by valuation companies that work for banks: technical services for a mortgage value of €100,000 cost €130; for a mortgage value of €250,000 they cost €202; for a mortgage value of €500,000, the cost is €313; for a mortgage value of €1,000,000, the cost is €623 and for a mortgage value of €5,000,000, the cost rises to €2,706. According to Global Accounting & Auditing SL (2008), the cost of a structural survey is approximately €2000.

8.6 Concluding discussion

Costs of real property transactions impact on the real property market and consequently affect the optimal allocation of resources (see Stubkjær, Frank and Zevenbergen 2007, pp. 3, 14). As Seabrooke, Kent and How (2004, p. 18) remarks, transacting costs remain stubbornly high even in open, stable and transparent markets. Furthermore, higher transaction costs may result in a smaller market volume, since "the difference between the value of the utility of the real estate to the current owner and the value to a prospective new owner must be higher to overcome the higher cost incurred in the transactions" (Stubkjær, Frank & Zevenbergen 2007, p. 14). Thus the costs of the time and effort incurred by the parties must be taken into account. The value of a real property to a seller is the price that the seller receives minus the seller's selling effort. The value to a buyer is the price that the buyer pays plus the buyer's expenditure of time and effort. Consequently, if these expenditures are too high, no transaction occurs. Low transaction costs, on the other hand, may result in frequent residency transactions, which leads to changes in the environment and consequently gives rise to external costs (Ibid., pp. 13-14). It must also be noted that costs affecting the performance of the real property market relate to costs as seen by buyers and sellers as well as the economy as a whole.

As Stubkjær, Frank and Zevenbergen (2007, pp. 3-4) remarks, certain transaction costs are simple to identify while others are more complex. Comparable transaction stages in different countries may vary considerably. Some costs, for example, fees and duties to public services, transfer taxes, registration fees, are given while others such as the fee for conveyancers, consultants or other professionals may vary significantly, even within countries. It could be argued, as for instance by ZERP et al. (2007a, p. 71), that the high price variance may lead to insecurity among consumers regarding what constitutes an adequate price. Hence, in certain cases it may be justified to provide fee recommendations and reliable guidelines that serve as a default regime in those cases where the client and legal professional cannot agree. On the other hand, recommended fees could lead to decrease in price competition (ZERP et al. 2007a, p. 72). In addition, as Seabrooke, Kent and How (2004, p. 19), remarks, "uncertainties associated with the rules of the game in unfamiliar markets add an additional layer of costs to the normal costs associated with transacting in familiar markets".

As mentioned above, transaction costs are complex. They often take the form of professional fees, time and effort spent by the clients in order to research the quality and reliability of professional advisers (see Seabrooke, Kent and How (2004, p. 21). It should also be borne in mind that although professional advisers are meant to minimise costs (as for example in the case of surveyors), their costs may be significant for the transaction (Ibid., p. 22). Therefore, the involvement of a professional is motivated only when benefits are higher than costs.

As pointed out by ZERP et al. (2007a, pp. 8, 15), the Latin notary countries were generally found to be more expensive. They have relatively high legal fees. Hence, conveyancing services that are restricted to notaries could be questioned. Adequate proof of transaction security would be required to justify these systems. This result is contrary to Murray's (2007) conclusions.

The design of the systems regarding a base for cost estimation may also exert an influence on the transaction outcome. As remarked in Stubkjær, Frank and Zevenbergen (2007), transfer taxes are normally based on the value of the contract, which may give rise to several negative effects. For example, the parties may be induced to state a lower price in the contract than was actually paid, encouraging parties into private (unregistered) contracts (Ibid., p. 11). Spain

provides an example where so-called A-money and B-money were used. This was also widely known by actors in the market.

9 Final analysis and discussion

9.1 State of transparency - the vision of an integrated EU-market and the reality

The extent of transparency in the Internal Market is in some way related to how transparency is defined and for whom. Something may be transparent based on certain criteria. However, this may not apply to others, particularly when there are different dimensions of the concept. Moreover, the concept is relative and subject to change. Transparency has undergone a certain amount of transformation: from the need for a more informed public by more available information to a more target-specified transparency focused on the needs and interest of users and disclosers who are better able to comprehend available choices. Standardized and comparable information permits more informed choices to be made while the transparency of customized information allows more active users to become disclosers.

The focus in this study is on buyers who are part of this second generation of transparency. The scope and availability of this information is naturally of central importance. But it is perhaps most essential that the available information is standardised and comparable and enables informed choices. Thus the fundamental question is whether information enables market participants to become more aware of the risks and costs associated with transactions, relevant matters affecting the transaction and the range of services available. Furthermore, a common EU-market also means that indirect discrimination is forbidden. However, regulations may draw up other criteria for special treatment than just those of nationality. This could, for example, be related to Denmark and the question of holiday homes where a fixed-abode criterion and all-year residence is required. This kind of regulation makes it more difficult to buy a secondary home in one country compared to other.

The problem of agreeing on a common European education platform for estate agents, an issued driven by CEPI, also shows that differences between countries may be difficult to overcome. Attention has turned instead to professional cards as recognition of qualification in another Member State. Yet, many questions remain unresolved; for instance, the major barrier posed by legal system. The CEPI European Designation for Property Agents (training programme for European Real Estate Brokers; see concept paper by Kelly, Ortega and Van de Woestijne (2010)) aims to provide an accredited and internationally recognised competency in cross-border real estate transactions. It is meant to be conducted at the existing education level for EPAG (see Eureduc Program for estate agents), which is not followed by all the European countries. Nor is the proposed title *Specialist European Real Estate Broker* in line with what many real estate professionals have called for since the term “broker” and “agent” differ in terms of the relationship between client and professional.

Is transparency needed; and if so, why? There is a need for clarification of the structure of the transaction market and real estate services in order that transactions are both efficient and secure. However, structural differences do not automatically mean that transaction market may function well after all. Disclosure is not enough for informed choices. Information has to be both visible and accessible, but also accurate and understandable. Thus it can be argued that greater transparency is equivalent to simplicity and uniformity. It also means that the single market requires legible regulations and synchronized legal systems. Transparency also leads to efficiency. But it must be noted that efficient conditions may only apply to particular groups. It is important to distinguish which perspective is required.

Furthermore, transaction markets are controlled and affected by institutional arrangements. Inevitably this will also affect transparency as well, which is influenced by many external factors and actors. Different rules, direct and indirect, determine the operation of the transaction market. Different institutions may control the development of transparency. However, it may also take place on its own by, for example, rising cross-border trade contributing to a greater supply of information. There may be two ways to go: allow the market to rule itself or let the strategic institutions do the work. There may be then a need to find a relevant way to take advantage of the institutions in order to steer in the "right" direction to influence different transparency dimensions. Although the real estate market may be considered a local matter, under the influence of globalisation and global interlinkages, it becomes a bigger issue. Characteristics of the property market such as limited and asymmetric information, heterogeneity, infrequent trading and the absence of a central trading place contribute to uncertainty that may, however, be reduced but never be eliminated.

9.2 Five dimensions

Five aspects of transparency have been discussed in this report: (1) transparency in transaction procedures, (2) transparency in legal information, (3) transparency in financing, (4) transparency in taxation and (5) transparency in transaction costs. It can be argued that some of those dimensions are far from transparent while others may be considered to be relatively transparent. It must be noted, however, that this study only covers certain aspects of transparency. It can be argued that it only "scratches the surface". Other aspects could have been considered in this study such as, for example, transparency in property prices.

9.2.1 Transaction procedure

The transaction procedure dimension is divided in this study into access to the information on the object, professional assistance in the process and the design of the transaction process. The analysis shows that information on the available properties may be found relatively easily as a consequence of Internet expansion and globalisation in general, which have led to cross-border cooperation between professionals and the existence of international/multi-domestic franchising firms and multilingual agencies. It is, however, easier to get an overview of the markets and available objects in certain countries since there are Internet platforms that present almost all the available properties in the country. Accordingly, there may be grounds to emphasize the importance of this kind of platforms, for example, Hemnet in Sweden, which provides access to almost all properties on the market by visiting a single site. This may, however, be easier in countries where most transactions are handled by one professional group (as, for example, estate agents in Sweden). Otherwise, one must ensure that both items sold/mediated by professionals and private individuals are included, either at one site or two, provided that this is made clear. In some cases in could be motivated to have common sites which are not restricted to professionals since the potential buyer may choose to visit a site containing properties mediated via professionals or for sale by the owner.

Countries should strive to introduce one Internet platform in each country which compiles all available properties, using the main European languages. Moreover, these sites could be interlinked. The actual site Worldproperties.eu only contains properties that are deliberately targeted at foreign buyers. Yet, many professionals may be unaware that their objects may be of interest to foreign buyers. These properties are conveyed by professionals who are members of particular professional organisations in their respective countries. For example, this includes members of the Association of Real Estate Agents (ASREA) in Sweden.

However, it not encompasses Fastighetsmäklarförbundet (Estate Agent Association FMF) or those professionals which are not members in any organisation. This could mean also that in those cases where an open agreement with an agent is in place, the same property may be found at different prices, which does not benefits the professionals. On the other hand, viewed from a buyer's perspective, it is hardly transparent to find the same property at different prices.

The wide range of professionals in a transaction process, particularly those involved in the conveyancing process, does not encourage simplicity and uniformity. In particular, it is not always clear which professional is essential according to law or just praxis. There is no existing EU-standard for estate agent education and services, although there is some ongoing work at CEPI and CEN (European Committee for Standardization). It cannot be easy to agree on a common platform given substantial differences in an agent's position. Furthermore, in certain countries, conveyancing is carried out by a notary, solicitor, licensed conveyancer, lawyer or estate agent. However, it is normally the case that it is only the services of a notary that are mandatory. As mentioned before, ZERP et al (2007a, pp. 17-18) argue in favour of allowing other qualified professionals such as licensed estate agents to carry out conveyancing services rather than reserving these services for notaries and lawyers. According to ZERP et al., the experience of certain countries, for instance, Sweden, indicates that it is possible for a consumer to handle standard contracts and procedures by themselves using prepared forms and applying for registration personally. This suggests that the involvement of mandatory professionals is not justified on grounds of consumer protection. On the other hand, one wonders about those cases where consumers have this opportunity, as, for example, in Sweden, and how many actually carry out conveyancing by themselves. It may be concluded that with the exception of holiday homes that are often transferred between relatives, do-it-yourself conveyancing is the exception rather than the rule. It is interesting to speculate why this may be the case.

According to Murray (2007, p. 128), transaction participants, especially buyers, need independent legal advice for successful completion of real estate purchase and sales. In countries such as France and Germany, parties are assured of high quality neutral legal advice and effective completion of their transaction by a public notary. In the UK sellers and buyers have access to their own solicitors. In Sweden the parties are not generally advised by lawyers but by the seller's estate agent. According to Murray, this may give rise to economic conflicts of interest and the limited professional expertise may compromise the quality of agent-provide advice. Many professionals in Sweden would, however, disagree with this argument, pointing to the relatively high education standards of Swedish agents. Moreover, they would argue that the economic interests do not conflict with the primary objective, i.e. transaction security for both parties. It can be argued instead that the notary system implies monopoly and control, particularly in terms of nationality or locality requirements. The financial burden of mandatory professionals is another issue. Furthermore, easily accessible standard contracts that facilitate transactions are another factor to be considered.

Thus *conveyancing services should be open to other professionals than just notaries, or at least there should be an absence of nationality or locality requirements in those notary jurisdictions.* A new profession might be introduced as a complement to existing professional roles specialising in cross-border transactions with focus on a particular country or group of countries that have similar systems. One can never have an overview of the whole of Europe since a real estate is a local matter. However, it may be possible to create some degree of market grouping.

The transaction process also differs between countries, and it is difficult to carry out comparable step-by-step analysis. There are, however, some studies on ontological modelling of real estate transactions used in projects such as EULIS. Those studies are based on comparisons in the form of diagrams where the information is modelled in a structural fashion with the help of classes, relations and processes rather than only being described in a text. Nevertheless, it could be interesting to look closely at other steps of the transaction process before the actual conveyancing occurs, for example, negotiating and bidding process, which seams to differ between the countries.

9.2.2 Legal information

Analysis of the second dimension (legal information) in this study, in terms of limitations on acquisitions, different ownership forms and land registry issue, shows that there are generally no particular restrictions of foreign ownership of residential property, with some exceptions, as in the case of Denmark. The study indicates that there are a number of "hidden" limitations which may be encountered, for example, in residency obligations that affect the ability to buy a residency. These restrictions are not formally based on nationality grounds. Ownership forms of residential property differ throughout Europe. It may be difficult for transaction parties to fully understand them. *Thus all limitations in acquisitions need to be studied in more detail in order to understand their effect. The more detailed studies should also make a clear comparison between ownership forms of residential property and their consequences for acquisition.*

Land registers take different forms in different countries. All the studied countries have systems that seem to work. However, not all properties are registered in Europe, which affects security of rights and interests in the property. The project of EULIS may be considered as a positive attempt towards interconnected systems in Europe, though many barriers still remain. Since registration is related to mortgaging, access to the registers from other countries is necessary. Murray (2007, p. 129) emphasise the role of conveyancers in the integrity of the registers, offering an example from France and Germany, where notaries appear to be in a good position to maintain the quality level. On the other hand, according to Vitikainen (2007), a modern cadastral system also enables simplification of the real property transaction process by eliminating unnecessary tasks and reducing the number of actors in the process. Consequently, it can be argue that studies of the Scandinavian system indicate that *a reliable system with more information may question the monopoly of the notaries or other mandatory professionals.* According to Murray (2008, pp. 13-14), however, the ultimate land registry system is the system under which land re-registration is instantly and electronically achieved by the transaction participants at the time of completion of the transaction and when the money is paid, thereby eliminating delays and risks and the associated costs. Thus according to Murray, the control function of registry officials could be moved to conveyancers, particularly notaries, provided that they retain their impartial and independent function, giving them the additional responsibility to insure the authenticity, regularity and accuracy of conveyances. It can, however, be argued that this conveyancing function does not have to be limited to notaries since other similarly qualified professionals with experience of governmental decision-making process could fulfil this function. Where does that put the trained educated land registrars? Is this not about moving jobs from one group to another, in order to secure your own job? It can also be argued that registration is so important that the state should have the responsibility to guarantee the quality of this process in the long run at low costs (see e.g. Sweden, with fee about SEK1,000).

9.2.3 Financing

Analysis on home financing issue shows that there is a wide range of mortgage products available. However, uncertainty and risk in the financial market is still significant and a cross-border credit market is not widespread. This may be explained in terms of the uncertainty of the credit provider regarding the security claim. The EU has recently published a proposal for a directive on credit agreements related to residential property, which aims, among others, at creating a more efficient, competitive and more integrated single market for mortgages by creating a level paying field for all actors involved and making cross-border activity easier (see SEC(2011) 142). In the document on impact assessment (see SEC(2011) 356), based on different studies, it is stated that most mortgage transactions are conducted locally and mortgage lenders that operate in other EU Member States do so mainly through branches in the host countries. Foreign presence varies between member states, e.g. in France, Spain and Germany, less than 10 percent of housing loans are provided by foreign credit institutions (see London Economics 2005 and London Economics & Dübel 2009). Thus, the Commission aims to facilitate the cross-border supply of mortgage credit by removing the barriers to cross-border lending and reducing its costs, in order that consumers will be able to choose products and services from elsewhere in the EU. Still, there is an acknowledgement that cross-border activity will remain relatively limited in the short to medium term (see MEMO/11/205). Nevertheless, problems with currency fluctuations still remain.

9.2.4 Taxation

Analysis on taxation indicates that there are different legislations regarding taxation. In some countries, the capital gain on property sale may be reinvested or postpone. In some countries, subject to certain conditions, primary residencies are exempted from tax. The reinvestment or postponement option includes acquisitions in another member states. Though property taxes cannot be evaluated separately from the overall tax systems, it could be discussed whether the same rule should not apply to primary residencies since profit is not its primary purpose. An additional layer of uncertainty is much higher in some countries compared to others. *There may be a point on having a common general policy in Europe on primary residencies.*

9.2.5 Transaction costs

The analysis shows, moreover, that it is difficult to predict transaction costs. There are also significant differences in certain costs, for example, transfer taxes (from no tax to 8 percent). Among researchers there are different opinions on the issue of costs. Murray (2007, p. 127) remarks that comparing costs has little meaning unless the quality of the services is also taken into account. ZERP et al. (2007a, p. 15) have found, however, no relation between higher levels of regulations and higher prices and higher levels of service quality, and concluded that deregulated systems (or with lower levels of restrictive regulations) produce better outcomes for consumers overall, in terms of price and choice. According to Murray (2008, p. 3), this was, however, not surprising, giving that it was an EU Commission study.

Murray (2007, p. 129; 2008, p. 19), however, has found the opposite. There is no evidence that deregulation of conveyancing services leads to lower cost or higher efficiency in the countries that he has studied, although notarial fees in some jurisdictions are set too high. Murray (2007, p. 127) has found, for instance, that there is no indication that conveyancing costs represent a significant burden on real estate markets in the countries that he studied, including France, Germany, Sweden and the UK. Furthermore, according to Murray (2008, p.

6), in smaller and average value transactions, the transactions parties are best and most economically served by public notaries.

Mattsson (2008), on the other hand, has found that costs are lower in those countries where notaries are not involved in the process. Lindqvist's (2006) study shows that costs are lower in the countries where the broker has a more neutral role in the process and where fewer parties are involved in the process. ZERP et al. (2007a, p. 15) also shows that Latin notary countries are generally more expensive then the lawyer system or Scandinavian system, especially for higher value transactions. They have some of the highest absolute legal fees. ZERP et al. (2007a, p. 18) question whether the mandatory use of professionals places an unnecessary financial burden. On the other hand, according to Murray (2007, p. 128), conveyancing costs for low and average value transactions in Sweden, for example, are no lower than in the other countries that he studied. The conveyancing costs in notarial jurisdictions appear to be relatively low for residential transactions of average value. Conveyaning costs in common-law jurisdictions (UK) are higher for low and average value transactions but somewhat lower for the transactions of higher value. Murray (2007, p. 129) also refers to the customer satisfaction factor. In his view, in the most highly regulated jurisdictions, for example, Germany, average costs are low, particularly for the numerous market-relevant transactions of low and average value. Consumer satisfaction also appears to be high, whereas in England, with has somewhat less regulation, costs are high for the many smaller transactions. There is also a high rate of failure of transaction and a low level of reported consumer satisfaction. Although it was an independent comparative law study, it must, however, be noted that Murray's study was commissioned by Conseil Notaires Union Europeene (CNUE).

Furthermore, ZERP et al. (2007a, p. 72) suggest that attention should be paid to alternative methods of provided price information on legal services. For example, historical and survey-based price could be published by independent parties such as consumer organisations or State authorities.

9.3 Conclusions

What are the changes that may be important to increase the different dimensions of transparency? Some of the key aspects that require further discussion on enhancing transparency, raising information levels and the importance of encouraging transparency are mentioned below, divided into dimensions such as market, process, legal aspects, financing and taxation:

- One Internet platform (database for home search) in each country which compiles almost all available properties in the respective country (in the main European languages). In those case where the platform cannot be shared with properties for sale by owners, an additional platform can be provided for this purpose;
- National platforms interlinked in one European platform, not limited to certain organisations or members;
- One contact point in every country, run by independent actors, where the consumer may turn to in order to get essential information on property transaction;
- Clear information to consumers on which professionals are mandatory in the process (and to which extent) and which are used in practice;
- Clear definition of the term "agent" and "broker";

- Conveyancing open to other professionals than notaries, or at least no nationality or locality requirements are stated in notary jurisdictions;
- Involvment of mandatory professionals;
- Introducing a new profession, specialising in European cross-border transactions, that focuses on a particular country or group of countries;
- European mortgage brokers;
- Regulation of the fees of energy labelling or clear guidelines;
- Review on transaction costs (too high - no transaction occurs; too low - very frequent residential changes);
- Eliminate high price variance regarding services (within reasonable limits not decreasing price competition);
- Reliable system of title/deed registration, stipulated registration in all countries. This is necessary in order to guarantee sufficient certainty for credit providers and consumers;
- E-conveyancing performed by conveyancers instead for a land registry official;
- Clear information to the consumers on different ownership forms;
- Review of all limitations in acquisitions as for example residency obligations or an abode criterion in secondary homes;
- Further development of EULIS;
- The same financing limit for foreigners and domestic purchasers; the criterion of credibility rather than nationality;
- General policy in Europe on primary residencies regarding tax on capital gains.

It is difficult to say whether any particular country has more a complex or opaque variants. It is also difficult to state whether the EU should increase its regulatory authority or whether it should remain up to the countries to decide, bearing in mind that transparency may be consider to be in everyone's interest – with the citizen's interest in mind, however, it could be argued that not the average consumer's interest. A primary change in order to improve the situation would be to ensure that Denmark removes its rules on the ownership of holiday homes, which makes it difficult to acquire a secondary home in Denmark.

The next stage of this research could be to ask consumers who have experience on cross-border transactions as well as professionals working with cross-border mediation for their opinions and perspectives on these issues.

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APPENDIX Detailed descriptions and sources

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1 Transparency in transaction procedure

1.1 Access to information on the object

1.1.1 Denmark: The first step in the process of finding a home in Denmark is to locate the potential object. The research can be done by searching the Internet or by contacting an estate professional in one's own country or in Denmark. In the South of Sweden, for example, there are some estate agencies which help one finding a home in Denmark. A Danish estate agency can be found in the South of Sweden as well. For instance, there is Mette Lykken Bostad AB, which is a part of Mette Lykken Bolig and is the first Danish estate agency in Malmö (see http://www.mettelykkenbostad.se).

Boligsiden (see http://www.boligsiden.dk), developed by the Danish Association of Chartered Estate Agents is considered to be the largest Danish database for home searching. By the large nearly all properties for sale in Denmark can be found there. The site is in Danish. In addition to the search function information on home statistics, home news and home financing can also be found on the site. Private individuals cannot advertise on Boligsiden, which means that it is necessary to contact the professional who put the object on the website.

Some information can also be found at Nykredit's webpage (see http://www.nykredit.dk/privat/info/realkredit/raad-til-bolig-beregner.xml); Nykredit is one of Denmark's leading financial service groups. The site for Nykredit is uses both Danish (see http://www.nykredit.dk) and English (see http://www.nykredit.com). (Until recently they had a specific portal called BoligGuide.dk aimed at helping current and potential home owners through the buying process; however, the portal does not seem to exist anymore).

Boligen (see http://www.boligen.dk) (temporary under Fri.dk/bolig because of development work during 2009) is another example of an online market for residences, with home prospectuses provided by estate agents, contractors and building companies. BOLIGhandel.dk (see http://www.bolighandel.dk), which is own by Danske BOLIGadvokater, lists properties for sale, including private sales. Both the professionals and private persons may advertise. Besides the objects, useful information can be found on these sites regarding the transaction process in Denmark. Another website for house-hunters and those who wish to sell is BoligPortal.dk (see http://www.boligportal.dk).

An overview of the buying and selling process can also be found on the website Boligejer.dk (see http://www.boligejer.dk), developed by the Enterprise and Construction Authority. Most of the information is in Danish with only a small part in English. For Swedes, whose language is similar to Danish, this is not a great problem, but it can be a serious limitation for aliens from outside of Scandinavia. Thus, if one does not speak Danish or another Scandinavian language, there may be language constrains.

1.1.2 England: Properties for sale in England can be found listed in a wide range of national, regional and local publications, such as newspapers, weekly or monthly magazines or in-house publications. They may also be found in a number of national property portals, for example: Rightmove (see http://www.rightmove.co.uk), Zoopla (see http://www.zoopla.co.uk), Primelocation (see http://www.primelocation.com), FindaProperty (see http://www.findaproperty.co.uk), Fish4homes (see http://www.fish4homes.co.uk) and Your Move (see http://ww.your-move.co.uk) (see also Perkins, ed., 2005, p. 5/16; ICREA 2010). All these portals are available for free and estate agents, letting agents or home developers usually advertise there. Besides information on properties, some statistic and information on mortgage financing can also be found on these portals.

Another way to search for property is PropertyLive (see http://www.propertylive.co.uk), which is run by the National Federation of Property Professionals (NFOPP), an umbrella organization (made up of four associations), the National Association of Estate Agents (NAEA), the Association of Residential Letting Agents (ARLA), the National Association of Valuers and Auctioneers (NAVA) and the Institution of Commercial & Business Agents (ICBA).

According to the HM Revenue & Customs's (HMRC's) statistics report from June 2010, approximately 858,000 residential transactions with value £40,000 or above took place in the UK during 2009 (736,000 in England and 33,000 in Wales) (see HMRC 2010).

1.1.3 France: The first step in the process of finding a home in France is, as in other countries, to locate the object. Finding a property in France from, for example, Sweden can be accomplished by contacting a Swedish agency working with French properties (a large number of such agencies exist) or by contacting a Swedish-speaking agent situated in France. Often these agents are Swedes who moved to France and have a French licence. There are also multi-lingual agencies interested in serving Swedish clients. A simple search on Google for "fastighet" ("real estate" in Swedish) and "Frankrike" ("France" in Swedish) results in many hits (for example, FranskBostad.com http://www.franskbostad.com; Conseil Patrimoine http://www.franska-fastigheter.com). A large number of properties can also be found on Hemnet (see http://www.hemnet.se). A search on 21 January 2010 at 16.25 showed 801 hits on France (from, for example, Schirren & Partners http://www.schirren-partners.com; Fastighetsbyrån B-M Koch http://www.bmkoch.com).

FNAIM **(**Fédération Nationale de l'Immobilier), which is a French professional organization, has the largest property marketing website (see http://www.fnaim.fr) for professionals from affiliated agencies. Not only is the potential object found there, but also information and transaction market data.

The list of properties for sale may also be found at local notary offices (Davey 2006, p. 122). Properties, intended to be sold at auctions, are advertised in the local press about six weeks before the auction takes place; however, usually only advocates or notaries are permitted to bid (Ibid., p. 126). Annually 750,000 properties from the existing stock are sold in France (Von Ghekiere 2008 in BKN 2009, p. 12).

1.1.4 Germany: "For Sale" signs in front of houses are not common in Germany. Many offers are published in newspapers (see e.g. How to Germany 2010). Germany has no national platform listing all available properties. The largest Internet marketplace for real estate in Germany is ImmobilienScout24 (see http://www.immobilienscout24.de). The platform contains different types of properties, including foreign properties, and is open to private advertisers. However, the webpage is only in German. Other marketplaces are: Immopool.de (see http://www.immopool.de) respectively Estatepool.com (see http://www.estatepool.com), the same database, however, in 13 other languages (including English). This platform includes different kinds of both German and foreign properties and is open to private advertisers. Other examples are: Immonet.de (see http://www.immonet.de, only in German), Immowelt.de (see http://www.immowelt.de, only in German), PlanetHome (see http://www.planethome.com, only in German), Bellevue (see http://www.bellevue.de, in German, English and Spanish), and House and More (see http://www.houseandmore.de, http://www.schwaebisch-hall.de, only in German) (May 2010). In Schulte, Rottke and Pitschke (2005, p. 93) there is information on the market share of those platforms in 2002. Many of these types of platforms provide information on financing and other issues related to the transaction process.

1.1.5 Poland: In Poland, there is a variety of marketing systems, mostly regional and based on the Internet for finding homes for sale. The MLS (Multiple Listing Service) exists in Poland (ICREA 2010). The first MLS began operating in 2002 and the first system between regions was created in 2004 (see http://www.mls.org.pl) (Brzeziński et al. 2005). This system is only uses Polish. The MLS is open to the public for property searches; however, the properties in the system are only advertised by agents. The level of access to the data in the system depends on the status of a user (ICREA 2010). The first nationwide real estate advertising portal (operated by the PREF (Polish Real Estate Federation)) is in the last phase of construction. The portal's name is FAGORA.PL (see http://www.fagora.pl).

Another example of a portal with properties from different MLS in Poland is LocumNet.pl (see http://www.locumnet.pl). The portal uses both Polish and English. Another Internet portal is Morizon (see http://www.morizon.pl). Examples of portals where private persons may advertise properties are: DOMOKLIK (see http://www.domoklik.pl), Nieruchomości Online (see http://www.nieruchomosci-online.pl), OtoDom (see http://www.otodom.pl), Domiport.pl (see http://www.domiporta.pl), Group Melog.com with Oferty.net (see http://www.oferty.net), Domy.pl (see http://www.domy.pl), Nieruchomości (see http://www.nieruchomosci.pl), and NoweInwestycje.pl (see http://www.noweinwestycje.pl). Another Polish portal (The Polish Property Portal) for speakers of English is called Mamdom (see http://www.mamdom.com).

1.1.6 Spain: The process of locating a property in Spain can, for example, start at an estate office. They usually have an overview of the market and the price level in the area. The same object can be found in several agencies and may be priced differently. Furthermore, there are a lot of newspapers and magazines with property advertisements, as well as webpages (Global Accounting & Auditing SL 2010). A foreigner looking for a property in Spain can usually find an agency where her/his language is spoken. Search platforms in one's native country can often display a range of properties in other countries, for example, Hemnet in Sweden. A search on Hemnet (http://www.hemnet.se) on 18 June 2010 gave 1429 hits on Spain. Properties can also be found on the webpages for the trade association - Asociación Empresarial de Gestión Inmobiliaria (AEGI) (see http://www.aegi.es). Searches there are possible in six languages: Spanish, English, German, French, Danish and Portuguese (June 2010). Another real estate network is called Comprarcasa. It is associated with the Real Estate Agents Official Association (API) (see http://www.comprarcasa.com). The page is in both Spanish and English.

According to National Statistics Institute (INE) (2010), 1,851,183 properties were transferred in Spain during 2009 (16.9 percent less than in 2008), of which 927,759 were mercantile transfers (24.1 percent less than in 2008), 88.2 percent were urban properties, 50.7 percent of which were dwellings, and 11.8 percent were rustic properties.

1.1.7 Sweden: When looking for a home in Sweden the most extensive website is Hemnet (see http://www.hemnet.se), where almost all properties for sale in the country are listed. Another option is Bovision (see http://www.bovision.se). Only professionals can advertise on Hemnet and Bovision. Hemnet is owned and run by Fastighetsmäklarförbundet FMF, Swedbank Fastighetsbyrå AB, The Association of Swedish Real Estate Agents (Mäklarsamfundet Bransch) and Svensk Fastighetsförmedling in cooperation with Dagens Nyheter and Göteborgsposten. Alma Media, the Finnish Media Corporation (which publish market listings for residences in six countries and is the leading market in Finland and Estonia), owns and runs Bovision. Both Hemnet and Bovision use Swedish. Besides the information on the objects, some statistics can be found as well as links to other relevant sites.

Since Sweden is adjacent to Denmark, some brokerage firms in the South of Sweden have established a network that gives them the possibility of joint advertising with Denmark. The network is called SvenskDansk Fastighetsförmedling (see http://www.svenskdansk.se). There are websites as well with information for those thinking of moving across the sound, for example, Øresunddirekt (see http://www.oresunddirekt.com), the information service in Danish and Swedish for residents and businesses in the Øresund Region. Øresundsbro (see http://www.oresundsbron.com) is also in Danish and Swedish (with some limited information in English and German). A few international companies have offices in Sweden, for example, RE/MAX or ERA (Electronic Realty Associates).

1.2 Professional assistance in the process

1.2.1 Denmark: A foreigner who wants to buy a residence in Denmark has two options, either purchase privately or purchase with a help of an estate agent. Danish advocates, registered at the Danish Bar and Law Society, can also be involved in the selling/buying process, as well as banks, real credit institutes (mortgage banks) and insurance companies. All these agents must observe the following conditions: (a) they must carry out their business in a separate company and from premises which are separate from the banks or the insurance company's offices, and (b) each office must be headed by either an estate agent or an advocate, who must have this as her/his primary business and who is not head of more than one office (Lærebog i ejendomshandel bind 1 2003, pp. 4-5; §8 Omsætningsloven; ICREA 2010). However, a license is required for advocates wishing to provide estate agent services, and they are subject to both the regulations applying to advocates and to those applying to estate agents (see e.g. ZERP et al. 2007b, pp. 56-61).

In Denmark an estate agent normally represents the seller and either an advocate or another estate agent represents the buyer. An estate agent in Denmark cannot represent both parties in the same case. S/he is not an intermediary, but represents one of the parties. However, s/he is always obliged to consider both parties in the transaction, which means that s/he should supply all relevant information concerning the property to the purchaser (Lærebog i ejendomshandel bind 1 2003, pp. 9-10; §15 Omsætningsloven; ICREA 2010; HGMF/CEPI 2010). The agent has, however, no obligation to balance the interests of seller and purchaser (Mattsson 2008, p. 2). According to CEPI's Annual Report (2010), there are approximately 3,070 estate agents in Denmark and according to ZERP et al. (2007a, p. 37), an estate agent is used in approximately 90 percent of transactions while lawyers acting for buyers are used in approximately 80 percent of transactions.

1.2.2 England: Parties who may be involved in the transaction process in England (and Wales) are estate agents, solicitors or licensed conveyancers (Cookson & Murrin, 2009, pp. 118-119). However, none of the professionals are mandatory in the process, since the parties are permitted to prepare their own documentation and apply for the registration of the title themselves (self-representation), but in practice both estate agents and solicitors (respectively licensed conveyancers) are usually used (ZERP et al. 2007b, pp. 76-77, 82; Murray 2007, pp. 317, 332). It is unusual not to engage a conveyancer (ZERP et al. 2007b, p. 179). According to ZERP et al. (2007b, pp. 76-77), 90-95 percent of residential property sales involve estate agents. A monopoly on conveyancing (the right to perform conveyancing services for others for compensation) is held by advocates and licensed conveyancers (both called conveyancers), with a market share of 97 percent for solicitors and 3 percent for licensed conveyancers (ZERP et al. 2007b, pp. 76, 82; Murray 2007, pp. 67, 333). Each party usually has their own conveyancer (ZERP et al. 2007b, p. 77), but it is uncommon for the parties to

each be represented by their own estate agent; instead, the buyer deals with the seller's agent (Murray 2007, p. 60).

An estate agent usually acts on behalf of the seller and is remunerated by the seller on completion of the transaction. The agent's roll is to advertise and show the property, bring the parties together and assist in the negotiation of overall terms; however, agents have no role in drafting the contract (Cookson & Murrin, p. 118; ZERP et al. 2007b, p. 77, Murray 2007, p. 60). They can also evaluate the property (ZERP et al. 2007b, p. 77). As there are no specific requirements for becoming an estate agent and no requirement to obtain a licence, anyone can operate a residential estate agency (as long as s/he is not prohibited by an order), until proved unfit to do so. An estate agent must, however, comply with all relevant legislation concerning residential estate agencies, as stated in the Estate Agents Act 1979 and the Property Misdescriptions Act 1991 with relevant Orders and Regulations (LSBU/CEPI 2005; ZERP et al. 2007b, p. 86). For an agent's obligations and liabilities see above-mentioned legislation or, for example, LSBU/CEPI (2005). An agent must, for example, act in the best interest of the client, offer suitable advice and inform the client if a conflict of interest arise (LSBU/CEPI 2005; ZERP et al. 2007b, p. 86). As with all operating businesses, an estate agency is liable to scrutiny from the Office of Fair Trading (OFT) (LSBU/CEPI 2005). An estate agency can provide other services, for example, service to landlords as letting agents or property managers, or additional services such as valuation, structural survey work and financial or insurance services (ICREA 2010).

Both parties usually use solicitors. Their role is to negotiate and draft the relevant documentation and to carry out the exchange and completion of the transaction (Cookson & Murrin 2009, p. 119). Their role in the contract and completion process, including exchange of contracts, transfer of deed, completion and registration process, is significant (ZERP et al. 2007b, p. 76). There are several ways to become a solicitor. A practising certificate is required (ZERP et al. 2007b, p. 82; Murray 2007, p. 67). For more details see the webpage for the Law Society (see http://www.lawsociety.org.uk) or for the Solicitors Regulation Authority (SRA), an independent regulatory body of the Law Society of England and Wales (see http://www.sra.org.uk). The new organisation and independent body (independent of the Government and of the legal profession) responsible for overseeing the regulation of lawyers in England and Wales is called the Legal Service Board. The Board was created by the Legal Service Act 2007 and oversees eight separate bodies, called the Approved Regulators, including the Law Society and the Council for Licensed Conveyancers (see http://www.legalservicesboard.org.uk).

A licensed conveyancer is a specialist property lawyer, trained and qualified in all aspects of the law dealing with property, including providing conveyancing services. S/he must hold a licence issued by the regulatory body - the Council for Licensed Conveyancer (CLC) (CLC 2010; ZERP et al. 2007a, p. 37). The conveyancer's function in the conveyancing process is the same as the solicitor's (ZERP et al. 2007b, p. 77); however, they are not lawyers (ZERP et al. 2007a, p. 46).

The role of all conveyancers is to represent the interest of their clients with a duty of loyalty. Representing the interest of more than one party in a transaction with opposing interests is not permitted (Murray 2007, p. 334). However, under some circumstances, where there is no conflict and the parties are properly informed, conveyancers can act for more than one party, as, for example, in the case of buyer and lender, as long as representation of the lender is limited to preparation of the documentation (Murray 2007, pp. 334-335; ZERP et al 2007b, pp. 81, 85). All conveyancers are required to have professional liability insurance (Murray 2007, p. 335).

Other professionals that may be involved in the transaction process are, for example, a surveyor. A surveyor may be used to carry out the structural survey of the property or an

evaluation (Cookson & Murrin 2009, pp. 118- 119; ICREA 2010). A survey can sometimes be a condition for a mortgage lender (LSBU/CEPI 2005; ZERP et al. 2007b, p. 78). There are different types of surveys, for example, a homebuyer's report or a full structural survey (LSBU/CEPI 2005; ZERP et al. 2007b, p. 87). According to ZERP et al. (2007b, pp. 78, 87), approximately 38 percent of all buyers commission an independent property survey. The number of buyers commissioning a full structural survey is very small (approximately 1-2 percent). The Royal Institution of Chartered Surveyors (RICS) sets the standards for surveyors in England and Wales (ZERP et al. 2007b, p. 87; LSBU/CEPI 2005) (see also http://www.rics.org/uk and the RICS Chartered Surveyors and Valuers at http://www.surveylin.com). Another organisation for qualified evaluators is the Institute of Revenues Rating and Valuation (IRRV) (see http://www.irrv.org.uk).

Since an Energy Performance Certificate (EPC) is mandatory, the seller, when selling a home, must provide one (if there is no already an existing one). An accredited Energy Assessor must be commissioned. An EPC does not have to be available before a home is marketed for sale, but it has to be commissioned before that and made available within 28 days. An EPC is valid for 10 years (see CLG 2010). Since the Home Information Pack (HIP) has been suspended from 21 May 2010, the seller is free to choose to provide HIP and a Home Condition Report (HCR) by a Home Inspector (HCR was always an optional feature of HIP) (CLG 2010).

1.2.3 France: The professionals who can be involved in the transaction process in France are an estate agent (l'agent immobilier) and a notary (la notaire). The notary plays a central role. The involvement of a notary is mandatory, since a property transfer must be carried out by a notarial deed (see e.g. ZERP et al. 2007b, p. 115). The notary is appointed by the government and has a monopoly on any transfer of title (other than by the government or by auction) including registration of the transfer documents (Manasse 2005, pp. 226, 238; Charles & Oldra 2011). According to ZERP et al. (2007b, p. 115), in France it is not common to use an advocate in residential transactions.

The estate agent can act on behalf of a seller or a buyer, but the most common case is that the client is a seller. There is no obligation for the agent to be neutral (ZERP et al. 2007b, p. 121). A business card known as the T Card is necessary to carry out the business (see e.g. ICREA 2010) as well as possession of insurance (Manasse 2005, p. 237). According to Murray (2007, p. 30), somewhat more than half of transactions involved agents, and according to Davey (2006, p. 120), among the French only 50 percent of properties are sold using agents. According to Gil (2002), there are approximately 20,000 estate agent companies in France. According to CEPI's Annual Report 2010, the number of individual property agents in France in 2010 was 32,000; however, according to ERA Europe (2009, p. 36), in 2008 there were 58,000 brokers and 28,000 brokerage offices.

The number of notaries in France is regulated (see e.g. ZERP et al. 2007b, p. 118; Murray 2007 p. 38). According to Manasse (2005, p. 238) and Gil (2002), there are around 7,600 notaries. A notary is obliged to be impartial when acting on behalf of both parties in a transaction (Ibid., p. 119, see also Murray 2007, p. 31; Davey 2006, p. 114). S/he can act for a client anywhere in the country (Davey 2006, p. 114). More than one notary can be uses in a transaction; the duty of neutrality, however, remains (see e.g. ZERP et al. 2007b, p. 119; Murray 2007, p. 32). Another role the notary may play in a transaction is assuming an estate agent's function by helping the seller to find a buyer. Though this is strictly regulated and can only be an accessory activity performed in a limited number of cases (see e.g. ZERP et al. 2007b, p. 115). According to Murray (2007, p. 30), less than 10 percent of brokered transactions involved notaries acting as agents.

1.2.4 Germany: The professionals who are mainly involved in the transaction process in Germany are estate agents and civil law notaries. However, only involvement of the notary is mandatory (see e.g. ZERP et al. 2007b, p. 126). The other professionals who might be involved are technical experts (however, according to ZERP et al (2007b), only 5 percent of buyers and 2 percent of sellers use a technical expert), lawyers (not often used in residential transactions) (Ibid., pp. 126, 128) or estate consultants (DIA/CEPI 2006).

Estate agents are, according to ZERP et al. (2007b) and Murray (2007), involved in approximately 50 percent of the transactions and their role is mainly in the matching stage (ZERP et al. 2007b, pp. 126, 128; Murray 2007, p. 39). They are usually appointed by the sellers, but paid by the buyers (ZERP et al. 2007b, p. 128; Junghänel & Muschter 2009, p. 142); however, their participation can also be mandated by the buyer (Junghänel & Muschter 2009, p. 142). According to the law, they must be licensed (legally accredited by the locally competent administrative authority), but there are no specific professional qualifications or educational requirements (the standards are basically restricted to their being reliable persons and having their financial situation in order), there is no requirement that they possess compulsory indemnity insurance (as they do not handle their client's money) (ZERP et al. 2007b, p. 135; DIA/CEPI 2006). The agents can work as mediators only if they hold a third position between the parties as the principle of mutual independence implies. The agent can have an assignment relationship with one of the parties or s/he can act as a neutral mediator for both parties, a so-called "dual agent" (s/he is then paid proportionally by both parties) (DIA/CEPI 2006). Two kinds of estate agents can be found in Germany, informational brokers called "Nachweismakler", providing information on a property or a prospective purchaser and brokerage brokers called "Vermittlungsmakler" (Lindner-Figura 2011). According to CEPI's Annual Report, there are approximately 15,000 estate agents in Germany; however, according to ERA Europa (2009, p. 40), in 2008 there were 57,000 brokers and 23,500 broker offices.

Notaries, as mentioned above, are mandatory since the contract must be made as a notarial deed (see Section 311b of the BGB). They are appointed by the Ministry of Justice of the respective state and are holders of a public office in the area of preventive justice. Three types of notaries can be found in Germany; however, the same rules apply to all of them as they are governed by federal law: (a) Single-profession notaries (with only notarial functions), (b) Advocate-notaries (advocates who are at the same time notaries), and (c) State-employed notaries (only in the State of Baden-Württemberg) (ZERP et al. 2007b, p. 130-131). The notary is obliged to be neutral (Ibid., p. 133, Junghänel & Muschter 2009, p. 142), and to advise all parties concerning any legal implications; however, s/he usually does not provide specific advice (Junghänel & Muschter 2009, p. 142). Her/his main functions are to authenticate the documents, to certify signatures, to take the oath, to inform parties about required permits and to inform the tax authorities. The notary can also help to execute the contract (apply for necessary permits etc.) or handle an escrow account, but s/he is not obliged to do either (ZERP et al. 2007b, pp. 128, 133). The notary profession is geographically restricted (ZERP et al. 2007a, p. 198).

1.2.5 Poland: The only mandatory professional in an estate transaction process in Poland is a notary, who can prepare a notary deed, transfer ownership of properties and of co-operative ownership rights for apartments. A mortgage deed must be in the form of a notarized deed. Other professionals who might be involved are, for example, estate agent or technical expert.

A notary acts on behalf of both parties in a transaction and therefore has to remain neutral. The profession is regulated by the Law on Notaries (Ustawa z dnia 14 lutego 1991 r. Prawo o notariacie) and a Code of Ethics issued by the National Chamber of Notaries (ZERP et al. 2007b, pp. 241-242). Besides drawing up a notary deed, a notary verifies important

circumstances in a transaction, such as, for example, statutory pre-emption rights and administrative permits, certificate dates and signatures, notarizes deposits (and hold them in the notarial escrow account), sends the deed for registration, pays land registry fees on behalf of the parties and collaborates in tax collection (Ibid., p. 238; WSGN/CEPI 2010).

According to ZERP et al. (2007b, p. 238), estate agents are involved in approximately 25-50 percent of the residential transactions in urban areas. According to CEPI's Annual Report 2010, there are approximately 15,705 property agents in Poland. An estate agent's task includes preparation and marketing of an offer, viewing of the property as well as assistance in the negotiations. S/he acts either for a seller or for a buyer, or as an agent for both parties (if both parties are informed and are in agreement) (ICREA 2010). The profession is regulated, among others, by the Real Estate Management Act (see Article 179-183 of the Act) (Ustawa z dnia 21 sierpnia 1997 r. o gospodarce nieruchomościami) and the professional standards agreed by the Minister of Infrastructure and the National Council of the PREF (on 17 January 2009). A description of professional activities can be found in Article 180 of the Act. According to the Article, an agency agreement must define a detailed scope of services. Agents are obliged to have a state licence, which is granted by the Minister of Infrastructure after fulfilling certain requirements (Article 182 of the Act). The licence is valid anywhere in the country and is granted for lifetime; however, it can be revoke if the requirement for continuing education is not fulfilled (ICREA 2010; ZERP et al. 2007b, p. 243; Article 181 of the Act). An agent is not allowed to become a partner of a notary or an advocate (WSGN/CEPI 2010). S/he is obliged to have indemnity insurance with a minimum amount of €25,000. The minimum amount is defined by the Ordinance of the Minster of Finance on the estate agent's mandatory liability insurance (Rozporządzenie Ministra Finansów z dnia 21 września 2004 r. w sprawie obowiązkowego ubezpieczenia odpowiedzialności cywilnej pośrednika w obrocie nieruchomościami) (ZERP et al. 2007b, pp. 243-244; Article 181 of the Act).

Technical services such as property evaluations or surveys are not mandatory, but when a property is mortgaged a bank can require an evaluation. According to European Energy Performance Directive (Directive 2002/91/EC), from 1 January 2009 a relevant certificate is mandatory when selling a property (see e.g. Etykietyenergetyczne.pl 2010; Swiadectwoenergetyczne.net 2010).

1.2.6 Spain: A person who wants to buy a residence in Spain can either purchase privately or purchase with the help of an estate agent or other professional, such as an advocate/solicitor, a "gestor administrativo" or a civil law notary (ZERP et al. 2007b, p. 329). The presence of a civil law notary in the process is required, however, not for a valid transfer of property, but because a notarial contract in the form of a deed (escritura) is mandatory for the registration procedure (Ibid., p. 330; Ortega & Nistal 2009, p. 317; ICREA 2008).

As mentioned, the notary is the main actor in the conveyancing process. Besides drafting the deed, the notary reports the completion of the contract to the land register (Ibid.). S/he is a public official. According to "Reglamento Notarial", the notary acts impartially and is obliged to give adequate information to both parties. S/he is not a legal counsellor. The notary appointment requires a university degree in law and passing a state exam about 6 years after the completion of the university degree (ZERP et al. 2007b, pp. 333-337).

"Gestor administrativo" is a person commonly used to perform different administrative procedures, for example, preliminary administrative controls, the registration of the deed with the Property Register and the payment of registration taxes, especially when a bank is financing the property. In that case the person is usually an employee or associate of the bank (ZERP et al. 2007b, pp. 330-331).

According to ZERP et al. (2007b), advocates are seldom used in Spain. Many of the tasks they perform may overlap with the notary's professional duties. Their job can, for instance, be drawing up a preliminary contract, checking debts and administrative permits or executing contracts (ZERP et al. 2007b, p. 331). However, it can be advisable for a foreigner who is buying to use an advocate. A bank may also recommend an advocate with whom it has worked and whom it trusts.

As already mentioned, the involvement of an estate agent is purely voluntary. According to ZERP et al. (2007b, pp. 331, 337-338), professional agents are involved in 25-50 percent of all transactions in Spain and their role is usually limited to bringing buyers and sellers together and eventually drafting a preliminary contract. According to CEPI's Annual Report 2010, there are approximately 35,000 property agents in Spain. They act as a representative of sellers or/and buyers in the mediation of the transaction. An agent usually represents both parties and a separate buyer or seller agency is not common (ICREA 2008; Ortega & Nistal 2009, p. 317). In the case of a foreign agent representing the buyer, a written agreement is recommended stating the duties and responsibilities of both agents and the amount of the commission (ICREA 2008). Licensing of estate agents was revoked in 2000; since that anyone can work as an estate agent (Kirchheim 2005, p. 536; ICREA 2008). Although there is an association called General Council of the Associations of Real Estate Agents in Spain (Consejo General de los Colegios Oficiales de Agentes de la Propiedad Inmobiliaria de España, C.G.C.O.A.P.I.). It coordinates all education of property agents and issues an official title of estate agent "Agente de Propiedad Inmobiliaria" (API) (see http://www.consejocoapis.org; Kirchheim 2005, p. 536). Another organisation working for the regulation of the real estate industry and has develop a Practitioner Code of Ethics for its members is called Asociación Empresarial de Gestión Inmobiliaria (AEGI) (see http://www.aegi.es; ICREA 2008).

The service of Spanish estate agents and foreign estate agents working in Spain can differ. The foreign agents may have knowledge of how the agencies work in their own countries and what a client from their own country can expect. This makes it possible for them to accommodate the client's needs and expectations. This can be a reason why many foreign buyers choose the service of an agent originated from their own country.

1.2.7 Sweden: When buying a home in Sweden, there are two options: purchasing privately or purchasing with the help of an estate agent. Swedish attorneys-at-low, registered with the Swedish Bar Association, can be involved in a transaction process as well. However, it is not common to hire an attorney in connection with residential transactions. Although there is no obligation to use professional assistance in an estate transaction in Sweden, the involvement of an estate agent is very common.

At present (May 2010) there are approximately 6300 registered estate agents in Sweden (FMN 2010). In 2008 there were approximately 2,500 brokerage offices (ERA Europe 209, p. 74-77). According to the law, all estate agents must be registered with the Real Estate Agents Board (FMN) (see section 5 of FML; see also the Regulation (SFS 2009:606) with instructions for the Board of Supervision of Estate Agents (Förordning (2009:606) med instruktion för Fastighetsmäklarnämnden)). In order to obtain a registration, an estate agent must, among others, have an adequate education (two years at university), ten weeks of practical training and indemnity insurance coverage with a minimum coverage of SEK1,5000,000 (section 11 of the Estate Agents Ordinance (SFS 1995:1028)). The agent handles the entire conveyancing process in Sweden, including title searches, drafting the contract and the completion of the transaction (ZERP at al. 2007b, p. 345). According to the VärderingsData, estate agents are used in approximately 80 percent of one-family house transactions. According to VärderingsData in ZERP et al. (2007b, p. 345), 84 percent of all

house sales are made with the help of an agent and according to Murray (2007, pp. 50-51, 59, 274), up to 95 percent of residential transactions involve the service of an agent.

The legislation regarding estate agents is the Estate Agents Act (SFS 1995:400) together with the Estate Agents Ordinance (SFS 1995:1028). (As of July 1, 2011 a new legislation comes into force (see SFS 2011:666 and SFS 2011:668). This new legislation does not involve changes that affect the findings of this study. References in the text are made to the previous legislation, which was in force during the writing process of this study.) An estate agent in Sweden acts as intermediary between a seller and a buyer, even though s/he is usually commissioned by the seller. According to the law, an agent is an impartial middleman and shall safeguard the interests of both the seller and the buyer (with the exception of setting the selling price) (section 12 of FML; ZERP et al. 2007b, p. 349). S/he is obliged to provide the buyer and the seller with such advice and information as they may require concerning the property and other matters which are relevant to the sale (section 16 of FML; Murray 2007, p. 58). S/he is not allowed to handle activities that could harm her/his objectivity (section 13-14 of FML; ZERP et al. 2007b, p. 348).

1.3 Transaction process

1.3.1 Denmark: An illustration of the transaction process in Denmark can, for example, be found in Mattsson (2006; 2008), Clausen (2006) or ZERP et al. (2007b). As mentioned above a seller is often represented by an estate agent while buyer is represented by an advocate or by a bank. After the seller has contacted an agent and signed an agreement with her/him (for a maximum of 6 months plus an extended maximum time of 3 months), the agent inspects the property, draws up other information of importance, prepare a report on the property and helps to contact energy consultant in order to create energy certificate (energy label). An energy label showing the energy status of the building (including the energy consumption of all electrical appliances) is mandatory in Denmark (as a result of the EU Directive on the energy performance of building 2002/91/EC) when selling property.

In Denmark, if an estate agent is used it is the agent's task to prepare a report on the property (see Mattsson 2008, p. 12). It is the seller's responsibility to inspect the condition of the property by so-called "huseftersyn". An agent can also help with a structural inspection (property conditions survey) and preparation of a "tilstandsrapport" (homebuyer's report). This type of report is made by an appointed expert surveyor of buildings and must be issued on a special form. The expert goes through the whole house to find possible defects or conditions that can develop into defects. The purposes of the inspection is to disclosure the property's condition and indicate if the property is in a worse than expected condition. The contact information for expert surveyors can be found at the home page for Danish Enterprise and Construction Authority ("Erhvervs- og Byggestyrelsen"; see http://www.boligejer.dk). When the report is made the seller offers the buyer half of the premium for hidden defects insurance (as a consequence, the seller can be release from the 10-year liability for hidden defects (before 1st January 2008 there was a 20-years liability)). The intention is that the buyer gets knowledge of the condition of the house and can avoid unexpected costs. If the buyer refuses the insurance, s/he cannot claim defects later. The regulations concerning the report can be found at bekendtgørelse af lov om forbrugerbeskyttelse ved erhvervelse af fast ejendom m.v. (LBK nr. 1142 af 28/09/2007) and bekendtgørelse om huseftersynordningen (LBK nr. 1309 af 16/12/2008). The report may not be older than 6 months when given to the buyer. When selling owner-occupied apartments (condominiums) the same rules in the report apply; however, the report must include the whole property, with reservation for other apartments. The report should comprise both the apartment and those parts of the building that are owned jointly, otherwise it is not valid. This often makes it undesirable for the seller (as

costs are much higher) and it is the reason why hidden defects insurance is seldom done. The seller can chose to inspect only a part of the whole property, for instance the apartment. Thereafter the seller is free from the responsibility for those parts of the property that are mentioned in the report (see e.g. Lærebog i ejendomshandel bind 1 2003, pp. 49-53; see also EBST 2010; Boligejer.dk 2009).

A potential buyer interested in property contacts her/his credit institution. Usually two credit-providers are involved, a real credit institute ("realkreditinstitut"), which handles long-term loans, and a bank, which handles short-term loans. An estate agent often works with a real credit institute and can help to arrange a loan (Mattsson 2008, p. 8).

The bidding process is regulated in Budbekendtgørelsen (LBK nr. 321 af 29/03/2007). The agent prepares so-called "udbudsmateriale" with relevant information on sale and conditions for the bidding process. In the document a time is assigned during which a bid can be given. When the respite is run out the seller decides either to accept one of the bids or reject all of them. During the respite period the bidder can retrieve her/his bid or change it. All the bids are secret during this period.

If the parties of the transaction agree on the terms and conditions, the agent draws up a legally binding contract (according to the formal requirements) to be signed. However, the purchaser has the right to cancel the purchase agreement within six business days. The cancellation must be given in writing. The regulations can be found in LBK nr. 1142 af 28/09/2007 (chapter 2). If the buyer makes use of her/his right, s/he is obliged to pay compensation to the seller at the rate of one percent of the amount that s/he has given as a bid (see e.g. Lærebog i ejendomshandel bind 1 2003, pp. 53-54). In connection with the contract, an advance payment is made to the agent (Mattsson 2008, p. 9).

The purchaser's advocate then draws up a definitive deed of sale, which gives the basis for the registration. When the purchaser has signed the mortgage deed from real credit institute and the purchase sum is deposited by the buyer's bank in the seller's bank, the parties may sign the deed. The deed is first sent to the municipality, which has to sign it. Before the advocate sends it to the registration authority, the registration fee must be paid. The sale and the mortgage deed are then registered and the mortgage deed is returned to the purchaser's advocate. The remaining purchase sum is then released by seller's bank to the seller (Mattsson 2008, p. 9). It should be observed that registration in Denmark is not stipulated (Ibid., p. 3).

In sum, the main steps of the transaction process in Denmark are, after preliminary work by seller and buyer: (1) payment of the purchase sum and signing and witnessing the purchase deed; (2) attesting the deed by the municipality and informing the tax authority (by municipality); (3) payment of the stamp duty; and (4) registration of ownership (see also Mattsson 2008, p. 4). A more detailed normal purchase process is described in Mattsson (2008, p. 8): (1) seller signs agreement with an estate agent; (2) buyer discusses with bank; (3); estate agent writes report and energy certificate is created; (4) estate agent hands in loan application to real credit institute; (5) estate agent draws up a document with conditions for loan; (6) buyer signs purchase deed and bank guarantee; (7) buyer's lawyer checks documents; (8) estate agent gets advanced payment; (9); seller signs purchase deed, (10) buyer's lawyer draws up purchase deed; (11) buyer signs agreement/mortgage deed with real credit institute or real credit institute accepts buyer's taking over old loans or creation of new loans; (12) remaining purchase sum is deposited by the buyer's bank in the seller's bank institute; (13) buyer and seller sign purchase deed; (14) lawyer sends purchase deed and mortgage deed for registration; (15) registration of ownership and mortgage; (16) purchase sum is released by seller's bank and is handed over to seller.

1.3.2 England: The two main steps of the conveyancing process in England are the contract and the contract completion. The procedures are divided into: pre-contract stage, post-contract

stage, pre-completion stage and post-completion stage (Murray 2007, p. 294). In the pre-contract stage, with the assistance of an estate agent, the parties agree on the key elements of the sale (Ibid., p. 295). The seller usually commissions an estate agent and the buyer deals directly with the seller's agent (Ibid., p. 315). Four types of agency contracts with a seller exist: (a) sole agency and sole selling rights (where a seller is precluded from simultaneously instructing other agents for a specified period of time, and the agent has the right to get paid if unconditional contracts for the sale are exchanged with a buyer during this period even if s/he did not introduce the buyer, or if the sales contract is made with someone who the agent was negotiating with during this period; the difference between sole agency and sole selling rights is that sole agency gives a seller the right to sell her/his property without obligation of compensation to the agent, while sole selling rights do not give the seller this right); (b) multiple agency where more than one agent is instructed, and the agent who finds a buyer gets paid; and (c) sub agency (where a sole or sole selling agent invites selected agents to act in as sub-agents and the fee is split between the agents). There is also joint sole agency, which is seldom used (two or more agents are commissioned in order to jointly work for a seller) (LSBU/CEPI 2005, Perkins 2005, pp. 1/21, 1/23, 1/37-1/38, 1/41-1/43). More detailed descriptions of these can, for example, be found in LSBU/CEPI (2005) or Perkins (2005).

A buyer usually makes a written (non-binding) offer to purchase the property; however, even though the seller accepts the offer, the deal is not legally binding until the purchase contract is exchanged (Jacob & Kinsella 2005, p. 635; LSBU/CEPI 2005). Once a buyer is found, each party instructs their own conveyancer (ZERP et al. 2007b, p. 77; Murray 2007, p. 295). According to Murray (2007, p. 315), estate agents participate in approximately 70 percent of all residential transactions. The seller's conveyancer drafts a contract and the buyer's conveyancer makes the necessary (pre-contractual) searches/investigations and enquiries with the local authority, checks the title including rights of pre-emption (there are no pre-emption rights for local authorities), boundary disputes, extent of rights etc. and arranges for financing (ZERP et al. 2007b, p. 77, Murray 2007, p. 295; Jacob & Kinsella 2005, p. 635; LSBU/CEPI 2005). As is apparent, the conveyancer's task is mostly organisational and administrational rather than legal (ZERP et al. 2007a, p. 181). The buyer has no obligation to check the tax status of the seller, since s/he is not obliged to meet any tax liability of the seller (Jacob & Kinsella 2005, p. 632). The financing terms may require an appraisal/inspection of the property by a chartered surveyor or qualified evaluator to assure the mortgage value (Murray 2007, pp. 296, 323; LSBU/CEPI 2005). Residential evaluations are in most cases, carried out by estate agents (LSBU/CEPI 2005). As the doctrine of caveat emptor applies, the seller is not obliged to disclose defects in the physical condition of the property; the buyer is advised to commission a home inspector/professional surveyor (Murray 2007, pp. 62, 296, 320-321; Jacob & Kinsella 2005, p. 638; GPG 2007). The seller is obliged to discloser encumbrances and defects of title that s/he is aware of (Murray 2007, p. 321). The average time period between party agreement and contract exchange is, according to Murray (2007, pp. 329-330), about 14 weeks.

The Home Information Pack (HIP), which was introduced between August and December 2007, placed an obligation on the seller to provide a pack of standard information to potential buyers before the property is marketed (this includes compulsory documents on terms of sale, an energy efficiency assessment, seller's property information form and warranties/guarantees, state of title, standard searches of local authorities, charges, local and condominium regulations etc., and optional documents as Home Condition Report (HCR), a legal summary or a home contents form, non-standard searches etc.), was suspended by the Government from 21 May 2010. The Energy Performance Certificate (EPC), which was a part of HIP, is, however, retained, and must be available within 28 days of the property going on the market (CLG 2010; Directgov 2010; LSBU/CEPI 2005; Murray 2007, pp. 61, 330-331).

The contract is accompanied by an extract from the Land Registry or if the property is not registered, by the seller's chain of title for at least 15 years duration (Murray 2007, pp. 295, 321). The agreed upon contract (with preconditions for sale) is then exchanged between the parties; each party gets a copy of the agreement signed by the other party (ZERP et al. 2007b, p. 79, Murray 2007, p. 296; Jacob & Kinsella 2005, p. 635). The parties usually do not meet in person; the process takes place at the office of the conveyancer (Murray 2007, p. 296). At the time of the contract execution, a deposit of up to 10 percent is paid by the buyer to the seller's conveyancer's escrow (Murray 2007, pp. 63, 297, 326; Jacob & Kinsella 2005, p. 635; LSBU/CEPI 2005). According to the Law of Property Act 1989 (Miscellaneous Provisions), a contract for the sale and purchase must be made in writing, incorporating all terms, and signed by both parties. The contract is binding and when its conditions are fulfilled, it creates a so-called "equitable title" (Murray 2007, pp. 301-302, 325-326, Cookson & Murrin 2009, p. 119). According to Jacob & Kinsella (2005, pp. 628-629), most contracts are based on a printed form, published as the Standard Conditions of Sale, and parties are free to agree to anything that is not forbidden or restricted by law.

The next step is the completion. The period agreed upon by the parties between the exchange of contracts and the property transfer is typically four weeks (Jacob & Kinsella 2005, p. 636). Before the conveyancing process is completed founds are secured (mortgage documentation including mortgage deed is prepared) and the final search in the Land Registry is made, giving a priority period long enough (approximately one month) to cover the completion and registration process (ZERP et al. 2007b, p. 79; Murray 2007, pp. 64, 298, 309, 327; Jacob & Kinsella 2005, p. 636). The conveyancing is then completed by the execution and delivery of the mandatory transfer deed, which must be signed by the seller (the buyer is required to sign only if there are positive obligations), witnessed and then handed over in exchange for the purchase price (ZERP et al. 2007b, p. 79; Murray 2007, pp. 64, 297, 302). The average time between the contract exchange and the completion is, according to Murray (2007, p. 327), two weeks. As part of the last step the buyer's conveyancer stamps the transfer and applies for the re-registration of the title and the mortgage (ZERP et al. 2007b, p. 79; Murray 2007, p. 299). Although the request for re-registration can be done by the buyer her/himself, the vast majority of applications are made by solicitors or licensed conveyancers (Murray 2007, pp. 311-312). A Stamp Duty Land Tax Certificate from the Inland Revenue authorities (a certificate on the tax paid) is sent together with the application for registration, which is a prerequisite for the registration (ZERP et al. 2007b, p. 77; Murray 2007, pp. 64, 298, 328; Jacob & Kinsella 2005, p. 636). The payment of the Stamp Duty Land Tax must be made within 30 days of the conveyance (Murray 2007, p. 299). After the registration is completed, the Land Registry notifies the buyer (Murray 2007, p. 299). The legal ownership passes at the time the new owner is registered. Even though the buyer obtains the "equitable ownership" when a written contract becomes unconditional, the "equitable ownership" does not give the same protection as registration (Murray 2007, pp. 65-66). According to Murray (2007, p. 313), the application for re-registration is generally completed within a week. Property transactions in England are a part of a chain of transactions which are interlinked (ZERP et al. 2007a, p. 180).

When buying a newly constructed house or apartment certain guarantees must be in place (LSBU/CEPI 2005). Before payment is made, a representative of the local Authority Building Control Department should inspect the property. When buying from a builder who is registered with the National House Builder Council (NHBC), there is a 10-year warranty and insurance (NHBC Buildmark warranty) against specified structural defects and a 2-year guarantee against minor building defects (Jacob & Kinsella 2005, p. 639; NHBC 2010; LSBU/CEPI 2005).

The detailed description of the transaction process in England can, for example, be found in Murray (2007, pp. 294-338), LSBU/CEPI (2005) or in Perkins (2005). According to EUI and DNotI (2005, pp. 47-48), the main steps of transaction process are: (1) sale contract documents are exchanged between the seller's and the buyer's solicitors and a down payment of 10 percent is paid to the seller's conveyancer's escrow; (2) a propriety period after a search; (3) at the completion date payment is made into seller's conveyancer's escrow and the property is taken into possession by the buyer; (4) registration is made and the money are paid to the seller from the escrow account.

1.3.3 France: As mentioned above, the involvement of an estate agent in France is not mandatory, but if an agent is used, an agreement between the agent and the seller is compulsory and it must be in written, according to the law (see e.g. Valentine Labbé/CEPI 2004; Davey 2006, p. 199). The agreement must be for a fixed duration and specify the commission (Davey 2006, p. 199). Different forms of agreements exist in France. Among these are, the exclusive mandate, the open (simple) mandate, and the mixed mandate (trust mandate), which gives the agent the exclusive right to mediate; however, the seller maintains the right to sell by her/himself. If the principal is a buyer, the mandate must be signed with the buyer (Ibid.; Manasse 2005, p. 237). An exclusive mandate can be irrevocable for up to 3 month (after this period the 15 days notice applies) (Davey 2006, p. 199).

If a buyer is found and the parties agree, an offer to purchase drafted by either a lawyer, a notary or an agent is accepted by the seller. The offer is then followed by a pre-sale contract, in printed or electronic form. Different types of pre-sale contracts exist. These include a unilateral or bilateral promise, a promise of purchase, an option to purchase, and a preliminary contract ("compromise de vente") etc. The description of these can, for example, be found at Valentine Labbé/CEPI (2004), in Manasse (2005, pp. 231-232), or in Davey (2006, p. 132).

The unilateral promise ("called promesse unilatérale de vente") is similar to an option to purchase, where the seller grants the buyer the right to purchase (within a specified time period) against a deposit, usually five or ten percent. The bilateral promise has a stronger binding force since it can be enforced as an actual sale before the courts. The unilateral promise must be registered at the tax office (within 10 days) to maintain its validity. Both agreements can use a form of private document (often a pre-printed standard form) or a notarial deed. There is a seven-day cooling off period in France, during which the buyer can withdraw from the purchase (no deposit should be accepted during this time) (Manasse 2005, p. 232; Valentine Labbé/CEPI 2004; Davey 2006, p. 133). A preliminary contract that commits both parties of the transaction is considered being common in France. A deposit of 5-10 percent of the purchase price is paid in connection with the contract (held in escrow by an agent or the notary), and the agreement is legally binding (ZERP et al. 2007b, pp. 117-118; Davey 2006, p. 132; Hodgkinson 2008, p. 104).

The preliminary contract can be drafted, as mentioned above, by an agent or by the parties themselves; however, the most usual method is, according to ZERP et al. (2007b, pp. 117-118), a contract drafted by a notary. According to Murray (2007, pp. 30-31), in almost all owner-negotiated sales the notary prepares the preliminary contract. Although the preliminary contract is usually in writing, the agreement can be modified or expanded orally (Murray 2007, pp. 31-32). Information on the agent's obligation in relation to the transaction can, for example, be found in Manasse (2005, p. 238).

After the preliminary agreement is made, the parties fulfil the respective conditions. The buyer applies for financing (Murray 2007, pp. 32-33). Some financial institutions required an evaluation to be carried out by a professional evaluator (Davey 2006, p. 129). Otherwise the evaluation may be carried out by a private evaluator, a notary or an estate agent (Gil 2002). The notary's task is to get a release of the right of first refusal from the relevant public

authority (Murray 2007, pp. 32-33). The notary controls pre-emption rights (ZERP et al. 2007b, pp.117-118). S/he must obtain the necessary documentation, as for instance, a certificate defining zoning and planning regulations etc. (Manasse 2005, p. 237; None & Gargaro 2009, p. 134). If necessary, the notary together with the seller arranges an inspection of the property for the presence of asbestos, lead or termites (environmental certificates) (Murray 2007, p. 33; Manasse 2005, p. 233; None & Gargaro 2009, p. 134; ZERP et al. 2007b, p. 116; Davey 2006, p. 130). There is a specific regulation relating to septic tanks (see Davey 2006, p. 131). It is usually advisable for the buyer to arrange for a home inspection (new buildings and renovations should be covered by the 10-year guarantee) (Manasse 2005, p. 247), since s/he cannot then claim a defect that could be discovered by an attentive person (Manasse 2005, p. 243). Also an energy performance certificate is mandatory (None & Gargaro 2009, p. 138; ZERP et al. 2007b, pp. 114-116). According to ZERP et al. (2007b, p. 116), technical experts are involved in almost in 90-100 percent of cases. The notary's task is to check the property register for the state of the title and mortgage liens as well as other rights and restrictions on the property (Murray 2007, p. 33). Some special rules apply for the sale of apartments and condominiums. For example, sale requires certification by the seller of the square-meter size of the dwelling, measured according to a statutory formula (Ibid., pp. 33-34; Manasse 2005, p. 243), and specified information from the association (Manasse 2005, p. 236). According to Davey (2006, p. 133), the time between the preliminary contract and transference of the final sale deed is 3 to 4 months. There is a seven-day cooling off period in France, which means that the buyer may withdraw from a transaction providing the buyer serves a formal notice of retraction within seven days after receipt of a copy of the signed contract. Any deposit is then returned (see e.g. Penningons Solicitors LLP 2011).

As soon as all the agreement conditions are fulfilled, and the loan is arranged by the purchaser, the final deed of sale ("acte authentique de vente") is drafted by the notary (the contract is custom made) (Murray 2007, p. 34; ZERP et al. 2007b, pp. 117-118). The parties then meet, usually at the notary office (the notary office commissioned by the buyer, if two notaries are involved), for signing; however, they usually have an opportunity to review the contract before the meeting. If an estate agent was used in the transaction, s/he is usually present. However, the financing institutions generally rely on the notary to safeguard their interest (Murray 2007, p. 34). At the signing, the notary explains the various terms of the agreement to both parties (Ibid., pp. 34-35), and checks the identity of the parties (ZERP et al. 2007b, pp. 117-118; Manasse 2005, p. 238). S/he also has responsibility to provide legal advice for the parties (ZERP et al. 2007b, p. 114). Before the deed is sign, the notary must verify the records of the registry, to determine whether any other transfers of title have been recorded (Manasse 2005, pp. 231-232). The seller is obliged to inform the buyer of any hidden defects s/he knows about (Manasse 2005, p. 236). S/he is under a general duty of disclosure (None & Gargaro 2009, p. 135). The seller is also obliged to leave everything that is indispensable to the property and everything that cannot be taken away without damaging the structure or the property (such as sinks and toilets); however, s/he is allowed to remove fitted kitchen units and heating apparatuses (Davey 2006, p. 134).

Finally, the parties sign the final transfer agreement. The loan agreement is signed by the buyer at the same time; however, no separate mortgage transfer document is needed, since mortgage is included in the final transfer deed (Murray 2007, p. 35). The deed includes the parties' identification, the property price and description, the legal warranties and specific conditions, as well as the 30-year history of the property (Manasse 2005, p. 233; Davey 2006, p. 134). Transfer of funds is arranged by the notary via an escrow account (Murray 2007, pp. 35-36). The notary is also responsible for payment of taxes, sine this is a condition for the registration of the ownership (Ibid., pp. 31, 36; ZERP et al. 2007b, p. 114; Manasse 2005, p. 239). Transfer tax, capital gain tax and registration fee is paid upon closing (ZERP et al.

2007b, pp. 117-118). Although only one notary is needed in the transaction, the parties may each choose a notary in whom they have confidence. The work, and the fees, will then be divided between the notaries; the final agreement is drafted by the notary commissioned by the buyer (Murray 2007, pp. 31-32). At the closing it is necessary to verify the amounts of the local occupancy tax and the local property tax (Manasse 2005, p. 236).

The final step is registration of the transfer at the land registry ("Bureau de Conservation des Hypothèques") (Murray 2007, p. 36). Registration only renders the transfer enforceable with relation to third parties; however, this is not necessary for completing the transfer of title, since transfer already passes over on the signing of a valid contract (transfer results exclusively from the consent of the parties) (Murray 2007, p. 36; ZERP et al. 2007b, pp. 117-118, p. 120). The application for registration is signed by both parties. The copy of the sale deed is attached together with the fees and confirmation of transfer taxes being paid (Murray 2007, pp. 36-37). Registration can only be handled by a notary, since it requires a deed submitted in the form of a notarial act (ZERP et al. 2007b, pp. 117-118; Manasse 2005, p. 233). The registration process can take a few weeks (Murray 2007, p. 37). France has a deed system rather than a title system, which means that proof of ownership is established by showing continuous ownership of the estate from preceding sellers to buyer for at least 30 years (Manasse 2005, p. 231; Global Real Estate Project 2007). It is interesting that in France under certain conditions, the seller has a right to rescind the sale within two years, if it can be shown that the selling price was less than seven-twelfth of the market value (Manasse 2005, p. 243). According to GPG (2007), the average transaction time is 193 days.

In sum, the main steps of the transaction process in France are: (a) signing a preliminary contract (promesse/compromis de vente) and making a down payment of 5-10 percent; (b) after financing is arranged, a sale contract in the form of a notarial act, which transfers ownership, is signed and payment is made; and (c) registration is completed (merely declaratory effect) (EUI & DNotI 2005, pp. 47-48).

1.3.4 Germany: According to Junghänel and Muschter (2009, pp. 142-143), two types of broker agreements can be found in Germany: (1) "Vermittlungsmakler" intermediary broker agreement, whereby the broker is actively involved and essential for the conclusion of the purchase agreement, and (2) "Nachweismakler" detection broker agreement, whereby the broker only introduces the property which is purchased at a later stage. The seller can turn to one agent (exclusivity contract) or several agents (ZERP et al. 2007b, p. 128). The estate agent's main task is to bring the seller and buyer together. When the buyer's offer is accepted by the seller and the parties have agreed on the economic terms of the transaction, the next step is to involve a notary. Preliminary contracts are rare in Germany (ZERP et al. 2007b, p. 127). If a non-notarial contract is used, it can only serve as a kind of informal record of negotiations between the parties (Murray 2007, p. 40).

The property may be valued by an appraiser, either an independent appraisers appointed by the Chamber of Commerce and Industry, or an appraiser certified by a certification body. The property is usually priced by a designated estate agent (many of agents are independent appraisers) (DIA/CEPI 2006).

The conveyancing process in Germany consists of three steps: (1) a sales agreement, creating an obligation to transfer, (2) a separate agreement of transfer, and (3) title re-registration, which completes the transfer. Both agreements are usually contained in the same document, if not, it is important that both contracts are drafted as a notarial act (Murray 2007, pp. 39-40, 44).

At the first meeting with the notary the parties present their transaction particulars and the notary is obliged to verify their identities and determine their legal capacity to make a contract (Ibid., p. 40). The notary makes a preliminary check of the land register

(electronically) and any administrative permits (ZERP et al. 2007b, p. 127; Ibid., p. 41). S/he advises the parties about any potential legal risks, the responsibilities of the parties, and how they may deal with such risks. However, s/he does not bring up the issue of economic terms and conditions (if there is no reason to question these). The notary advises both parties concerning their existing and potential legal positions and may act as an informal mediator by offering solution options if there is still some disagreement (Murray 2007, p. 40). Prior to the contract the buyer must also be ready to present an acceptance of loan financing by a bank or proof of the required funds (GPG 2007). However, if the buyer does not manage to make arrangements with a bank before signing the contract, the contract can be made conditional on the arrangement of founding (Murray 2007, p. 46). The buyer is advised to check the property for any major defects and the seller is required to disclose any hidden defects s/he is aware of (the principle of good faith, see e.g. Junghänel & Muschter 2009, p. 143).The seller is not obliged to disclose the obvious defects (GPG 2007). If there are some necessary inspections, such as identifying the presence of contaminants, it is usually recommended that these be carried out before the contract signing (Murray 2007, p. 46). The seller is also obliged to present the Energy Performance Certificate (EPC) to the buyer (Junghänel & Muschter 2009, p. 147).

After an oral hearing at the notary's office the contract is drafted (ZERP et al. 2007b, p. 130). The contract includes names and addresses of the parties, property details, the purchase price, terms and conditions of payment, stipulations in case either party fails to fulfil the contract terms, as well as conditions and restrictions relative to the sale and the date when the purchase price shall become due (GPG 2007; Junghänel & Muschter 2009, p. 143; Murray 2007, p. 43). The drafted contract is then send to both parties for review prior to the signing meeting (Murray 2007, p. 45).

At the signing ceremony, the formal reading takes place – the notary reads the contract aloud (GPG 2007) - and finally, when the parties are satisfied and have signed the contract, the notary certifies the signatures (ZERP et al. 2007b, p. 127; Murray 2007, p. 45). The contract execution, i.e. transfer of payment and registration of title is not the notary's obligation, but is very common for the notary to carry out that service (according to ZERP et al (2007b), this occurs in approximately in 95 percent of cases, except in Baden-Württemberg) (ZERP et al. 2007b, p. 127, 130). The necessary declaration that states the agreement on transferring of the ownership is, as mentioned above, usually contained in the sale agreement. This can, however, be included in a separate notarial deed following the payment of purchase price (Junghänel & Muschter 2009, p. 143). The notary may also help with necessary permits (ZERP et al. 2007b, p. 128). The purchase price can be paid into the notary account, but the money may not be transferred to the seller until the registration is completed (GPG 2007) or until the following conditions are fulfilled: the necessary permits are obtained, a priority notice has been registered with the land register (that protects buyer from transfer to the third part), any statutory or contractual pre-emption rights have been waived and all documents required for the cancellation of existing encumbrances have been handed over to the notary (Murray 2007, pp. 43-44). The payment can also be arranged directly through the appropriate banks with the help of the notary (this procedure is more common). If the buyer intends to finance the property with a loan, the notary sets up a mortgage deed, following the guidelines of the bank (Ibid., pp. 47-48). The more detailed description of this process can be found in Murray (2007).

Transfer of possession usually takes place when the purchase sum is paid, but the legal title does not pass until re-registration. After the singing of the contract, the notary also sends a copy of the contract to the tax authorities (of the state in which the land is located), but the notary does not submit the request for re-registration until the certificate of payment has been received (Murray 2007, pp. 45, 48; ZERP et al. 2007b, pp. 127-128). Providing necessary

information for the tax authorities is included in the notary's obligations (ZERP et al 2007b, p. 128). The transfer tax must be paid within four weeks following the signing of the contract. The notary makes an application in the land registry - "Grundbuch" (GPG 2007). The title is transferred when the registration is completed. The process may take from a few days to a few weeks and sometimes even up to six months, or longer (Murray 2007, p. 48; Junghänel & Muschter 2009, p. 141). According to DIA/CEPI (2006), it takes three to six month from the day the contract is concluded to the day the transfer is entered in the land registry. According to the information on the webpage for German-Hawk-Group the registration process usually takes about 4-7 weeks. The gap between payment and passage of the title is protected by preliminary notation in the land registered, as mentioned above (Murray 2007, p. 48). The broker's commission and registration fees are paid at the time for the execution (GPG 2007).

In sum, the main steps of conveyancing process in Germany can be described as follows: (1) the sale contract is transcribed by notarial act; (2) a priority notice for the contract is registered by notary; (3) the purchase sum is paid; (4) a separate agreement on the transfer of ownership is registered (see EUI & DNotI 2005, p. 47).

1.3.5 Poland: The involvement of an estate agent in Poland is not mandatory. However, if an agent is used, an agreement between the agent (the agreement is with the agency or with the agent only if s/he is self-employed) (Brzeziński et al. 2005, pp. 144, 148)) and the principal is compulsory and must be in writing otherwise it is not valid. The agreement must contain the name of the agent who is responsible for the commission, her/his licence number and a declaration of liability insurance, as well as the scope of the agent's services (practitioner's obligations) (Article 180 of the the Real Estate Management Act). Two different kinds of agreement are used in Poland: exclusive agreement (sole agency) and non-exclusive agreement (without sole agency). The agreement may be granted for a period agreed upon with the principal. The exclusive agreement is usually granted for a fixed period of time, while the non-exclusive agreement usually is granted for an indefinite time until a purchaser is found (Brzeziński et al. 2005, p. 149). The agreement can be signed with the seller or buyer or with both parties.

Evaluation of the property is usually made by an agent. The price is usually set a bit higher than the expected price since the bidding process often moves the price downwards (Puch 2005). After a property is found the negotiations begin and the legal status of the property must be checked. It can be done at the land registry where all the legal transfer deeds are registered and any debts secured on the property are recorded. In the case of flats owned by a housing association, there will be no deeds, instead the associations provides a document specifying who has the legal right to the property. If there is no deed, the buyer is usually advised to set up a deed after the purchase (Puch 2005; HouseInPoland.net 2010). The negotiations are usually carried out individually between the potential buyer and the seller with the agent's assistance. As a rule, the agent submits to the seller a written tender from the potential buyers, and in the seller's name the agent negotiates with the potential buyer; however, if the agent works for both parties, s/he assists both parties to reach an agreement. The negotiations process with an analysis of the customer's needs is described, for example, in Brzeski, Dobrowolski and Sędek (2004, pp. 331-334). The bidding procedure is regulated in Article 66-72 of the CC.

It is important for the buyer check out the technical condition of the property, especially when buying a house. The buyer can make an inspection by her/himself or by employing an expert. An agent should be able to form an option about the condition of the property; however, her/his responsibility does not require identifying any hidden defects, if s/he did not get any information on those from the seller and s/he may not be able to discover them by

her/himself. The agent is obliged to see that the potential buyer has access to the building (Brzeski, Dobrowolski & Sędek 2004, pp. 309-310).

After the negotiations are completed and the parties agree upon the conditions of the sale, there are additional obstacles to overcomes. Among these are: relevant permits that must be obtain and payment of the inheritance tax by the owner. A preliminary contract is drafted. The preliminary contract gives the parties time to prepare for the final contract of sale (ZERP et al. 2007b, p. 239; Brzeziński et al. 2005, p. 138; WSGN/CEPI 2010; Puch 2005). The contract does not have to be drafted by a notary. However, if the contract is not drafted by a notary, the parties commit themselves, to either a down payment (of approximately 10 to 25 percent, there is no rule on the amount), some penalty sum or an agreement to annual the contract without any penalty. Only if the preliminary contract is drafted by a notary, it can be enforceable through a court procedure should one of the parties fail to meet the contract provisions (Brzeziński et al. 2005, pp. 138-140; Brzeski, Dobrowolski & Sędek 2004, p. 317; WSGN/CEPI 2010; Puch 2005).

When all the conditions are fulfilled the final sales contract can be drafted. According to the Civil Code (CC) (Article 158), the contract must be drafted by a notary to be valid. The contract must contain required information about the parties, the object of the contract and the price, as well as the manner and place of the transfer and the terms of price payment and hand-over date. In accordance with the contractual freedom, some other provisions of the contract may be prepared freely (WSGNCEPI 2010; Brzeski, Dobrowolski & Sędek 2004, pp. 120; 317-318). The notary is obliged to control certain important aspects of the transaction. S/he must, besides verifying the legal status of the property, insure that the parties are capable of executing the contract, and are aware of their rights and obligations as well as consequences of the contract (WSGN/CEPI 2010; ZERP et al. 2007b, p. 238). The seller is obliged to provide all information relating to the contract, since s/he is liable to the buyer for any physical or legal defects in the property (that the buyer is not informed about) (WSGN/CEPI 2010). The buyer is obliged to report the existence of any defect within one month of its discovery. At the conclusion of the contract, unless otherwise agreed, ownership is transferred unconditionally to the new owner following payment of purchase sum (ZERP et al. 2007b, p. 240). According to the Article 157 of the CC, it is not possible to agree on a conditional transfer of ownership. Since this is the case (as, for example, when transfer is linked to the full payment of the purchase sum), an additional transfer contract must be drafted as soon as the condition is fulfilled (see also Brzezinski et al. 2002, pp. 140-141; ZERP et al. 2007b, p. 240). The contract is signed by both parties and the notary. The parties receive only copies of the contract, since the original contract is kept at the notary office for 10 years (and then delivered to the archives of the mortgage and land register) (WSGN/CEPI 2010). If one party delays fulfilling its obligation and the contract is not executed, the other party can withdraw from the contract within a defined period of time. The withdrawal must be drafted by a notary (WSGN/CEPI 2010; see Article 491 of the CC). The financial settlement between the parties is specified in a three-part-agreement between the parties and the financial institutions (Brzeziński et al. 2002, pp. 140-141).

The next step is to apply to registration changing the designation of the owner. The application is usually made by the notary on behalf of the parties. The copy of the deed is sent to the land and mortgage register. In connection with the application, the notary is obliged to pay a registration fee on behalf of the parties (ZERP et al. 2007b, p. 240; WSGN/CEPI 2010). The registration in Poland is merely declaratory (EUI & DNotI 2005, pp. 34).

1.3.6 Spain: If the buyer is a foreigner, the first thing s/he must do is to apply for a Spanish tax identification number known as the NIE-number ("Número de Identificatíon de Extranjero") (Global Accounting & Auditing SL 2008; Searl 2009, pp. 32-33). When selling a

home in Spain, it is customary to commission several agents in order to achieve more exposure on the market (Kirchheim 2005, p. 536). The buyer should be aware that the same property may be listed with a number of different agents for different prices (Global Accounting & Auditing SL 2008). There is no national referral system in Spain. Agents usually do not represent different parties or share a commission. However, members of AEGI who represent multinational franchises may be more accustomed to referrals (ICREA 2008).

If a property is found and the parties agree on the price, the first step, after the necessary controls are implemented, is usually for the buyer to make a reservation of the property and pay an amount of approximately 1 percent to the agent. The property is then taken off the market (Global Accounting & Auditing SL 2010; Kirchheim 2005, p. 529; Home Spain 2010). If the potential buyer reneges on the acquisition, s/he forfeits the reservation fee (Kirchheim 2005, p. 529). At this stage an attorney is usually involved as well. The buyer and seller will usually each engage an attorney of their own. Within a couple of weeks, a private contract or purchase option is drafted (Global Accounting & Auditing SL 2010). However, it is possible to sign immediately a notarial deed, but this is not common practice (Kirchheim 2005, p. 529). An attorney usually drafts the private contract, but an agent or gestor administrativo may also draft it. The contract should contain all the essential transaction conditions including purchase price, manner of payment, date of transfer, fittings etc. (Global Accounting & Auditing SL 2010; Kirchheim 2005, p. 529; ZERP et al. 2007b, pp. 332-333). In connection with the contract a down payment of 10 percent is usually made (there is a maximum of 15 percent) (Global Accounting & Auditing SL 2010; Kirchheim 2005, p. 529; GPG 2007; Searl 2009, p. 51). The attorney is responsible for making certain checks. S/he demands an extract from the Land Registry ("Escritura Pública" – the registered title deed of the property) to determine ownership, a "nota simple" to control mortgages and easements and a copy of the seller's purchase contract. If the seller is married, her/his spouse must give permission. The attorney assures that the seller has paid the property tax and checks the cadastral value of the property, since this value affects different municipal charges. The attorney also contacts the ownership community in order to identify unpaid charges and other information concerning the area. Moreover, the attorney determine whether there are unpaid bills such as those for electricity, gas and water etc., and, in the case of a new building, whether there is a building permission certificate and a ten-year construction guarantee (insurance). It is common that the parties agree that if the seller decides to withdraw from the sale or fails to meet her/his obligation, the seller must pay double the amount of the down payment to the buyer, and if the buyer fails to meet her/his obligation, s/he loses the down payment (Global Accounting & Auditing SL 2010; Kirchheim 2005, pp. 530, 536). The seller is obliged to disclosure any information that affects the property that s/he is aware of. The common seller's guarantee is that the property is free from any hidden defect and that the seller is the legal owner (Ortega & Nistal 2009, p. 318). From 2007, for all new built properties, a certificate of energy efficiency must be issued (10 years validity) (Ortega & Nistal 2009, p. 320-321). The time between signing the private contract and the closing is usually one to two months (Global Accounting & Auditing SL 2010). The private contract binds the parties in exactly the same way as a notarial deed (Kirchheim 2005, p. 529).

A few months after the private contract is drafted, the official purchase takes place. The purchase is conducted at the notary office. The notary draws up the deed (the final document) and makes the last checks on the property (Global Accounting & Auditing SL 2010). A preliminary inquiry at the Land Registry is a prerequisite for the notarial authentication of the transfer and during the following nine days the registrar is obliged to notify the notary of any interim recordings affecting the property (Kirchheim 2005, p. 537). If some other notary has ordered a similar check in the register, the notary will be informed about it in order to avoid a double sale. The notary checks also the legality of the building according to two certificates,

one from the local administration stating that that there is a building permission certificate, and a certificate from an architect describing the technical details and testifying that the building is constructed in accordance with the municipal regulations (ZERP et al. 2007b, p. 330). The deed is called "Escritura de Compraventa" and is signed by both the seller and the buyer in the presence of the notary (Global Accounting & Auditing SL 2010; GPG 2007; Home Spain 2010; Searl 2009, pp. 52-53). The notary is responsible for insuring that the seller's debts on the property are paid (ZERP et al. 2007b, p. 330). The conditions already fulfilled in accord with the private contract are not included in the notarial deed; however, the conditions still to be fulfilled must be stated in the deed (Kirchheim 2005, p. 530). The transfer of possession takes place on the same day the contract is signed (Global Accounting & Auditing SL 2010). The purchase sum is paid (with a certified bank check or in cash) and the keys are handed over (Global Accounting & Auditing SL 2010; Kirchheim 2005, p. 536). Non-payment does not necessarily make the transfer of ownership ineffective (ZERP et al. 2007b, pp. 332-333). Notarial escrow accounts are not used in Spain (Kirchheim 2005, p. 536). If the seller is not a resident, the buyer must withdraw 3 percent of the purchase price and pay it to the tax authorities within 30 days. Hence, the seller gets only 97 percent of the purchase price (Global Accounting & Auditing SL 2010). Immediately after the authentication of the deed is completed the notary informs the Land Registry of the transaction and gets a receipt. The original deed must be then presented to the Land Registry within ten working days (Saturday included) and if everything is correct the deed will be recorded. Taxes that are prerequisites for recording must also be paid. It is usually the gestor administrativo who helps with execution of deed and these administrative formalities (Kirchheim 2005, p. 537; ZERP et al. 2007b, pp. 330-333). There is a plan for future registration requests and transfer tax payments to be made using an online procedure by the notary (ZERP et al. 2007b, p. 330). At the end of the transaction, the buyer receives an "Escritura Pública", public document, as final and definitive title and proof of ownership. Registration of "Escritura de Compraventa" precedes issuance of the "Escritura Pública" (Kirchheim 2005, p. 537; Searl 2009, p. 57). All deeds in the register are listed according to their registration date. There is a probationary period in Spain of two years, which means that any third party holding a better right over a property than the person who registered it, may challenge that right (Ortega & Nistal 2009, p. 317).

As already mentioned, ownership in Spain may be established by means other than an entry into the Land Registry, since the entry is merely declaratory. This means that any qualified document defining the acquisition in its original form may be sufficient proof of ownership (Kirchheim 2005, pp. 527-529; Ortega & Nistal 2009, p. 318). No special form is legally mandatory for the transfer; even an oral contract is valid (ZERP et al. 2007b, pp. 332-333). Detailed information on this issue may, for example, be found in Kirchheim (2005, p. 529) and in ZERP et al. (2007b, pp. 332-333). The notarial deed or public document (where the deed may has been replaced by a court settlement) will indicate the legal conclusion of the transaction and is a condition for the registration of ownership in the Land Registry; this creates public evidence of the owner's rights against any third party claim (Kirchheim 2005, p. 531; ZERP et al. 2007b, pp. 330, 333-337; Ortega & Nistal 2009, pp. 317-318; GPG 2007).

In sum, the mains steps of the transaction process in Spain are: (a) a private contract is signed and a down payment of approximately 10 percent is made; (b) the necessary checks are made; (c) a notary draws up the final transfer document and makes the final checks; (d) a deed is signed and a purchase sum is paid; and (e) registration, which is merely declaratory, is recorded.

1.3.7 Sweden: As already mentioned, the involvement of an estate agent while not mandatory in Sweden is very common. An agreement between the agent and the principal is compulsory

and must be, according to the law, in writing (section 11 of FML). The agreement stipulates conditions of the assignment, as well as the agent's and principal's rights and obligation when mediating property. There are two different kinds of agreement, exclusive agreement (sole agency) and open agreement (agreement without sole agency). A sole agency may only be granted for a period of a maximum of three months at a time, and an agreement regarding extension may be entered into no earlier than one month prior to the expiration of the service contract (section 11 of FML). An exclusive listing (sole agency) means that the agent has exclusive right to mediate the property (act as intermediary) for a specified period of time and has a right to receive a commission if the sale contract is completed during this period even if s/he has not participated in the sale. An open listing means that more than one agent may be involved, but only the agent who finds a buyer gets the commission (see e.g. Mäklarsamfundet Utbildning 2005, pp. 54-55; FMN 2007). Even though it is usually the seller who engages the agent, the agent is obliged to safeguard the interests of both seller and buyer (see e.g. Mattsson 2008, p. 10).

The first stage of the process when contacting an agent is called the intake ("intag"). This stage consists of obtaining the information about the property, reviewing the technical status of the property, determining a price, informing the seller about the process and about her/his rights and obligations, negotiating the agreement and commission, and preparing a marketing plan (see e.g. Mäklarsamfundet Utbildning 2005, p. 51). The agent controls all the necessary information about the property (s/he is obliged to perform a legal survey), s/he determines who is entitled to dispose of the property and to what extent the property is encumbered by mortgages, easements and other rights (section 17 of FML; see also ZERP et al. 2007b, pp. 242-243). This information is then used to prepare a formal description of the property, which is compulsory according to the law. This detailed description is given to the final purchaser. In addition to the information listed above, the description contains the name, taxable value and area of the property, as well as the age of the building, its dimensions and manner of construction (section 18 of FML). This information may be obtained via the Internet at Lantmäteriet (see Chapter 2.3). The next step is to review the technical status of the property. The agent is not required to survey the property or to examine the property in detail, although s/he usually makes an informal visual inspection. The agent receives information about the condition of the property from the seller. The seller completes an informational questionnaire relating to the property. The agent is obliged to verify the seller's information if there is reason to suspects that the information may be incorrect. The agent together with the seller determines an appropriate initial price, since an agent usually conducts the valuation in Sweden, even if the financing by a mortgage. The final price is usually higher than the initial price, but it can also be lower. The agent informs the seller about the process and the seller's rights and obligations. The agent prepares the marketing of the property, which the seller must approve. When both parties have agreed on the process they sign a contract. The marketing of the property is usually carried out through newspaper advertisement, signs in the agent's office windows and via the Internet. The marketing is controlled by the Marketing Act (SFS 2008:486) (Marknadsföringslag (2008:486)) and the guidelins issued by the Swedish Consumer Agency (KOVFS 1996:4) (Konsumentverkets riktlinjer för tillhandahållande, utförande och marknadsföring av fastighetsmäklartjänster i konsumentförhållanden samt fastighetsmäklarlagen (1996:4)). Property showings may be either individual or open. It is common practice to have several showings (see also ZERP et al. 2007b, p. 243).

When several potential buyers indicate an interest a bidding process takes place. Usually an interested buyer will contact her/his bank before engaging in the bidding process in order to determine the possibility of loan (see Mattsson 2008, p. 11). The bidding process is not subject to regulation in Sweden, as a result there are different types of bidding procedure. The agent together with the seller decides the conditions of the procedure. The agent is, however,

not the representative of either party; s/he provides assistance to both parties. A bid may be entered orally or in writing. Oral bids are most common. A bid is not binding in Sweden even if it has been made in writing. Neither the seller nor the buyer is bound in Sweden by an agreement until both parties have signed a written purchase contract. In practice, there are usually two different models for the bidding: "closed bidding and "open bidding". In closed bidding the prospective buyers are given a set time to present their bids (usually in writing), with no information about one another's bids. Open bidding is much more common. Open bidding means the agent presents the highest current bid to the seller and to each of the bidders, which gives the bidders an opportunity to offer a higher bid. The seller decides to whom s/he will sell the property to and for what price (see e.g. FMN 2007). Before one may participate in the biding process, securing a loan is usually required.

After the biding is over, the next step is the drafting of a contract. Before signing the contract the buyer is advised to survey the property for any major defects, since according to the Land Code (SFS 1970:994) (section 19, chapter 4), the buyer may not recover from the seller for defects that it was possible for the buyer to discover (see also Mattsson 2008, p. 12). The buyer may turn to an authorized inspector. The seller is obliged to disclose any hidden defects that s/he is aware of; however, s/he is not obliged to disclose defects that the buyer should have detected in a thorough inspection of the property. According to the FML, the agent shall strive to ensure that, prior to the sale, the seller provides any information with respect to the property that may be assumed to be of importance to the buyer, as well to ensure that the buyer inspects the property prior to the sale or is afforded an opportunity to inspect the property (section 16 of FML). The agent is also obliged to inform the buyer about any defects s/he is aware of or has reason to suspect (through the information from the seller, her/his own observation, previous sales of similar houses or general knowledge and experience). S/he is not obliged to provide information of defects that are evident and visible during a visit to the property (see e.g. FMN 2009). The structural survey is usually done immediately before the contract is signed or shortly after the contract date before the deed of sale is finalised. In this latter case there should be a clause in the contract that grants the buyer the right to survey later and what to do if a defect is discovered. A seller is liable for hidden defects 10 years after the sale (Mattsson 2008, p. 11).

In some cases the inspection is made in the beginning of the transaction at the seller's initiative (and at the seller's expense); however, this does not relieve the buyer of her/his obligation to survey the property. The seller may be held financially responsible for providing incorrect information. It is possible to purchase hidden defect insurance ("överlåtelseförsäkring"). Authorized inspectors are listed on the following pages: http://www.besiktning.nu or http://www.bygging.se.

When selling a one or two family house the owner of the property is obliged (from 1 January 2009) to supply a valid energy performance certificate. An independent expert accredited by Swedac, the control authority, draws up the certificate. The certificate is electronically registered at Boverket (the National Board of Housing, Building and Planning), and the property owner holds a copy. If there is no energy performance certificate available at the time of the sale, the buyer has a right to arrange for the certificate at the seller's expense within six months after the property was taken into possession. In the case of co-ops, the responsibility for a certificate lies with co-operative that owns the property (FMN 2010).

In Sweden it is usually the estate agent who draws up the contract of sale, both the initial contract ("köpekontrakt") and the deed of sale ("köpebrev"). According to the law, unless otherwise agreed upon, the agent shall assist the buyer and the seller in preparing the documents required for transfer. S/he should strive to enable the buyer and seller to reach an agreement with respect to the issues, which must be resolved in conjunction with the sale (section 19 of FML). In accordance with the legislation on anti-money-laundering, the

identification of the transaction parties is mandatory. The agent may use a standard contract form; however, s/he must be able to adjust the contract to the particular circumstances of the transaction. The contract must be signed by the seller and buyer (section 1, chapter 4 JB). Any permission or power of attorney from the seller's spouse (who is not the owner) must be enclosed. For the purchase to be valid, the contract should contain a statement of the purchase price and a declaration by the seller that the property has been transferred to the buyer, as well as a statement of all the conditions necessary for the completion (section 3, chapter 4 JB). The completion of a purchase may not be made dependent on conditions applying more than two years after the day on which the document of purchase was drawn up (section 4, chapter 4 JB). If the drawing up of a deed of purchase has been prescribed in the contract, the completion of the transaction shall be deemed dependent on payment of the purchase price (section 5, chapter 4 JB). If, according to the contract, the completion of the acquisition has been made dependent on specified conditions and a deed of purchase or other additional document of purchase concerning the transaction is to be drawn up thereafter, the completion of the transaction shall no longer depend upon those conditions unless they are also included in the subsequent document (section 6, chapter 4 JB). The purchase deed or other additional document must fulfil the same regulations that apply to a purchase contract. The purchase deed completes the purchase, even though the parties are already bound by the contract. The purchase deed is a receipt for the purchase price indicating that the purchase price has been paid. The presence of a purchase witness is not required; however, if the authenticity of the seller's signature is not certified, the process of applying for the registration may take longer. Therefore two witnesses should confirm the seller's signature. At the time of the contract signing, the agent is given a deposit of approximately 10 percent. There must be an agreement concerning the deposit signed by both parties. The deposit should be delivered, without delay, to the seller unless the parties have specifically agreed otherwise. Money and other assets, which the agent holds for the account, are to be kept separately from her/his own assets (section 12 of FML). Once a contract is signed, it may not be repudiated unless there is a special clause, such as a proviso requiring an inspection to identify any defects or a condition concerning the acquisition credit (Mattsson 2008, p. 11).

After the contract is signed, there are still several steps to complete before the final deed of sale may be signed and the buyer is able to take possession of the property. The fulfilment of the contract conditions is a prerequisite for entry of the deed into the land registry. If the property is mortgaged, the bank must prepare the necessary documents for the signing and the payment of outstanding mortgage debts. In order to insure that no changes took place in the land registry entry, the conditions are verified just before the completion. In preparation for the final settlement, the agent prepares a settlement of accounts and the bank transfers between the buyer's and seller's bank occur. Either paper mortgages or electronic mortgages may be transferred. As a result of a stamp duty tax on creation of new mortgage encumbrances, the existing mortgage encumbrances are not generally discharged on sale but only released by the seller's bank and transferred to the buyer's bank. If the existing mortgage encumbrances (deeds, real estate liens, land charges etc.) are insufficient to secure the buyer's loan, further encumbrances on the property must be issued and entered in an electronic register. The stamp duty tax on the difference must be paid as well.

The deposit is paid to the seller (with accrued interest) together with the purchase price. The seller is obliged to hand over to the buyer all the documents concerning the property. The final document, the purchase deed, is then drafted, signed and witnessed. The deed states that the transfer of title has been completed and that the purchase sum has been paid. The deed is needed when applying for the registration. The same form for the deed applies as for the contract. The authenticity of the parties' signatures should be certified. The signature of the seller is normally testified by two witnesses; otherwise the title registration may be delayed

for up to six months. The signing of the deed usually takes place in the buyer's bank office (see e.g. Mattsson 2008, p. 11; ZERP et al. 2007b, p. 241).

According to the law, a party having acquired real property with freehold title shall apply for registration of ownership within three months after the document on which the acquisition is based was drawn up (section 2, chapter 20 JB). If the estate agent is engaged in Sweden, s/he takes care of the whole process. Applying for the registration is not included in the agents tasks, the agent may, however, apply for the registration on the buyer's behalf. The application may also be entered by the buyer's bank in order to secure the registration of the mortgage as well. The buyer's bank will then be granted power of attorney to apply for registration of ownership and mortgage deed (see e.g. Mattsson 2008, p. 11). Registration in Sweden is stipulated (Mattsson 2008, p. 3; see also ZERP et al. 2007b, p. 243).

The registration authority informs the tax authority of the sale. When the title registration is recorded, a notification dependent on payment of stamp duty tax, is sent to the buyer. Notification of the registration of the mortgage is sent to the buyer's bank. If all the conditions for a full title are not fulfilled, a registration may be declared dormant ("vilande lagfart").

More detailed information on the process in Sweden may, for example, be found in Jingryd and Segergren (2009), Mäklarsamfundet Utbildning (2005), Zacharias (2001), Melin and Kilander (2007), Grauers et al. (2010), Fastighetsmäklarnämndens faktablad för konsumenter, Murray (2007), and Mattsson (2006). See the Swedish Land Code (SFS 1970:994) for essential aspects of property law.

In sum, the main steps of transaction process in Sweden are: (1) the seller signs agreement with estate agent; (2) a bank promises a loan to the buyer; (3) an initial sale contract (purchase contract) is signed and a down payment of 10 percent is paid; (4) the buyer arranges an inspection of the property; (5) the deed of sale (purchase deed) is signed by seller and buyer and attested to by witnesses and the purchase sum is paid (if mortgage is arranged, power of attorney is issued to bank for registration application); (6) registration is made and the tax authority is informed (if mortgage, bank applies for ownership and mortgage registration); (7) registration of ownership and mortgage is made; (8) stamp duty is paid (see also Mattsson 2008, pp. 4, 10; EUI & DNotI 2005, p. 48).

2 Transparency in legal information

2.1 Restriction on foreigners

2.1.1 Denmark: In order to buy a property in Denmark, as is true in other countries, one has to be of age. In other ways purchasing regulations in Denmark differ from those of the other EU/EEA (European Union/European Economic Area) member states. The regulations may be found in Erhvervelsesloven (Bekendtgørelse nr 566 af 28/08/1986 af lov om erhvervelse af fast ejendom (in force with updates) and Erhvervelsesbekendtgørelsen (Bekendtgørelse nr 764 af 18/09/1995 om erhvervelse af fast ejendom for så vidt angår visse EF-statsborgere og EF-selskaber samt visse personer og selskaber fra lande, der har tiltrådt aftalen om Det Europæiske Økonomiske Samarbejdsområde). §1 says that a person who does not have a fixed abode in Denmark at the time of the acquisition or has not previously had a fixed abode in Denmark for 5 years, may purchase real property in Denmark, with the approval of the Minister of Justice. These rules apply to Danish citizens as well, which means that this is not a matter of nationality or citizenship, but a requirement referring to domicile (Lærebog i ejendomshandel bind 1 2003, p. 46; see also HGMF/CEPI 2010).

The 5-year period need not be consecutive and it may include time of pre-adult residence. A foreigner who does not have a permanent residency permit is not considered to have a fixed abode. However, a foreigner who has a permanent residence permit fulfils the condition. Scandinavian citizens and foreigners with Danish residency permits are under normal circumstances, granted permission to acquire all-year residences (Ibid.).

This raises the question of the free movement of labour within the EU/EEA, which may by hindered by regulations that make it difficult to acquire residences in Denmark. A solution has been devised whereby citizens of the EU/EEA are allowed to purchase year-round homes in Denmark without application to the Minister of Justice. This requires providing a solemn declaration of purpose. This exception to the main rule, which may be found in Erhvervelsesbekendtgørelsen, means that EU/EEA citizens may purchase real property in Denmark even if their intention is not a run business or have job in Denmark. They must, however, be able to show that they may provide for themselves financially and they are covered by health insurance. In this case the criterion is citizenship rather than the abode criterion (Lærebog i ejendomshandel bind 1 2003, p. 47; HGMF/CEPI 2010).

”Adequate financial resources” and valid health insurance are the condition one has to fullfil in order to be allowed to stay in another member state for more than three months. Alternative options are that the EU citizen either (a) is or was an employee or self-employed, or (b) is a student who possesses health insurance and is able to provide assurance that s/he may support her/himself and family members without social assistance from the receiver-country. The rule´s purpose is to avoid any financial burden on the receiver-country. The member states are, however, not allowed to determine a fixed amount as ”adequate financial resources”. Each person’s personal circumstances must be taken into consideration. The amount may not excede the limit below which the receiver-country´s own citizens are entitled to social assistance, or minimum pension (Bernitz & Kjellgren 2007).

With regard to holiday homes, where the practice is very restrictive with regard to permission, the condition in §1 of the law (Erhvervelsesloven) concerning fixed abode must be met even by EU/EEA citizens. This means that Swedes, as well as other EU/EEA citizens are required to possess a fixed abode. To get permission applicants must usually have very strong ties to Denmark. Denmark negotiated this permanent exception for the acquisition of holiday homes after entering the EU (Ibid.). As example may is the information that may be found on the webpage of the Global Property Guide (GPG) (updated on May 28, 2007), about restrictions regarding coastal areas and the so-called “anti-German rules”.

All-year residences in Denmark may be subject to "bopælspligt" (residency obligation), which means that the owner is obliged to see that the residence is constantly occupied, either by the owners or by a renter. The reasons for this stipulation are: to counteract depopulation of the countryside, to avoid changes from residential to vacation home status, and to prevent speculation in the residential market and a decline in the number of residential properties (see Boligreguleringsloven, LEK nr 189 af 27/02/2007).

The obligation to occupy is decided by each municipality and applies only within that municipality's own borders. The usual requirement is for the owner to occupy the residence at least 180 days a year. A year long absence (for example, vacation) is possible as long as the owner does not leave the national register. As a general rule, all-year residences are subject to the occupation obligation, including residences on agriculture properties. In some municipalities it is not possible to have more than one residential address in the same municipality. There are, however, exceptions, such as where the owner is in the process of selling. Newly built residences are often not subject to the obligation, until after the initial owner sells the residence. In order to avoid reducing an area's population, a decline in the number of residences, and to draw holiday visitors into the cities, some municipalities allow all-year residencies for use as holiday homes in certain urban districts, and in some instances conversion of year- round residences to holiday homes may be allowed anywhere within the municipality (see e.g. Bolius 2007).

2.1.2 England: In England and Wales there are no restrictions on ownership of real estate by foreigners (Cookson & Murrin 2009, p. 117; Jacob & Kinsella 2005, p. 631).

2.1.3 France: There are no specific restrictions for foreigners wishing to invest in real estate in France (Manasse 2005, p. 234). According to None & Gargaro (2009, p. 133), in some cases, declarations with the Banque de France and/or the Direction du Trésor are required for certain investment transactions.

2.1.4 Germany: In Germany, there are no restrictions on foreigners purchasing and owning real property (Junghänel & Muschter 2009, p. 140; GPG 2007). Restrictions on property acquisition by foreigners were abolished by the law of 1998 (Brax 2009).

2.1.5 Poland: The purchase of property by foreigners in Poland is governed by the provisions of the Act of 24 March 1920 on Purchase of Real Estate by Foreigners with further amendments (Ustawa z dnia 24 marca 1920 r. o nabywaniu nieruchomości przez cudzoziemców). The above mentioned legislation and other relevant information and legislation may be found at the webpages of the Ministry of Internal Affairs and Administration (MSWiA) (see http.//www.mswia.gov.pl) and the Polish Information and Foreign Investment Agency (PAIiIZ) (see http://www.paiz.gov.pl). The general rule is that the purchase of real estate by foreigners requires a permit from the Minister of Internal Affairs and Administration; however, there are some exceptions. Nationals from the EEA (EU plus Iceland, Norway and Lichtenstein) are required to obtain a permit only for the purchase of agricultural and forest land (until 2 May 2016), but there are exceptions in some areas in Poland (PAIiIZ 2010; MSWiA 2010).

2.1.6 Spain: In Spain, there are no restrictions on foreigners to purchasing and owning a property, as they are granted the same rights, obligations and restrictions as Spanish nationals (ICREA 2008; Kirchheim 2005, p. 532; Ortega & Nistal 2009, p. 316). Foreign investments exceeding €3,000,000 must be declared with the relevant authorities only for statistical

purpose; investment clearance may be required if the capital inflow originates from a tax haven (Ortega & Nistal 2009, p. 316; Kirchheim 2005, p. 532).

2.1.7 Sweden: In Sweden, there is no restriction on foreign ownership. Sweden did have restrictions on property purchase by EU citizens during the first 5 years after Sweden's EU admittance. During the period of transition, Sweden was allowed to keep its existing legislation concerning the purchase of holiday homes; however, after 5 years the Swedish legislation expired. At present, a foreigner may purchase real estate in Sweden, with the exception of some agricultural property in sparsely populated areas. The Swedish authority must approve such a purchase in advance. The requirement must be met by both Swedish and foreign citizens (EU-upplysningen 2010).

2.2 Form of ownership

2.2.1 Denmark: When buying a home in Denmark there are two different forms of ownership of residential property to consider: owner-occupied dwellings and housing society dwellings (cooperative dwellings). Owner-occupied dwellings include detached houses, terraced houses, owner-occupied flats and holiday cottages. Flats may be divided into: co-ops (housing society flats) (”andelsboliger”) and owner-occupied flats (”ejerlejligheder”). In co-ops the residents own shares of the corporation that owns the building, while in owner-occupied flats residents own their flats and share ownership of the common spaces (Möll 2003; Lærebog i ejendomshandel bind 2 2003). When describing flats in Sweden and their forms of ownership some similarities with Denmark may be found, however, there are significante differencies. The aim of this paper is not to enter deeply into studies of different ownership forms, therfore only the main characteristics are prsented.

In general, two forms of cooperative dwellings may be found in Denmark, private housing society dwellings and public ones (non-profit housing society). The prive housing society dwellings are the most common, and two forms may be distinguished: (1) right of tenancy in which the tenant has bought into an existing housing society dwelling; and (2) new properties which are built as housing society dwellings (see e.g. http://www.ebst.dk/andelsboliger).

Danish form of cooperative dwelling is a form of ownership in which a non-profit cooperative housing association (”andelsboligforening”) owns the entire apartment building and maintains it and the tenants own shares in the association that correspond to the value of their flats. Shareowners participate in association's general assembly and have influence over maintenance, rules and regulations and transfer of shares to new members. These regulations regulate the relationship between the tanants (shareowners) and between the association and the tenants. When a shareowner buys a share, s/he gets the right to occupy a particular housing unit. For this right the resident has to pay a monthly fee, which covers the association's expenses for maintenance, loan instalments and interest on the association's loan. It is important to note that the price for the unit is set not by the market but by the association's general assembly. The housing society law (“andelsboligsloven”) regulates the maximum price for a unit. The committee must approve the conditions of sale. If the committee or the purchaser consider the price be too high, the price may be reduced and the seller must pay back the variance. The purchaser must also be approved by the association (Möll 2003; Lærebog i ejendomshandel bind 2 2003). The purchase may be financed by a bank loan with the apartment as collateral (see Bekendtgørelse nr 960 af 19/09/2006 af lov om andelsboligforeninger og andre boligællesskaber). The country-wide central register (”Andelsboligbogen”) where the lenders may registrer mortgage rights over the shares, may

be found at the court in Århus. As each co-op's rules may differ a potential purchaser has to determine how high loan s/he may take with the apartment as collateral.

Housing society dwellings make up approximately 7 percent of the entire housing stock in Denmark. In Copenhagen and Frederiksberg they comprise almost 1/3 of the husing stock (see DEACA 2007; EBST 2010).

There are different forms of housing society dwellings in Denmark: (1) traditional, private housing society dwellings where a housing society – without subsidies or any guarantee – purchase an existing property, often a rental property; (2) unsubsidised private housing society dwellings that are newly built and constructed without subsidies – with or without a municipal guarantee; (3) subsidised private housing society dwellings that are newly built and constructed with subsidies and, perhaps, a municipal guarantee; (4) non-profit housing societies where housing organisations involved in non-profit housing activity are in possession of housing society dwellings that are organised as a housing society (see e.g. http://www.deaca.dk/Housingsocietydwellings). These may differ in terms of legislation and therefore must be assessed before buying as there may be significant financial consequences. Those differences are, however, not discussed here.

An owner-occupied flat is an independent property, which does not have a property designation in the form of a land parcel identifier. It has its own page in Tingbogen, which is the registry for real property rights. Housing tenure with owner-occupied flats involves the freehold tenure of an individually owned apartment in a multi-occupancy building with shared ownership of and responsibility for common areas and services. All the properties with owner-occupied flats must have an association, which, however, differs from a cooperative housing association. Membership in the association is compulsory. The association must have regulations, usually the standard ones with some modifications. The members of the association are personally and equitably responsible for the whole debt of the association. Besides the cost for water, electricity, heating etc. for the apartment, the owner must pay a share of the property's joint expenses for maintenance, renovation, etc. Unlike cooperative dwellings, the owner of an apartment has to pay a property tax. S/he may freely sell the apartment for a market price (Möll 2003; Lærebog i ejendomshandel bind 2 2003). In Denmark there is a distinction between all-year residencies and holiday homes.

2.2.2 England: Individual home ownership in the UK accounts for approximately 69-70 percent of the overall housing (see e.g. Atterhög 2005; Eurostat 2009; Dübel 2004; BKN 2009, p. 17). According to ZERP et al. (2007b, pp. 96-97), in 2004 approximately 75 percent of dwellings in England and Wales were owner occupied (71 percent in England and 77 percent in Wales) with the highest rates in the South East and the Midlands (however, low rate in London). Among owner occupiers 92 percent owned a house and 8 percent owned a flat.

Freehold, leasehold and commonhold system may all be found in England and Wales. The commonhold is a relatively new form of ownership introduced by the Commonhold and Leasehold Reform Act 2002. It was intended to be an alternative to the leasehold system in properties such as blocks of flats. Under the leasehold system homeowners are able to buy leaseholds that give them ownership of the right to occupy their flats, but not ownership of the building itself. Occupants hold leasehold for a specified length of time, often 99 years; after this period ownership reverts to the landlord (see e.g. UK Net Guide 2010; LandlordZONE 2007).

A commonhold may be created in a new building or by the conversion of an existing building. The occupants may together buy out their landlord and take equal shares in the property. They own their units on a freehold basis and share responsibility for the common areas of the building (stairs, hallways, roof, walls, lifts etc.). They are automatically members

of the Commonhold Association, a private company (that owns the freehold – the block) and is responsible for management (maintenance, upkeep, repair, etc.) of the property. All the rules and regulation concerning the property are set out in a Commonhold Community Statement. A commonhold must be registered with the Land Registry. The unit holders may sell their units without any restrictions (Assetsure 2010; UK Net Guide 2010; Directgov 2010; Jacob & Kinsella 2005, p. 624; LSBU/CEPI 2005; Murray 2007, pp. 300-301).

2.2.3 France: Approximately 56 percent of the population in France lives in individually owned dwellings (21 percent in private rental housing, 17 percent in social rental housing, and 6 percent in other forms; figures from 2002) (von Ghekiere 2008 in BKN 2009, p. 11). According to ERA Europe (2009, p. 36), the homeownership rate in France was 58 percent in 2008. Apartment ownership (condominium) in the form of owner-occupied dwellings is called "copropriété" (co-ownership; three-dimensional unit division – "division en lots de volumes") (Manasse 2005, p. 227; Davey 2006, p. 156; Charles & Oldra 2011), and is regulated by the Law No. 65-557 of July 10, 1965 establishing the status of the condominium buildings, and the Decree No. 67-223 of March 17, 1967, with some amendments made by the Law No. 2000-1208 of 13 December 2000 on solidarity and urban renewal (SRU law) and Act No. 2006-872 of 13 July 2006 concerning the national commitment to housing (Law ENL). Condominium ownership functions under joint ownership; there are private areas and common areas (Manasse 2005, p. 227), and each owner owns a proportion of the parts that are commonly owned and shared, for example, lifts, hallways, stars, entranceways, gardens etc. (Davey 2006, p. 156). Daily management and development of these properties is carried out by a "syndicat", which is controlled by a general assembly that consists of the property owners. The general assembly calls together the owners usually once a year or more often if necessary. The costs of the management and daily maintenance of the shared areas are charged to the owners according to the proportionate value of their properties (Davey 2006, p. 157). Separate dwellings may be freely sold or rented with the consent of the other owners (Ibid., p. 158).

2.2.4 Germany: The housing situation in Germany is characterized by a low proportion of homeowners and a high proportion of private tenant-housing (BKN 2009, p. 11). According to ERA Europe (2009, p. 40), the homeownership rate in Germany in 2008 was 43 percent. Residence alternatives consist of three options: owner-occupied dwellings, tenancy dwellings (private and public) and housing co-operatives (Ibid., pp. 11-15). Hence, two homeownership options may be discerned: owner-occupied housing and housing co-operatives. Housing co-operatives is considered to be a third alternative to rental housing and ownership (ICA 2009, p. 1).

The legal instrument for co-operatives is the Co-operative Act (first adopted in 1898 and reformed in 2006) and the Rent Regulation Act. In the co-operatives the members buy shares that are repaid to them at a nominal value when they move out. The property is owned by the co-operative and the tenants are the members. The co-operatives operate under a non-profit principle. Almost all co-operatives have non-resident members, either individuals or legal entities that support the co-operative by investing money in it with limited dividends on their shares paid to them. Co-operatives are exclusively financed through member contributions and mortgages. Some of the co-operatives own their own savings institutions, where members may invest their savings for an interest rate a little higher than that available at commercial banks. The accumulated amount in the owner's account is returned at the end of tenancy. 40 percent of the housing co-operatives' stock is rent, which allows access to corporate tax relief (ICA 2009, pp. 2-4).

Most apartments in Germany are owner-occupied. In this case, all the apartment owners in a building form an association, which takes care of building management, financial administration and all other decisions relating to the property. The owners of the apartments are charged a monthly fee, which covers the above mentioned costs. This type of association may not take a loan. The owners of the apartments are allowed to rent their apartments without seeking permission from the association (Berlinlägenheter 2010). The detailed regulations relating to apartment ownership may be found in the Condominium Act (Wohnungseigentumsgesetz).

2.2.5 Poland: When buying a home in Poland, two different forms of ownership of residential property are available: owner-occupied housing and housing co-operative. Homeownership apartment options are: owner-occupied flats ("lokal hipoteczny") and ownership co-operative right to an apartment ("spółdzielcze własnościowe prawo do lokalu mieszkalnego"). Owner-occupied flats are regulated by the Act of 24 June 1994 on apartment ownership (Ustawa z dnia 24 czerwca 1994 r. o własności lokali), and ownership co-operative right to an apartment is regulated in the Act of 15 December 2000 on Housing Cooperatives with further amendments (Ustawa z dnia 15 grudnia 2000 r. o spółdzielniach mieszkaniowych) and the Act of 16 September 1982 Cooperative Law with further amendments (Ustawy z dnia 16 września 1982 r. Prawo Spółdzielcze).

Ownership co-operative right to an apartment is a limited real right. The owner of the right may occupy a particular housing unit, but it is the co-operative association that owns the property. The right allows use of the parts of the building belonging to the co-operative. However, the owner of the right does not have to be a member of the co-operative association. The right is transferable and inheritable; however, it may be forfeit if the owner of the right or a tenant renting the property from the owner is, for example, behind with the rent, has a disturbing behavior, or does not follow the co-op's rules. However, this forfeit may only be carried out through a court proceeding. An apartment may be rented out without a permit from the association, as long as its use does not change. An apartment may also be mortgaged. Co-operative ownership right may be registered in the land books but this is not required (Puch 2005; Wieszjak.pl 2010; Banach 2007; DomInformator 2009). All the co-operative associations in Poland may be found at http://www.spoldzielniemieszkaniowe.pl. In accord with certain conditions, co-operative ownership may be changed into owner-occupied apartment status.

Owner-occupied apartment is a separate property within a building (see Article 42 of CC). The same regulations apply as for any other separate property (for example, a one-family house). The owner of an apartment is also a co-owner of the building and the land the building is situated on. All the owners of the apartments form a housing community, which makes all decisions concerning the property (Puch 2004; Brzeski, Dobrowolski & Sędek 2004 pp. 92-93).

2.2.6 Spain: According to the Quality of Life Survey Year 2008 carried out by the National Statistics Institute (INE) (see INE 2009), the homeownership rate in Spain was approximately 82 percent; 50.3 percent of households in 2008 lived in dwellings owned without mortgages, while 31.9 percent of households in 2008 lived in mortgaged dwellings.

Apartments in Spain are owner-occupied dwellings. All apartment properties belong to a resident association (ownership community) ("comunidad de proprietarios") (Global Accounting & Auditing SL 2008). This type of ownership form is regulated by the Law on Horizontal Property (Horizontal Property Act) of July 1960 (Ley 49/60 de Propiedad Horizontal, LPH), reformed April 1999 and modified several times since. Legislation in English may, for example, be found at the information site El Web de las Comunidades de

Proprietarios (see http://www.comunidades.com). According to the law, the common elements of residential semi-attached units, detached units, or apartment building units are co-owned by individual owners, which means that both private individual ownership and joint co-ownership exist in this ownership form (Kirchheim 2005, p. 523; Searl 2009, pp. 353-388). The co-owned parts are managed by the ownership community, governed by the will of the community members (Kirchheim 2005, p. 523; Global Accounting & Auditing SL 2008), with a president who must also own a unit. The management fee is charged to the members, sometimes every month or sometimes every quarter, in accordance with the proportion of the individually owned unit in relation to the total area of the property. Financial management may be left to a professional manager ("adminstrador de fincas"). Membership in the ownership community involves both rights and obligations. How well the community functions have an influence on the value of the individually owned units (Global Accounting & Auditing SL 2008). According to the Global Accounting & Auditing SL (2008). The normal charge to the ownership community in Marbella is approximately €100-150 per months (October 2008). Detailed information on the Law of Horizontal Property or communities of detached villas may, for example, be found in Searl (2009) (see pages 353-388 respectively 389-402).

2.2.7 Sweden: Different types of ownership may be found in Sweden. Besides freehold (exclusive ownership) ("äganderätt"), there is also tenant-ownership ("bostadsrätt"). Tenant-ownership usually exists in multi-apartment buildings, but may also in terrace houses ("kedjehus"), townhouses ("radhus"), and in semi-detached houses ("parhus"). Owner-occupied apartments ("ägarlägenheter") have existed in Sweden since 2009.

In 2007 approximately 56 percent of households in Sweden owned their own dwelling (38 percent exclusive ownership and 18 percent tenant-ownership). The remaining 44 percent of households occupied tenancies. Among exclusive ownership dwellings, approximately 98 percent were in single or dual family houses and 2 percent were in multi-dwelling buildings. Among tenant-ownership dwellings, only 11 percent were in single or dual family houses and 89 percent were in multi-dwelling buildings. Among tenancies, 15 percent were in single or dual family houses and 85 percent were in multi-dwelling buildings. The statistics for the entire country show that single or dual houses comprise approximately 45 percent of the total housing stock and multi-dwelling buildings 55 percent (Boverket 2009). Within the single or dual family house stock exclusive ownership dominates; in 2007 throughout the entire country the share was approximately 80 percent. During 2007 tenancy dominated the multi-dwelling building stock, with a share of 69 percent (year 2007) (Boverket 2010).

In Sweden, the number of dwellings per 1000 inhabitants was 486.5 in 2008. The numbers for the other countries in the study are: Denmark 491.8 in 2008, France 503 in 2002, Poland 307.7 in 2002, UK 430 in 2000, and Germany 477 in 2004 (SCB 2010, p. 32).

Foreign ownership of holiday houses in Sweden during 2008 totalled barely 6 percent of the total stock of holiday houses. Foreign owners are mainly from Denmark, Germany and Norway; 89 percent of the foreign owners come from those countries. The Netherlands are also represented among foreign owners. There are more owners from the UK and Switzerland, than from neighbouring Finland. Foreign ownership of holiday houses increased between 2007 and 2008, however, not by more than 5 percent (SCB 2010, p. 17).

As mentioned above, apartments in Sweden may have exclusive ownership (owner-occupied apartments) or tenant-ownership. Tenant-ownership is also known as co-operative housing, tenant ownership co-operative etc. Housing co-operatives are not represented by a single organization at the national level; instead 75 percent of the stock is linked to two organizations: HSB Riskförbund (50 percent of the portfolio) and Riksbyggen. Approximately 25 percent of the stock belongs to independent co-operatives, founded by the tenants

themselves. When buying an apartment the tenant buys a right to occupy the unit (unlimited occupancy rights) as long as s/he fulfils specified obligations. S/he buys shares in the housing co-operative ("bostadsrättsförening") and becomes a member of the co-operative, which owns the property. All tenant co-operative members in the building pay a monthly fee, proportional to the size of the occupied unit. The fee covers interest and amortisation expenses of the co-operative's loans, operating expenses and maintenance, since co-operatives are responsible for the maintenance of the common areas and facilities on the property. Repairs and maintenance of the units are the responsibility of the occupiers. During annual meetings the members elect a board, which is responsible for managing the co-operative and for approval of membership. The purchase of the unit may be financed by a bank loan, and the shares may be sold freely by the tenants at market value (ICA Coop 2007; see also e.g. Murray 2007, pp. 248-249). Legislation concerning co-operatives can be found in the Cooperative Housing Act (SFS 1991:614) (Bostadsrättslag (1991:414)) and the Cooperative Housing Ordinance (SFS 1991:630) (Bostadsrättsförordning (1991:630)).

Owner-occupied apartments are relatively new in Sweden. These are the apartments that have exclusive ownership; they are called three-dimensional property, which means a property that is limited in the height and depth. The floors and facilities of the same property may have different owners. So far, owner-occupied apartments may be created only through new construction or by transforming older buildings that haven't been used as dwellings during the preceding eight years. An owner has an independent right of possession as in the case of other real properties (for example, houses); s/he may transfer the property, mortgage it or rent it out. The property (title) must be registered with the Land Registry. The common areas of the property (roof, facade, lift etc.) are part of "samfällighet" (the community), which is managed jointly by the owners of the units through a communal association ("samfällighetsförening"); the owners of the apartments are the members of the association. The owners pay a fee to the association, as in co-ops. However, in the case of owner-occupied flats the owners only bear the direct cost (Blomquist 2011; Regeringskansliet 2009; see also Joint Property Units (Management) Act (SFS 1973:1150) (Lag (1973:1150) om förvaltning av samfälligheter)).

Land in Sweden may be held through ownership or through a long lease ("tomträtt") (the right of use and enjoyment of the property), which may be granted for an indefinite time on publicly owned land (usually communal land). The leaseholder pays an annual ground rent to the property owner and s/he has an unlimited right to transfer her/his right to another person, in accordance with the rules regarding land acquisition, or to mortgage it. With regard to taxes leasehold is treated as ownership, which means that the leaseholder pays the taxes (SKV 2010; Murray 2007, pp. 240-242).

2.3 Land registry

2.3.1 Denmark: Denmark has three registers which interact: (1) the basic register - the Cadastre ("Matriklen"), the register of all land parcels (identified by specific identification numbers); (2) the Land Registry, the legal register for titles and private rights; and (3) the Communal Property Data System ("Fælleskommunale Ejendomsdatasystem / Ejendomsstamregistret – ESR"), the register of valuation data for land parcels and building, which is used for collecting land tax. The first two registers are the legal property registers, while the third is administrative only. The Cadastre forms the basis of the Land Registry and the Communal Property Data System. Detailed information about the different registers may, for example, be found in Clausen (2006), LM (2008), and at the home pages for the different registers (see below) or at http://www.ebst.dk or http://www.ois.dk.

The Cadastre is administered by the National Survey and Cadastre (”Kort & Matrikelstyrelsen”) (see http://www.kms.dk; the pages are both in Danish and English). It contains property information for the whole country with the exception of Frederiksberg commune and Faroe Island, which have their own cadastral administrations, and Greenland which has only a Land Registry. The register (”Matrikelregisteret”) is updated daily and all changes are sent to the other two registers. The Cadastere is open to the public and the basic cadastral data and maps are available through web cadastre by subscription.

Land Registry in Denmark is from 8 September 2009 operated by the Land Registration Court *Tinglysningsretten* in Hobro. Registration is centralised using a digital process managed via http://www.tinglysning.dk. The Land Registration Court was orginally established on 1 January 2007 and successively took over registration from the district courts. All trelevant documents are filled out and entered with the help av a digital signature. As of Semptember 2009 only rights in real estate (ownership/titel, mortgages, easements and other related rights or interests) may be registered digitally in the register called ”Tingbogen”. The registration process of the rights applying to co-ops (”andelsboliger”), in the register called ”Andelsboligbogen”, is still uses a paper form, but the digital process is expected to be introduced during 2010 (see e.g. Tinglysningsretten). Webpage http://www.tinglysning.dk is in Danish. According to the information on the Tinglysningsretten’s page, it may be advantageous to use professional help or give authorization (power of attorney) to a professional advisor (for example, advocate) for handling the registration including the digital signing of the document. The content of the Land Registry is guaranteed secure by the State. The register is open to the public.

It is important to mention that despite the general rule that the rights must be registered to be legally valid for third parties, registration of ownership in Denmark is not mandatory (see e.g. Mattsson 2008, pp. 2-3). But, as a matter of fact, transactions are registered; otherwise a property may not be mortgaged (Clausen 2006, p. 57). Registration with ”Tingbogen” in Denmark is regulated by Tinglysningsloven (LBK nr 158 af 09/03/2006).

The Communal Property Data System, which is a nationwide municipal register with the information underpinng taxation, functions together with the Building and Housing Register (”Bygning- og boligregisteret”, BBR) (see http://www.bbr.dk; only in Danish), comprising the information on all buildings and residences (size, situation, use, installation, water and sewage, kitchen, outer wall etc.), the Planning Register (”Planregister”, PLAN), comprising the infomormation on local plans, and the Cross Reference Register (”Krydsreferenceregister”, KRR), the register that links all the nationwide registers (ESR, BBR, SVUR, Cadastre Register and Planning Register) for the purpose of gathering the various types of data, such as information on environmental factors, property transactions, insurance, population statistics etc. Information from the Communal Property Data System is incorporated into the Sales and Valuation Register (”Statens vurderingsregister”, SVUR), which is used by the tax authorities for calucalation and collection of taxes. The information in the register is introduced in connection with property transactions and the information registered with the Cadastre. Authorities and private companies such as estate agents and mortgage instittions use the information in BBR. The information may be reached via the Internet at the Public Information Server (”Offentlige InformationsServer”), OIS (see http://www.ois.dk; only in Danish), operated by the Enterpise and Construction Authority. All the property owners are obliged by law to report changes such as, for example, the enlarging of a building, demolition of a building or additon to an attic (see e.g. http://www.ebst.dk). OIS provides admission to various nationwide databases (for example, ESR, BBR, SVUR, Matriklen, PLAN, KRR, Land Registry), and contains information on all the real properties in Denmark. Information may be found about residences such as: area, number of rooms,

valuation, homebuyer's report etc. Access to some of the information is limited and may only be seen by the property owners.

2.3.2 England: Land registration in England (and Wales) is conducted by Her Majesty's Land Registry and is operated under the Land Registration Act 2002 and the Land Registration Rules 2003 (ZERP et al. 2007b, p. 78; Land Registry 2010; Murray 2007, p. 306). It is the largest computerised database of its kind in Europe (EULIS 2010). There are approximately 20 regional offices providing registration services specific to geographical areas (Cookson & Murrin 2009, p. 118; EULIS 2010).

The Land Registry registers title to land, to freehold and leasehold (the former title deed system has been replaced by title registration), and records dealings with registered land, such as, for example, sales and mortgages (Land Registry 2010; Murray 2007, p. 60). The title/ownership is transferred to the buyer after the transfer is registered. Two types of title are used: absolute title (the highest quality title) and possessory title (granted when no satisfactory title can be verified (Cookson & Murrin 2009, p. 118).

The Land Registry consists of the Property Register (property description, easements and certain excepted rights), the Proprietorship Register (owner's name and address and price paid) and Charges Register (charges against title such as mortgages and encumbrances, but not local land charges) (Jacob & Kinsella 2005, p. 627; Murray 2007, pp. 305-307; EULIS 2010). The Property Register refers to a registered plan of location and general boundaries of the property, but there is no official cadastre that legally defines the boundaries (Murray 2007, p. 306). There is also local Land Charges Register that is maintained by the local municipalities (ICREA 2010; Jacob & Kinsella 2005, p. 627; Murray 2007, p. 308).

All property transactions in England (and Wales) must be recorded in the Land Register (LSBU/CEPI 2005; Cookson & Murrin 2009, p. 117; Murray 2007, pp. 65-66, 313), and, since 1990, sales of unregistered land also require registration (with the exception of land that is not subject to a statutory trigger). If land is mortgaged or leased for more than seven years, registration is required (Murray 2007, p. 305; Cookson & Murrin 2009, p. 117; ICREA 2010). The basic principle is that the Land Registry guarantees title to registered estates and interests in land. Unregistered rights and obligations are not valid and should not affect a purchaser; however, some exceptions exist (Murray 2007, p. 307; Land Registry 2010; LSBU/CEPI 2005). According information on the webpage for the Land Registry, 30 percent of land in England (and Wales) in unregistered (see Land Registry 2010). Information about the registration data for specific counties (percentage of the area registered) can be found at the Land Registry's webpage (see http://www.landreg.gov.uk/register_dev/fholdcover/).

All the documents in the Land Registry concerning a registered title are open to public inspection. They may be inspected and copies can be obtained, usually requiring payment (Cookson & Murrin 2009, p. 118; Jacob & Kinsella 2005, p. 634; Murray 2007, p. 310). There is, however, no charge for inquiring whether a registration exists (EULIS 2010). A document or a part of a document may be exempted from the general right of inspection (Cookson & Murrin 2009, p. 118; Jacob & Kinsella 2005, p. 634). The Register may be accessed online, and subscribed to by some commercial users (Jacob & Kinsella 2005, p. 634, Murray 2007, p. 311; Cookson & Murrin 2009, p. 118). Official copies or viewing of the register and title plan are available electronically as well as copies of other documents referred to in the register as if they are recorded electronically (EULIS 2010; Cookson & Murrin 2009, p. 118; Jacob & Kinsella 2005, p. 634; Murray 2007, p. 311). Most information is provided within seconds. The registration of a transaction is usually completed within 1-2 days of receipt (EULIS 2010). The electronic platform of the Land Registry is called the Land Registry portal. E-services include Information Services (provision of official copies, searches

and enquiries and land charge searches) and Network Services (for creation and lodgement of electronic documents) (Land Registry 2010).

2.3.3 France: All transfers of title for real estate in France should be recorded at the relevant Bureau de Conservation des Hypothèques, which keeps and manages the Land Registry (also called in French Mortgage Registry/Office) (None & Gargaro 2009, p. 134; Gil 2002). Registration is, however, not definitive proof that the current owner has a title; registration only gives notice to third parties of the existence of an act concerting a property (Mansasse 2005, p. 231). In order to insure that all rights and interest in real property are enforceable against third parties, all conveyances, interests and occupation rights or leases (for a term in excess of 12 years) must be recorded with the Land Registry (Charles & Oldra 2011). According to Charles and Oldra (2011), there are 354 Land Registries, and which register the deed is recorded with depends on the location of the property. There is a registry within every geographical district (commune) (ZERP et al. 2007b, p. 116). There is no difference in the rules relating to the various locations, with the exception of Alsace-Moselle, where the Land Registry is replaced by the "Livre Foncier" managed by the Court (Charles & Oldra 2011). The system is computerised, but not all information may be accessed online (None & Gargaro 2009, p. 134). The register is completely open to public access (None & Gargaro 2009, p. 134; Gil 2002; Manasse 2005, pp. 231, 236). No state guarantee of title exists. However, notaries guarantee the content of the deed (None & Gargaro 2009, p. 133; Gil 2002, Charles & Oldra 2011). According to ZERP et al. (2007b, p. 116), 95-100 percent of all properties are registered. The basis for the registration is the deed prepared by the notary. However, in three departments, Bas Rhin, Hau Rhin and Moselle, a German type land book system is used (Gil 2002). Only notaries, with some exceptions, may register deeds (Manasse 2005, p. 231). Mortgages are also recorded at the Land Registry. A mortgage must be recorded to be valid. Transactions involving apartments are treated in the same way as other property transactions; however, there are some differences in the procedure and the documents needed to support the process (Gil 2002). The Land Registry provides the owner with an official hard copy of the registered title (with an official stamp and a registration number) (Charles & Oldra 2011).

The land registry and Cadastre are integrated in France into a single structure; the property identifiers link these. The system is homogenous for the whole French metropolitan territory with the exception of Alsace-Moselle, which has some inheritances from the German law. The system is entirely computerized with 100 percent of the land registry records available in a computerised format. Registration with the Land Registry and the Cadastre is the responsibility of the Ministry of Economic Affairs, Finance and Industry (MINEFI). Maintenance of the cadastral and land registry data is decentralised to the 354 land registry offices and 315 cadastral offices (Gil 2002). Land registration records are usually maintained by an office in the Department of Inland Revenue (Direction Generale des Impots) (Murray 2007, p. 36).

2.3.4 Germany: Land registration in Germany is regulated in "Grundbuchordnung". Different registers relevant for registering may be discerned, first and foremost two registers may be mentioned: (1) Land registration system ("Grundbuch"), and (2) Land information system - Cadaster ("Liegenschaftskataster").

Titles to the land are registered in Land registration system. The registry contents all right of ownership and other rights on land and buildings. It defines the property (establish and determine the different plots of land), states the owner of the property, and states mortgages and land charges as well as other encumbrances. The registry is a part of the court system and is administrated by the local county courts. A separate folio for every plot of land is kept. The content of the register is based on private contracts certified by notaries, and

those contracts are stored in the files belonging to each record. According to §3 of Land Registry Law, all real property, with some exceptions (certain plots of land serving public purpose), has to be registered in the Land Registry. Access to the register is open to persons, who have legal interest in the property, for example, registered owners (title holders), existing encumbrances, execution creditors, parties in actual contract or finance negotiations as well as notaries involved in transactions. Notaries and banks have usually online access on state by state basis. Records are almost entirely converted to electronic form. The registration is made by registrars but is supervised by judges. There is no state guarantee or insurance for title in Germany (see e.g. Junghänel & Muschter 2009, pp. 141-142; ZERP et al. 2007b, pp. 128-129; Murray 2007, pp. 41-42; GPG 2007; Cadastral Template 2003). As already mentioned, the German system has thus no deed system, but a title system (properties are registered and the title is recorded and guarantied) (Global Real Estate Project 2007; Hök 2007).

Cadaster in Germany is a corresponding system to land registration system, and a complete overview on the property may only be received by combination of both these systems. Grundbuch uses cadastre as a basis, refers for the position, borders and size of the parcels that make up a plot of land in the land register. In Cadaster (based on cadastral surveying) a description of the land parcels with graphical and textual data (parcel identifier and cadastral maps) may be founded (location, size, use and boundaries). The register contains also some additional information, for example, results of the official soil assessment. In the most parts of Germany the maps and records are stored in computer systems. The cadastre authorities provide information in the system, and the system is on the state basis. The Cadastral Office is administered by municipalities or by local district governments and the office is open to everyone; however, some special information concerning the owner and charges is not available to everyone (Ibid.).

Some other registers to mention may be register for contaminated sites ("Altlastenkataster"), maintained by some of the local public authorities, with the information on properties that may be subject to contamination or potential contamination (however, does not guarantee that all contaminated properties are included), or edificial building charge register ("Baulastenverzeichnis"), which is kept only in some states. More information may be found in Junghänel and Muschter (2009, pp. 141-142).

2.3.5 Poland: The Land and Mortgage Register (Land Books) as well as the Land and Building Register (Cadastre) are two closely related registers in Poland; however, they are two independent real estate data sets (PCC 2009; ICREA 2010).

The Land and Mortgage Register is a register of titles and encumbrances. It contains full legal status of real estate and limited information of real estate's designation. The register is maintained by local courts of justice (the land book division) in accordance with the location of the property. In March 2009, there were 350 divisions. Approximately 60 percent of real estate is registered in Poland in land books. The books are open to the public and anyone that has a legal interest may verify the legal status of the property, though only an owner may obtain a copy of the documents. Entries in the land books are under public faith warranty. The books are conducted in electronic form. When transferring ownership of real estate, an entry of the transfer into the register is obligatory (PCC 2009, pp. 194-195; ZERP et al. 2007b, p. 239; WSGN/CEPI 2010). The main legislation concerning the register is the Act of 6 July 1982 on Land and Mortgage Register with further amendments (Ustawa z dnia 6 lipca 1982 r. o księgach wieczystych i hipotece).

The Land and Building register describes the physical features and the use of the land and building. It contains full information about the lands (location, boundaries, area, kinds of grounds (land uses) and their soil quality etc.), buildings (location, designation, utility function and general technical data etc.) and premises (location, utility function and utilizable

area), however, only a limited information on the legal status of real estate. The register identifies the owner/possessor, place of residence or the registered address of the owners/possessors, information about the entering of the real properties or their parts to the historical monuments registers and the value of the real estate (cadastral value). It covers the entire country. The register is maintained by local authorities, though it is uniform for the entire country and is computerized. The register has an informative function and is open to the public (though the access is restricted in cases when the data sets or documents include personal data). All non-legal information in the register is guaranteed. The data in the register is basis for economic and spatial planning, tax and fees assessment, denotations in land and mortgage register, national statistics, land management and farm registry. When transferring a property a notary checks if data recorded in the Land and Mortgage register as well as in the Land and Building registers is consistent (PCC 2009, pp. 155-166, 194-195; ZERP et al. 2007b, p. 239; GUGIK 2009; ICREA 2010; WSGN/CEPI 2010). All the relevant legislation concerning the register may be found at GUGiK (Central Office of Geodesy and Cartography) (see http://www.gugik.gov.pl).

2.3.6 Spain: The Cadastre and the Land Registry in Spain are two independent organisations; however, they are closely related and linked on daily basis through the cadastral code. While the registration of real estate in the Cadastre is compulsory by law, the registration in the Land Register is not (Dirección General del Catastro 2008, pp. 241-242).

The Cadastre ("Catastro") is administrated by the Directorate General for Cadastre, which is dependent on the Finance Ministry (Ibid., p. 241). It is structured in Central Services in Madrid and Regional and Territorial agencies located through the country (Ibid., p. 206). The Cadastre contains physical and economic data on the property as well as identification of the cadastral title holder. The cadastral parcel and urban unit is used as a basic entity and cartography as the essential territorial support (Ibid., p. 241; Searl 2009, pp. 45-46). The Cadastral information is available on the Internet by the Cadastral Virtual Office (CVO) (see http://www.sedecatastro.gob.es; http://www.catastro.minhac.es), or through the Cadastral Information Points (PICs) within the distance of 20 km. The information is cost free for the public administration (under certain conditions), however, not for private individuals (Ibid., pp. 211-213, 231). The Cadastral Act ("Ley del Catastro Inmibiliario") assigns the cadastral value of real estate properties for tax purpose (Ortega & Nistal 2009, p. 316).

The Land Register is operated by "Colegio de Registradores de la Propiedad y Marcantiles de España" (Spanish Association of Land and Business Registrars), which depends on the Department of Justice. It is a legal register of rights, ensuring a high degree of legal security in real estate transactions. The register stores registered titles and deeds (documents relating to the acquisition of real estate and burdens on them, for example, mortgages or easements) (Dirección General del Catastro 2008, p. 241; Cologio de Registradores de la Propiedad y Mercantiles de Espanã 2010). The register comprises of offices that are spread through the country (1,086 offices) (EULIS 2009), so-called "Registro de la Propiedad". A registrar (Spanish "registrador") is a head of each office. The registration of the transfer of the property is, however, voluntary in Spain, as registration has only declaratory effect, whereas the registration of mortgages is compulsory (ZERP et al. 2006, p. 332). Through the register, four main products are available: "Simple note" (a brief extract of the entries' content), "Graphic note" (an orthophoto, an aerial photograph of the property), "Location note" and "Certification" (a wider extract of the entries' content) (EULIS 2009). The access to the register is open for those who have a legitimate interest in respect of a specific property (Cologio de Registradores de la Propiedad y Mercantiles de Espanã 2010; Ortega & Nistal 2009, p. 317). The information may be accessed electronically (Ortega & Nistal 2009, p. 317). According to ZERP et al. (2006, p. 332), approximately 75-90 percent of

real estate property is registered in Spain. According to ICREA (2010), the concept of title insurance is growing in Spain, by, for example, Stewart Title Ltd. (a UK based title insurance company). The Land Registry and mortgage agreements are governed by the Mortgage Act ("Ley Hipotecaria") (Ortega & Nistal 2009, p. 316). According to EULIS (2007), during 2007, 2,500,000 property transfers were registered in Spain, and 1,400,000 of them were backed by a mortgage.

2.3.7 Sweden: The central managing institution for the Swedish cadastre has always been Lantmäteriet (the National Land Survey of Sweden); however, the registration of ownership was until June 2008 handled by another authority – the Land Registry – which was a part of the local courts under the Ministry of Justice. Since 1 June 2008, this authority is fully integrated in Lantmäteriet, as the organisational Division of Land Registration. Thus, Lantmäteriet is referred to as the Swedish Mapping, Cadastre and Land Registration Authority. It consists of four divisions: the Division of Cadastral Services, the Division of Land and Geographic Information, the Division of Land Registration and the commercial Division Metria. The head office is in Gävle, but the local offices are to be found around the country. Records of issues related to land are kept in the Real Property Register. Two other registers related to it are the Mortgage Deeds Register and the Register of joint Property Managements Associations. The Real Property Register consists of five sub-registers: the General Part (the Cadastre), the Land Register part, The Address Part, the Building Part and the Tax Assessment Part. The register also contains a digital cadastral map. The legal effectiveness of the information in the register varies; while a registered title to land guarantees substantial protection of ownership, much of the registered cadastral data is only of mirroring character without any legal importance of its own. The full content of the Real Property Register (the text part and the cadastral map) is public and available to everyone (on paper copies) with some minor exceptions (for example, protected identity). The information is also accessible on line (user fee is payable) in full or in a reduced version; a full version is accessible, for example, by the public bodies involved in land administration as well as banks and agents, while external users need a special permit. Reduced information (for instance, with no information of the legal owner or mortgages) is accessible through PropertySearch ("FastighetSök") at http://www.lantmateriet.se. A full record is provided by the cadastral authorities and other public offices in a paper copy for free (LM 2008, 2010).

All property transfers in Sweden must be registered within three months from the completion, and the application is usually done by the purchaser. A mortgage must be registered as well in order to be valid. Registration is done by a public land surveyor. In the connection to the registration the stamp duty tax and the registration fee is collected by Lantmäteriet. They are paid afterwards (LM 2010; Sahibzada & Tryselius 2009, pp. 324-328, ZERP et al. 2007b, p. 346; Katzin & Rosén 2010, pp. 97-99). According to Murray (2007, p. 251) and ZERP et al. (2007b, p. 346), more than 95 percent of land in Sweden is registered. Despite the registration is stipulated in Sweden, non-registration does not void the transaction (Mattsson 2008, p. 3). It must also be noted, that not all rights and encumbrances might be registered. Some more detailed information on, for example, application procedure, protection of good faith acquirers or legal consequences of incorrect register information may be found in Murray (2007, pp. 249-259). The comparison with other Nordic countries may be found in Mattsson (2008). Legislation concerning property registration may be found in the Land Code (SFS 1970:994) (Jordabalk (1970:994)), second section from the chapter 19, the Real Property Register Act (SFS 2000:224) (Lag (2000:224) of fastighetsregister) together with the Real Property Register Ordinance (SFS 2000:308) (Förordning (2000:308) of fastighetsregister), and the Land Register Ordinance (SFS 2000:309) (Inskrivningsförordning (2000:309)).

According to the Apartments Register Act (SFS 2006:378) (Lag (2006:378) om lägenhetsregister), Lantmäteriet is establishing a national register on all dwellings in Sweden. The register is made municipality by municipality and is expected to be ready autumn 2010. As soon as respective register is ready for a particular municipality, the municipality takes over the responsibility for keeping it up to date (LM 2010). See Apartments Register Act (SFS 2006:378) and the Apartment Register Ordinance (SFS 2007:108) (Förordning (2007:108) om lägenhetsregister).

3 Transparency in financing

3.1 Home financing

3.1.1 Denmark: Different financial options may be found in Denmark. The information for this study comes from the following sites: Danske Bank (http://www.danskebank.dk), Realkredit Danmark (http://www.rd.dk), Boligejer.dk (http://www.boligejer.dk), CEPI (http://www.cepi.eu; see HGMF/CEPI 2007), and Øresundsbro Konsortiet (http://www.oresundsbron.com).

When buying a home in Denmark a bank/credit institution in Denmark may finance the purchase. Banks in Sweden may not borrow to purchase in Denmark since they cannot make use of mortgage deed on Danish property. They work instead with a guarantor and refer clients to their own branches or other Danish banks with which they cooperate.

A purchaser has two options. S/he may either take a new loan/loans or take over the seller's loan/loans. There are different ways of financing a purchase. As a rule an amount of money is paid in cash and the remaining sum is borrowed. There are many different options. Usually the financing consists of three parts: (1) *cash payment*, (2) *real credit loan* (mortgage credit loan) ("realkreditlån"), and (3) *post-financing*.

A real credit loan from a real credit institute is the cheapest finanancing option; however, the maximum loan amount is 80 percent of the purchase price, why borrowers choose to complement the loan with a housing loan or a purchaser's mortgage to seller. A total package with a mortgage credit loan and a housing loan may be available since money loaning institutions and real credit institute usually cooperate. At Pengerpriser.dk loan prices and conditions listed by Danish money institutions may be found.

The cash payment is normally 5 percent of the purchase price. A bank may finance the payment when the purchaser does not have the cash.

The real credit loan represents the largest part of the financing package. Real credit loans are financed by bonds. A real credit institute issues the bonds, which are sold on the borrower's behalf. The interest on a real credit loan may be fixed or variable. The interest and instalments are paid on the value of the issued bonds. The period of instalment payments may differ. The most common period is 20-30 years, instalment free up to 10 years. The maximum loan amount is 80 percent of the property value. As security for the loan, the credit institute draws up a mortgage deed on the property and the mortgage is registered. Depending on which interest rate is preferred, fixed or variable, and what degree of risk the borrower is prepared to take, different types of real credit loan may be available, for example, bond loan, cash loan, adjustable interest rate loan or indexed loan. Real credit loans are usually based on convertible bonds, but loans based on inconvertible bonds may exist as well. Loans for owner-occupied dwellings may be offered in the form of annuity loans, serial loans or mixed loans. A mixed loan is a combination of the annuity and serial loan (60 percent annuity + 40 percent serial); however, it is seldom used.

The last approximately 15 percent of the financing is called *post-financing*. The amount may be paid in cash but usually it is borrowed. Post-financing is available in two options: (1) *housing loan* ("boliglån"), or (2) *purchaser's mortgage to seller* ("pantebrev").

A housing loan is usually made through a money institution, but it may be part of a total financing offer by a mortgage bank. A housing loan is typically a personal loan, paid in cash, which must be paid in full when the property is later sold or form of another security is substituted for the loan. The loan may even include the cash payment and the expenses in connection with the acquisition (such as loan establishment, registration of title, attorney fee and owner's change of insurance). A housing loan is typically offered with a variable interest option, but a fixed interest rate may be available as well. The maturity period can be up to 30

years. A loan with a fixed interest rate is usually given for a period up to 20 years, and the interest may be fixed during the whole period or for a part of it. The loan is flexible with regard to instalments, but this makes the interest rate higher when compared to a purchaser's mortgage to seller. Repayment is usually according to the annuity principle; however, the serial principle may also be used. The debtor is liable personally as well as with the mortgaged property through the registered owner's deed. With regard to redemption, a term of notice and any special redemption terms must be considered. The loan does not have to be registered. It is up to the bank to request an owner's mortgage deed that raises the costs of the loan establishment.

The purchaser's mortgage to seller is a type of post-financing where the purchaser issues a mortgage deed to the seller. This means that the purchaser owns the seller money. It may be possible to take over the existing seller's mortgage deed from the former owner when this option is cheaper compared to the alternative financing options. Mortgage deeds usually come with a fixed interest and a maturity period varying between 15 and 30 years. However, a variable interest option may be offered as well. Mortgage deeds loan are paid either according to the annuity principle or the serial principle. The loan must be registered and the registration fee must be paid. The borrower is liable both personally and for the mortgaged property. The purchaser may choose to fulfil the purchaser's mortgage to seller by paying a larger cash amount. A mortgage bank in the form of a housing loan usually finances this cash amount. Since a mortgage deed may be taken over by a new owner of the property, it might involve a new lender. As a result a residence owner has no influence over who the lender is and to whom s/he should pay the instalments. A private seller usually prefers to allocate the mortgage deed to a professional investor; this is why a deed is usually sold at once. In practice this, however, is of no significance for the borrower. Redemption terms are very individual. As an example, the Danske Bank Pantebrev that comes with fixed interest and a maturity period of 10, 15, 20, 25 or 30 years might be chosen. If a purchaser has a real credit loan at 80 percent of purchase price through Realkredit Danmark, s/he can be given financing up to 95 percent of purchase price with Danske Bank Pantebrev. Unlike traditional mortgage deeds, Danske Bank Pantebrev is paid at rate 100, which means no loss of rate.

Another loan option is a priority loan ("prioritetslån"). Money institutions offer this type of loan as the option to the classical real credit loans. The loan is flexible and works principally as a cash credit loan ("kassakredit"). The maturity period is normally up to 10 years. There is, however, a priority loan which works as an ordinary loan, with a maturity period up to 30 years. Both kinds of loan usually offer variable interest. In the case of an ordinary loan the interest may be fixed up to 5 years. The loan is given usually with priority one. As an example may be given Danske Prioritet Plus for all-year residences. Choosing which type of loan is the most desirable is very individual matter, since every type has advantages and disadvantages.

When financing a home with a loan in Denmark, additional costs may be encountered: (when taking up a new loan the amount of costs is deducted from the cash value of the bonds): (a) the cost of establishing a new loans such as, for example, the registration fee – the cost of the mortgage deed stamp (DKK1,400 + 1.5 percent of the nominal value of the mortgage deed; 1.5 percent of the loan amount in addition to the fixed fee of DKK1,400 per document); the cost of commission (covering sales of bonds, typically calculated as 0.15 percent to 0.25 percent of the cash value of the bonds); the fee for the release and expediting the change of ownership loan (which varies, usually DKK2-3,000); (b) the fee for the assumption of debt; and (c) the fee for change of ownership (taking over the current change-of-ownership mortgage deed, typically 1 percent of the remaining debt, but a minimum of DKK500. Thus, a mortgage credit institution's administration costs are, according to HGMF/CEPI (2007), approximately DKK2-3,000. In Clausen (2006, p. 61), it is estimated

that a banks' fee is approximately DKK1,500 and a mortgage credit institution's fee is approximately DKK2,000.

3.1.2 England: Based on the UK's Council of Mortgage Lenders (CML), the average loan to value ratio in May 2010 was 75 percent for first time buyers and 67 percent for home movers and in June 2010 – it was 77 percent for first time buyers and 69 percent for home movers (see CML 2010). According to Murray (2007), approximately 75 percent of all purchasers in the UK finance through a mortgage at least a part of the purchase price, and existing mortgages are rarely assumed by new buyers. Instead, the existing mortgage is paid off and discharged during the selling process (Murray 2007, pp. 323-324). The typical amortization period for individuals buying a home is 25 years (see e.g. Ahearne et al. 2005 in BKN 2009, p. 17; Mortgage Delight 2010; Defaqto 2010).

Two fundamental types of loans are: repayment mortgages and interest-only mortgages. There are many different interest rate options, for example, variable rate, fixed rate, discounted rate, tracker rate, capped rate etc. (Perkins, ed., 2005, p. 7/2; Defaqto 2010). A description of the different loan options can, for example, be found in Perkins (2005) (see pp. 7/2-7/4) or at Defaqto (2010). Mortgages may be sought from a variety of lending financial institutions such as banks, building societies, investment houses, insurance companies etc. (Defaqto 2010, LSBU/CEPI 2005). A deposit of at least 10 percent and up to 25 percent is usually required (Defaqto 2010).

When buying a home, a financial adviser may be used. There are both tied (advisors who work for one lender) and multi-tied advisers (those who provide advice on products offered by a limited range of lenders) as well as independent advisors, IFAs (who give impartial advice about the entire market) (Defaqto 2010). An estate agent can also act as a mortgage broker; however, s/he must be licensed under the Consumer Credit Act (LSBU/CEPI 2005). Homebuyers should be aware that there are different forms of compensation for arranging mortgages, such as, for example, an introduction fee (a fee paid by lender to an intermediary for introducing the borrower to them), a commission (an adviser receives a commission from the lender; typically a percentage of the loan), or an arrangement fee (sometimes charged to the borrower by an intermediary of a lending institution) (Perkins, ed., 2005, p. 7/13; Defaqto 2010). Fee which may be added when mortgaging the property are for example: solicitor or licensed conveyancer fees for preparation of the mortgage deed, lender's valuation fee, lender's arrangement fee and guarantee insurance premium, which may be required when a loan exceeds a certain percentage of price or valuation (Perkins, ed., 2005, p. 7/13).

In connection with the selling process, the buyer's solicitor usually represents the interests of the mortgagee (in this way the buyer can avoid an extra cost). This is, however, possible only if the buyer's solicitor is accepted by the bank; if not, the buyer may choose one more solicitor (accepted by the bank) or to choose to reimburse the bank for using the bank's solicitor. The solicitor's task is, on behalf of the bank, to prepare a mortgage deed, but the bank prepares the loan agreement and other documentation relating to the loan. A mortgage is created at the same time that a property transfer takes place. The registration of a mortgaged property establishes a legal interest in the property (Murray 2007, pp. 303, 324-325).

3.1.3 France: The main financial institutions in the housing loan market are the public investment bank Caisse des Dépôts et Consignaions and the private bank Crédit Foncier de France (Fribourg 2005 in BKN 2009, p. 5). As in other countries, a real estate transaction is usually financed through a mortgage loan. A loan may be obtained either through a French bank (even if non-resident) or through a foreign bank, since a foreign loan on French real estate is possible. Three kinds of securities or charges against a loan can be found in France:

(1) Conventional Charge (a conventional mortgage charge called "hypothèque conventionnelle"), which must be registered in the land registry; the process is undertaken by a notary (the fee is around 2 percent of the loan amount; this mortgage charge is usually used by international buyers); (2) Priority Lien Charge (called "hypothéque de privilège de prêteur de deniers"), which is also registered in the land registry and the process is also undertaken by a notary; however, it takes priority over all other mortgages on a property and is less expensive than a conventional mortgage (the fee is about 1 percent; no stamp duty is paid); mortgages are available for existing properties; the amortization period is usually longer (up to 50 years); and (3) Institutional Guarantee (called "la société de cautionnement"), which is widely used in France (generally cheaper), however, it is available only to fiscal residents; as there is no need of registration, the process is quicker and the mortgage is useful for short duration loans; this form of mortgage is based on the mutualisation of risk between the lenders; debt recovery in case of non-payment may be sought in a court. For a detailed description of these mortgage options see, for example, French-Property.com (2010); None & Gargaro (2009, p. 135); Manasse (2005, p. 239).

The period of amortization is relatively short in France. Previously, amortization periods longer than 20 years were uncommon; however, recently amortization periods of 25 years have been introduced (BKN 2009, p. 16). The typical amortization period is 15-20 years and the average loan to value ratio is 80 percent (Ahearne et al. 2005 in BKN 2009, p. 17). The maximum period for a mortgage is usually 35 years (see e.g. Burns School of Real Estate and Construction Management 2007; French-Property.com 2010) and the maximum loan amount is generally no higher than 70-80 percent of value. The available loans are capital and interest repayment mortgages (straight line or increasing capital repayment plus interest), with variable or fixed interest rates (French-Property.com 2010). French legislation makes it possible for some institutions to arrange the type of bond loans that exist in, for instance, Denmark and Germany (Kettis & Nyberg 2002).

3.1.4 Germany: Real estate financing in Germany may be carried out through mortgage banks, commercial banks or financing institutions (such as, for example, Savings Bank "Sparkasse", Credit Union "Volksbank", UniCredit Group - HypeVereinsbank, building and loan association "Bausparkasse" or insurance company etc.) (Burns School of Real Estate and Construction Management 2007; German-Hawk-Group 2010). Mortgage banks fund loans by issuing mortgage bonds (EconomyWatch 2010). Financing for foreigner usually does not cover more than 60 percent of the purchase price (GPG 2007; Burns School of Real Estate and Construction Management 2007). German nationals can usually obtain mortgages that cover a higher percentage of the price (see e.g. Alphare 2008). According to Global Real Estate Project by Burns School of Real Estate and Construction Management (2007), mortgage loan financing is usually about 60-80 percent of the purchase price and according to Expatica (2011), mortgage financing can usually be arranged up to about 60-70 percent of the purchase price. A loan exceeding this amount must usually be secured by additional securities (for instance, an insurance policy or other financial security deposited with the lending institution) (see also German-Hawk-Group 2010; DIA/CEPI 2006). Financing is usually in the form of a redeemable loan (in accordance with a redemption plan) (DIA/CEPI 2006). The arrangement fees for a mortgage are approximately 1 percent of the mortgage value (Alphare 2008). According to How to Germany (2010), most mortgages are for 10 or 20 years. BKN (2009) reports that the typical amortization period in Germany is 20-30 years, and the average loan to value ratio (LVR) for new loans is 70-80 percent (see Ahearne et al 2005 in BKN 2009, p. 17).

The property is used as security for financing, granting an accessory ordinary mortgage ("Hypothek") or non-accessory land charge ("Grundschuld", in most cases the

"Sicherungsgrundschuld" is used) against the property. These are limited to either 60 percent or 80 percent of the LVR. Mortgages and land charges are binding against third parties after they are entered into the land register. The owner, however, retains the legal title to the property (IFLR 2003). In the case of Grundschuld there is no mortgage deed (just registration).

Grundschuld differes from Hypothek in that it is not associated with a specific claim. It is valid irrespective of the existence of a personal debt. In the case of Hypothek the security is strictly accessory to the underlying secured claim and is not conditioned upon the existence of a personal claim by the creditor against the debtor. In contrast the Grundschuld is independent of the existence of a personal claim and can be created before the granting of a credit or raising to a higher amount than that of the actual claim. Even if the secured by land charge claim expires, the debt does not expire; it can be enforced without the creditor having to prove that debt is unpaid. The creditor can also transfer her/his right without the property owner's permission. The Grundschuld strengthens the position of the creditor (von Bar & Drobnig 2004, pp. 353-355; Kochler 2005; p. 241). Detailed information on the differences between Hypothek and Grundschuld can, for example, be found in von Bar and Drobnig (2004) or Kochler (2005).

To secure property assets, German mortgage banks issue, as a refinancing tool, specific mortgage based bonds, called "Pfandbriefe" (Mortgage Pfandbriefe) (see e.g. IFLR 2003). However, non-Pfandbrief mortgage bonds may also be issued by mortgage banks in the case of mortgages not qulified for the Pfandbrief cover (EconomyWatch 2010). Mortgage Pfandbriefe are loans secured by real estate liens such as mortgages and land charges. The different beteween the Pfandbriefe and mortgage-backed or asset-backed securities is that banks keep the Pfandbriefe loans on thier balance sheets, while asset-backed securities are typically off-balance-sheet transactions. Pfandbrief cover pools are also dynamic, since their composition can change over time. The mortgage lending value in the case of Pfandbriefe must not exceed the market value of the property. There is a mortgage lending limit and only 60 percent of a property's mortgage lending value may serve as cover. Additional 20 percent can be covered by other assets (VDP 2010). For more details see information at the Association of German Mortgage Banks' (Verband Deutscher Pfandbreifbanken, VDP) webpage (http://www.pfandbrief.org). It might be mentioned that the Pfandbrief is equivalent to real credit bonds ("realkreditobligationer") in Denmark, and the legislation, which makes it possible for some institutions to use this kind of finanicing opition, has been introduced also in France and Spain (Kettis & Nyberg 2002, pp. 52-53).

3.1.5 Poland: In Poland, several credit options with differing personal contributions can be found. A list of the domestic banks, branches of credit institutions operating in Poland as well as a list of offices representing foreign banks can, for example, be found at the webpage for the Polish Financial Supervision Authority (KNF) ("Komisja Nadzoru Finansowego") (see http://www.knf.gov.pl) or at the financial portal called Banki.pl (see http://www.banki.pl). There are also many financial platforms (based on the Internet) where examples of different financial products can be found and compared. These come both directly from different banks and from financial advisers/brokers. According to these sources, mortgage repayment periods are usually for a maximum of 35 up to 50 years, and are for a maximum of 80 up to 130 percent. The possibility of an amortization-free period exists (from 12 months up to 36 moths) (see e.g. MyBank.pl 2010; eHipoteka.com 2010; Kredyt-mieszkaniowy.pl 2010; Money.pl 2010). Among the entities granting long-term mortgage loans are universal banks, with a share of 98 percent in the credit market, mortgage banks, as well as, Housing Savings Units and Construction Units (WSGN/CEPI 2010).

According to ZBP (2010), 84 percent of all the home loans (apartment loans) in 2009 were signed for a period of 30 years. The proportion of loans for a period of 30-40 years was 12.16 percent in 2008 and 10.87 percent in 2009. However, a proportion of loans for a period longer than 50 years has gradually increased during the period 2008-2009, and was almost 7 percent during the first quarter of 2009; though during the second quarter it was decreasing. Furthermore, in 2009, 72.8 percent of all the apartment loans were in PLN (in the second quarter of 2010 the proportion was 71.9 percent) compared to 2008 when it was only 30 percent, 17 percent were in CHF (in the second quarter of 2010 it was 4.4 percent) compared to 2008 when it was 68.6 percent, and 9.2 percent was in Euro (in the second quarter of 2010 it was 23.6 percent) compared with 2008 when it was 0.4 percent). In addition, apartment loans in Euro are expected to increase. It is also estimated that the insurance of the apartment loans comprises 30 percent of the financial portfolio of the real estate market. The potential of the market measured by the financial portfolio in relation to GDP is considered to be still quite large. In 2009, the proportion of debt in relation to GDP was 16.6 percent (in 2008 it was 15.6 percent and in 2007 it was 9.9 percent). The average coefficient in the EU-countries was approximately 50 percent (in some countries it was more than 100 percent). At the end of 2009, the average value of loans exceeded PLN200,000 (371,000 for loans in foreign currency and 185,000 for loan in PLN). The average value of loans after the first six months of 2010 was PLN206,600. Apartment loans in foreign currency usually require higher credibility (approximately 20 percent higher). The structure of the loans 2009 was: up to PLN100,000 – 26.34 percent, between PLN100,000-200,000 – 31.39 percent, between PLN200,000-300,000 – 17.62 percent, between PLN300,000-400,000 – 10.30 percent, between PLN400,000-500,000 – 5.23 percent, between PLN500,000-1,000,000 – 7.42 percent, and from PLN1,000,000 – 1.71 percent. Apartment loans up to PLN200,000 comprised over 60 percent of new apartment loans. In terms of the LTV in 2009, the loans up to 30 percent comprised 9.26 percent, the loans between 30 and 50 percent comprised 19.56 percent, the loans between 50 and 80 percent comprised 45.19 percent and the loans over 80 percent comprised 25.98 percent. In addition, loans over 100 percent comprised during the second quarter of 2010 9.71 percent. As can be seen, the majority of loans were and still are in the interval 50-80 percent (see ZBP 2010; KNF 2010). However, during the first quarter of 2010, the loans over 80 percent comprised 32 percent and loans over 110 percent are back on the market. Furthermore, 60 percent of apartment loans are associated with the secondary market, although interest in primary market is increasing (Pisera 2010).

A home loan is usually secured by collateral such as, for example, a mortgage (a bank may also require credit insurance, life insurance, property insurance etc.), which must be registered in the Land and Mortgage Register. Registration has a constitutive character. The mortgage deed must be drafted by a notary (Brzeski, Dobrowolski & Sędek 2004, pp. 138-141; WSGN/CEPI 2010).

3.1.6 Spain: The financing of a property in Spain can be undertaken by a Spanish financial institution/bank or by a foreign one. Foreign financing is quite usual; loans are secured through mortgages on Spanish properties (Kirchheim 2005, p. 538). According to Global Accounting & Auditing SL (2008), approximately one-third of all residential transactions are financed by cash. Many foreigners mortgage their properties in their home country and then buy a property in Spain for cash. Many foreign banks/financial institutions have representatives in Spain. It is common for Spanish banks to pay an estate agent a commission (for instance, 0.5 percent) for mediating of a loan (Global Accounting & Auditing SL 2008).

Mortgages in Spain must be notarised and entered into the land registry, since only registered mortgages are recognized (Ortega & Nistal 2009, pp. 317-318; Burns School of Real Estate and Construction Management 2007; Kirchheim 2005, pp. 526-527). A mortgage

automatically expires after 20 years (Burns School of Real Estate and Construction Management 2007). Loan contracts and mortgage securities are joined in a single notarial deed (Kirchheim 2005, p. 538). There is no mortgage deed that must be kept by the creditor; the registration is sufficient (Global Accounting & Auditing SL 2008). Mortgage registration requires payment of the stamp duty of approximately 1 percent, a notary fee and a registration fee. In some cases promissory mortgages are executed to avoid these costs (Ortega & Nistal 2009, p. 318). Foreign banks usually have a notary they are in contact with, whom they trust and usually recommend to a client for use in the transaction.

According to Kirchheim (2005, p. 538), financing is provided for up to 80 percent for residents (even up to 100 percent in some cases) and up to 70 percent for non-residents. According to Global Accounting & Auditing SL (2010), the financing for residents is usually up to 75 percent of the bank's valuation, while for non-resident it is up to 50 percent. The financing limit, however, depends on the location of the property. The amortization period is usually 30-40 years (Ibid.). Usually the loan, however, must be fully amortized before the borrower is 70 years old. Amortization free loans are unusual in Spain (Global Accounting & Auditing SL 2008). The interest rate may be fixed or variable; however, it is usually fixed for the first year and then adjusted every year thereafter (Kirchheim 2005, p. 538).

Acquisition of a new property, which is based on plan drawings, is usually financed by a reservation fee and then during the construction, monthly payments of a specified amount, until the residence is completed. Usually when it is time for moving in, the purchaser has paid enough to get bank financing after the normal credit checks for the rest of the amount (Global Accounting & Auditing SL 2010).

3.1.7 Sweden: Property financing in Sweden usually consists of three components: (1) *first mortgage loan* ("bottenlån"), (2) *second mortgage loan* ("topplån"), and (3) *cash payment*. A cash payment is normally 10-15 percent of the purchase price, but it can vary (SEB and Danske Bank requires, for example, 15 percent, 2010-08-30). Loan interest can be fixed or variable or a combination of these. The interest rate may be fixed for up to 10 years. The amortization period can vary; SEB offers, for example, between 30-60 years for a first mortgage and between 1-10 years for a second mortgage (2010-08-30). SEB's loan limit for a first mortgage is 80 percent of the property's market value and for a second mortgage limit of 80-85 percent, Sparbanken Öresund's limit for a first mortgage is 75-85 percent, and Danske Bank's limit is 85 percent inclusive of a second mortgage (see SEB 2010, Handelsbanken 2010, Sparbanken Öresund 2011, Danske Bank 2010, Nordea 2010). From 1 October 2010, the Swedish Financial Supervisory Authority (FI) has introduced a mortgage limit of 85 percent of the market value (this does not affect the existing loans as long as a loan is not increased). The typical sources of loan financing are banks.

According to the National Housing Credit Guarantee Board (BKN) (2009), the loan to value ratio (LVR) was approximately 40 percent of the value of the housing stock in 2009; taking into account both mortgaged and unmortgaged properties (BKN 2009, p. 8). According to the FI (Swedish Financial Supervisory Authority) (2009, p. 5), the average LVR was 58 percent, however, only mortgaged properties are considered in this case. In 2008, the LVR was 43 percent (BKN 2009, p. 8). According to the FI's research (2010) based on the companies such as Länsförsäkringar Bank, Nordea, SBAB, SEB, Handelsbanken, Skandiabanken and Swedbank, which represent together around 90 percent of the Swedish mortgage market, around 12 percent of the borrowers in the sample had a LVR of more than 90 percent and around one-third of the borrowers had a LVR of more than 80 percent. The companies' own rules for how much can be borrowed varies between 75 and 95 percent of the market value. While most of the companies offer a first mortgage limited to 75-85 percent of the market value and a second mortgage for an amount exceeding this limit; three of the

companies do not formally distinguish between a first and second mortgage, but still often require higher amortisation or additional collateral for the portion of the financing with the highest risk (FI 2010). According to Andersson and Frisell (2010), most of the companies have a LVR for a first mortgage between 75 and 90 percent. An average LVR for new loans is 75 percent for co-ops and 68 percent for one or two family houses. Most companies have an amortization period for a second mortgage of 10-15 years, but one company has 30 years. In order to decide if a household can afford a loan, an estimate of the money left to live on after the loans ("kvar-att-leva-på-kalkyl") is made; this takes into account the total loan situation, accommodation costs, operating and upkeep costs as well as living costs according to a particular formula, and an interest rate between 6.5 and 8 percent. For example, the living cost for an adult is between SEK6,000-8,000 and for two adults between SEK11,000-14,000 (FI 2010).

As a security for a loan in Sweden, a lender takes a mortgage certificate ("pantbrev") issued by the land registry. The land registry maintains a mortgage register. The legislation concerning the recording of mortgages are the Mortgage Certificates Register Act (SFS 1994:448) and the Mortgage Certificates Register Ordinance (SFS 1994:598).

To borrow money from a Swedish bank in order to buy a property in another EU country can be problematic, since banks assume that they will not have adequate security for a loan. However, some countries are easier to get a credit for. For example, SEB may arrange a loan in France, Spain, the UK, Luxemburg or Switzerland, however, through its Private Banking-division in Luxemburg (SEB Luxemburg), which means that the product originates from Luxemburg. The conditions of the loan, the amortization period and the interest rate system may be similar to the Swedish principles; however, they may also differ. As security for a loan, a property abroad is used as collateral. SEB cooperates locally with lawyers/solicitors, other legal representatives and professional experts in order to secure the legal aspects of a purchase. For example, the following general terms apply for mortgages in Spain: the minimum amount of a loan is €250,000, the minimum amortization period is 5 years with a maximum of 25 years, and flexible interest periods: 1, 3, 6 or 12 months; collateral: 65 percent of valuation up to 1 million and 50 percent over one million; no life insurance requirement; valuation through SEB Luxemburg (the cost is added); and a management fee of €1,500. For mortgages in France, the terms are similar with the following exceptions: collateral: 75 percent of valuation up to 1 million and a management fee €2,500. For mortgages in the UK, the minimum loan amount is £200,000; the amortization period is normally 5 years with possibility prolonging for an additional 5 year period; flexible interest periods: 1, 3, 6 or 12 months; no life insurance required, collateral: 75 percent of valuation up to € 1 million and 50 percent thereafter; a management fee of 0.2 percent of loan amount or a minimum of £1,500 (see SEB Private Banking 2011). Other banks that offer cross-border credit are, for example, Nordea, which gives credit to property purchase in Finland and Norway (see http://www.nordea.se) and Handelsbanken, which can finance a property purchase in, for example, France (through its offices in Nice or Paris).

4 Transparency in taxation

4.1 Annually recurring taxes

4.1.1 Denmark: In Denmark there are two different taxes connected to a property: *a property tax* (the municipal property taxes (land tax)), paid on a house, an owner-occupied flat or a plot of land in Denmark, and *a property value tax* (”ejendomsværdiskatte”), paid on a house or an owner-occupied flat. The property taxes are paid directly to a municipality (local and county authorities) and are calculated on the basis of the actual property value – land value. Each municipality assess its own tax. The tax to a local authority is usually between 6-24 per-mille (0.6-2.4 percent) (Copenhagen 34 per-mille) of the land value, and to a county authority is 10 per-mille (1 percent) of the land value. The property value tax is paid on Danish properties as well as on foreign properties taxable in Denmark. The tax is paid on Danish properties regardless of whether the owner lives in Denmark or abroad. A person living in Denmark has to pay the tax on property owned abroad. Propety value tax is calculated on the basis of the taxable value of the property (the total property value) provided that the property is used or can be used by the owner as a private residence. The tax is 10 per-mille (1 percent) of the property value on taxable value up to DKK3,040,000. On the taxable value above that limit the tax is 30 per-mille (3 percent). For properties purchased before the 1st of July 1998 a deduction applies with certain restrictions. Special rules apply for owners over 67 years old. Property owned by pensioners is subject to lower rates (see e.g. Skat.dk; Skatteministeriet 2008; Ejendomsværdiskatteloven; KPMG 2011).

4.1.2 England: The only annual real estate tax in the UK is a *Council Tax*, which is levied on properties that can be used as dwellings. The tax is payable by the owner or occupant/tenant, when there is an assured tenancy, to the local authority corresponding to the value of the property. Fifty percent of the tax is based on the property band (each property is given a charge band from A to H) to which the property belongs and other fifty percent is based on the number of persons living in the property (GPG 2008; Jacob & Kinsella 2005, pp. 645, 647).

4.1.3 France: In France, there are two types of real estate taxes: *a property tax* (ownership tax) (called *“*taxe foncière”) and *a residence tax* (called *“*taxe d’habitation”) (GPG 2008; French Property 2009 in BKN 2009, p. 22; French-Property.com 2010).

The property tax is a local tax levied by the municipality in which the property is situated and so it may vary between regions (Manasse 2005, p. 252). The tax is paid by the owner of the property and is a combination of tax for the building (called “taxe foncière bâite”) and for the land (called “taxe foncière non bâite”) (GPG 2008; French Property 2009 in BKN 2009, p. 22; French-Property.com 2010). The local, departmental and regional councils levy the tax on a collective basis. The amount is determined by the local councils, but is calculated and collected by the central government tax authority (French-Property.com 2010). The assessment base is the notional rental value of the property (Ibid.; Manasse 2005, p. 252). Some exemptions to the tax apply, for example, under some condition exemptions from the tax for two years are granted for new buildings or additions to existing buildings. Full or partial (50 percent) exemptions are granted for new homes constructed to an energy efficient standard that is higher than the current regulations in force. Under certain conditions persons over 7 years of age are relieved from the tax requirement (French-Property.com 2010). For more exemptions see, for example, French-Property.com (2010). The average property tax during 2009 was €1052 per residency (French property 2009 in BKN 2009, p. 22).

An occupancy tax (a residence tax) is a tax imposed on the occupiers, on a permanent or semi-permanent basis, of a property (a house or an apartment) in which they were residents on January 1 of any given year, regardless of whether the residency is furnished or unfurnished. The tax is payable by the resident even if s/he is just an occupier. According to the law, if there is a right of occupation and the property is habitable than the tax is payable (Manasse 2005, p. 252; GPG 2008; French property 2009 in BKN 2009, p. 22; French-Property.com 2010). The tax amount is also, similar to the property tax, determined by the local and county councils, but calculated and collected by the central government tax authorities. The tax formula is based on the notional rent (rental value) that the property might be expected to achieve in the open market. Certain groups of persons are qualified for tax relief or exemption, for example, under some conditions, persons under 60 years of age may be exempted from the tax and there is a tax relief for individuals who have children (French-Property.com 2010).

4.1.4 Germany: German property is subject to a land tax - *Grundsteuer*, according to the federal land tax law (Grundsteuergesetz). The taxable object is real estate, land and buildings. The land tax is divided into two categories: land tax A for agricultural businesses and forestry, and land tax B for other land (including improvements). Land tax B includes buildings and ancillary structures and covers leaseholds and owner-occupied dwellings. Municipalities levy the tax annually; however, the tax code is uniform across the whole country and administration of the tax is split between the state and the municipality (Bird & Slack 2002). The tax base is the assessed unitary value to which a multiplier is applied. The multiplier varies from district to district and the tax depends on several factors including location, size, use, local municipal coefficient, etc. (Alphare 2008; PCC 2008, p. 128).

The tax is calculated as follows: The state determines a standard tax applying uniform rules for all municipalities by multiplying the rateable value (determined by a specific federal law) with a base rate (Bird & Slack 2002). The base rate for residential properties is 2.6 to 3.5 per thousand (0.26 to 0.35 percent) for properties in the former federal area and 5 to 10 per thousand (0.5 to 0.10 percent) for properties in the new lands (CFE 2010) (For example: one-family houses - 0.26 percent for the first €38346.89 and 0.35 percent above this amount; two-family houses – 0.31 percent; and other real estate with/without buildings (including condominiums) – 0.35 percent (Bird & Slack 2002)). This standard tax is the basis for the municipal tax and this base value is multiplied by a municipal leverage ratio (the ratios may vary among municipalities since municipalities are free to determine this factor) (Bird & Slack 2002). The municipal coefficient (leverage factor) is from 300 to 600 percent (Buy Berlin 2010). Payment of the tax is made quarterly on 15 February, 15 May, 15 August and 15 November. Liable for the tax is the person to whom the rateable value was attributed, normally the owner (Bird & Slack 2002).

According to the Global Real Estate Project (2007) by Burns School of Real Estate and Construction Management, the tax may be in the range of 0.5 to 1.4 percent, and according to Deloitte (2010), the tax is 1-1.5 percent on the specially assessed value of the property (Deloitte 2010).

4.1.5 Poland: In Poland, *the real estate tax* is an annual tax and is levied on a property owner (or possessor). It is a local tax, which depends on the location and type/use of the property. The tax is charged on land and buildings or their parts. The basis for the taxation is the area for the land and area of use for the buildings or their parts. The tax is governed by the Local Tax and Charge Act of 12 January 1991 (Ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych), the maximum tax rates (top rates) are defined in the Act. For example,

the tax rates for 2010 are (tax per sq mt): for land – PLN0.39 (€0.10) and for dwellings – PLN0.65 (€0.16) (see the Act; GPG 2010).

4.1.6 Spain: The annual *real estate tax* in Spain (called ”Impuesto sobre Bienes Inmuebles”, IBI) vary from municipality to municipality; it is a local tax and is approximately 0.5-1 percent (from 0.3 up to 1.1 percent) of the cadastral value (“valor catastral”; land plus building) (Global Accounting & Auditing SL 2008; Kirchheim 2005, pp. 547-548; Searl 2009, pp. 44-45, 192-193). The cadastral value is adjusted every eight years, and the tax is usually charged to the property owners (GPG 2007).

Besides this tax, in Spain, non-residents are obliged to pay *an income tax on benefit value* of the owned house or apartment. This communal taxation on the appreciation in value (called “Impuesto de la Renta de No Residentes”, IRNR) is a tax on the personal use of property for residential purpose (an income tax for non-residents who do not rent out their property; non-Resident Income Tax). The rate is 0.5 percent of the cadastral value (the tax base is a maximum 2 percent and the tax rate is 24 percent. The tax is paid on all holiday homes, and can be paid any time during the year, based on possession on December 31 (Global Accounting & Auditing SL 2008; Kirchheim 2005, p. 548; Holiday Lettings 2010).

4.1.7 Sweden: The legislation on property tax in Sweden has been changed in 2008. The new regulations apply for both the state property tax and the new *municipal property charge*. Until 2008, the property tax was 1 percent of the property’s assessed value (a base value corresponding to 75 percent of the market value; a general tax assessement program takes place every 6 years with an annual indexing in between) taxable as a detached house with the rateable value of a self-contained housing units (however, a household would pay a maximum of 4 percent of the owned income for a permanent dwelling). According to the new regulations, all dwellings in detached houses (single and dual family houses) and blocks of flats are transferred to the new system, which means that the state property tax on dwellings in Sweden has been abolished from 1 January 2008. The taxa is replace by a municipal property charge. Property charges are index-linked (linken to changes in the income base amount). There is no charge on newly constructed housing during the first five years, and only half of the charge is payable during the subsequent five years. Dwellings under construction and unbuilt plots of land for residential buildings are, however, still included in the old system of property tax. For example, the property tax for a detached house under construction including the plot or for an unbuilt plot of land is 1 percent. The maximum fixed property charge for single-family houses is SEK6,362 for the income year 2009 and SEK6,387 for the income year 2010, but not more than 0.75 percent of the tax assessment value (for a residential building and the accompanying land) for the specified year. The charge for any multi-unit dwelling (an apartment in an apartment building) is a maximum SEK1,272 (for income year 2009), but not more than 0.4 percent of the tax assessment value. The property charge or tax is paid for the whole year by the person who owns the property on January 1st of the income year (independent of whether a change of ownership took place). From the income year 2010, single and dual family houses standing on leased land and the land they stand on, are charge the municipal property charge instead for the state property tax. The charge is a maximum SEK3,193 for a house and SEK3,193 for the land, although not more than 0.75 percent of the year 2010 tax assessment value for the house respective the land. For private dwellings abroad there is no longer property tax (nor a charge). The property tax/charge is paid on all properties in Sweden, including those owned by foreigners (see e.g. SKV 2009, 2010; 2010; Grauers 2010, pp. 197-198). The municipal property charge is regulated in the Law (SFS 2007:1398) (Lag (2007:1398) om kommunal fastighetsavgift) and the property tax is regulated in the Law (SFS 1984:1052) (Lag (1984:1052) om statlig fastighetsskatt).

4.2 Non-recurrent taxes – taxation of the sale profit

4.2.1 Denmark: A profit from the sale of property in Denmark is taxable as an income tax. The detailed regulations for the assessment can be found in Ejendomsavancebeskatningsloven (LBK nr 891 af 17/08/2006). The primary rule is that the profit is assessed as the difference between the purchase sum and the sale sum, taking into account maintenance, expenses for the disposal, the cost of purchase and the improvements if applicable (see e.g. Lærebog i ejendomshandel bind 1 2003, part 1:3, pp. 11-21).

Exemptions can, however, be found in Denmark. The profit from the sale of single and dual family houses and owner-occupied flats can be tax free if the house or flat has served as the residence of the owner and/or members of the owner's household for a part of or during the entire period s/he has owned it, and if the property has met certain conditions such as, for example, the total area of the land being less than 1,400 square meters (see e.g. Ejendomsavancebeskatningsloven §8; HMGF/CEPI 2010; Lærebog i ejendomshandel bind 1 2003, part 1:3, pp. 12-13; KPMG 2011).

4.2.2 England: In England, if a real property is sold, the Capital Gains Tax (CGT) is payable on the profit from the sale. The tax is, however, not payable on the sale of a principal residence (ZERP et al. 2007b, p. 94; Perkins, ed., 2005, p. 10/13; LSBU/CEPI 2005; Jacob & Kinsella 2005, p. 646; GPG 2008). The controlling conditions are that the property is half a hectare (including the house) or larger if the Appeal Commissioners approve it (Perkins, ed., 2005, p. 10/13). Gains made until 22 June 2010 are charged at a flat rate of 18 percent, and gains made from 23 June 2010 are charged at the rate of 18 percent and 28 percent for individuals, depending on the total amount of the taxpayer's taxable income (there is also a 28 percent rate for trustees or personal representatives, and a 10 percent rate for gains qualifying for Entrepreneurs' Relief. The annual tax-free allowance for CGT for tax year 2009/2010 is £10,100 for each individual and £5,050 for most trustees (HMRC 2010). More information on the rates can be found at HM Revenue & Customs (see http://www.hmrc.gov.uk).

Non-residents are not liable to capital gains taxes on the sale of UK property (since the tax is liable only to actually residents or ordinarily residents during the year of disposal), unless they have been residents in the UK meaning present in the UK for more than 183 days a year during the preceding five years. The rate is 18 percent after some personal allowances (GPG 2008; Jacob & Kinsella 2005, p. 646).

A house or apartment may be subject to *local land charges* (not registered at the Land Registry). For instance, a grant of financial assistance from the local authority for the development of a particular plot of land is subject to a condition of repayment if the use of land is changed. This can be determined by a search in the local land charges register (Jacob & Kinsella 2005, p. 625).

4.2.3 France: Profit from the sale of real estate in France is subject to income tax known in France as "impôt sur les plus values immobiliere". The tax is 19 percent of the net gain, after, for instance, deduction of acquisition and improvement costs (modernization/renovation) plus social charges of 12.3 percent for residents of France, 19 percent for residents of EU, Iceland and Norway, and 33.33 percent for non-residents of EU. However, there are exemptions, for example, properties that are held for more than 15 years, even if not a principal residence, are exempt from the tax. Also exempt from the tax are sales of properties used as principal residences from the date of purchase, provided the property has been held for more than five years, also sales for amounts of less than €15,000 whatever the gain on the sale price. Under some conditions the elderly, those of retirement age, disabled persons, couples in the process of separation/divorce or sales of residencies for family or work-related reasons are exempt from the tax. After the fifth year of ownership, there is a reduction, on a sliding scale, of 10

percent a year of the net profit (for example, after 10 years an allowance of 50 percent applies) (Charles & Oldra 2010, Manasse 2005, p. 254; GPG 2008; French-Property.com 2010; None & Gargaro 2009, p. 136; Davey 2006, p. 240). This tax can increase to 50 percent when the gain is derived from trading activities (None & Gargaro 2009, p. 136). The tax is withheld by the notary at closing (Manasse 2005, p. 254; GPG 2008; Davey 2006, p. 240).

4.2.4 Germany: Capital gains on properties in Germany are taxed within the income tax and corporate tax laws (Bird & Slack 2002). Privately held properties are subject to the income tax (Einkommensteuergesetz) only if they have been held for shorter than ten years (see e.g. Junghänel & Muschter 2009, p. 144; GPG 2007; DIA/CEPI 2006; Alphare 2008; Bird & Slack 2002). From 2009 a flat income tax rate is 25 percent (plus a solidarity surcharge 5.5 percent thereon) (BZSt 2011; Alphare 2008; Börsenbrief ChartTec.de 2009, Berlinlägenheter 2010). The tax base is the sale price minus the purchase price, acquisition costs and property improvements made under the holding period (improvements which are income tax deductible) (Bird & Slack 2002). Profit from the sale can also be reinvested in another property, which means that, under some conditions, no tax applies in this case (Bird & Slack 2002; Property Tax International 2008). Income from capital assets up to €801 for single person or €1,602 for spouses are tax free (BZSt 2009).

4.2.5 Poland: From January 2009 there are three different rules for calculating the tax on sale profit in Poland, depending on whether the property was acquired before 31 December 2006, between 2007 and 2008 or after 1 January 2009. The common rule is that a tax is not payable for capital gains from the sale of property held for at least five years before the sale (counting from the end of the calendar year in which the acquisition took place). The tax is governed by the Personal Income Tax (PIT) Act of 26 July 1991 with further amendments (Ustawy o podatku dochodowym od osób fizycznych z dnia 26 lipca 1991).

For properties acquired before 31 December 2006, the tax is 10 percent of the income from the sale (purchase price). The tax is, however, not payable if the taxpayer declares that s/he is going to invest the income from the sale for the purchase of the new home within two years of the date of sale. For properties acquired between 2007 and 2008, the tax is 19 percent of the profit from sale, independent of what the money from the sale is used for. There is, however, a reduction in taxes related to registering for permanent residence during 12 months. For properties acquired after 1 January 2009, the tax is also 19 percent of the profit from sale (taxable gain). The taxable gain is the difference between the selling price and documented purchase costs of initial acquisition. The tax is, however, not payable if the profit from the sale is intended for purchase of a new home, located in Poland, another EU/EEA country or Switzerland (see the Act; see also e.g. Leśniak 2010; Turek 2010; RDC 2010).

4.2.6 Spain: Income derived from capital gains in Spain is subject to Personal Income Tax ("Impuesto sobre la Renta de las Personas Físicas", IRPF) for residents and Non-Resident Income Tax ("Impuesto de la Renta de de No Residentes", IRNR) for non-residents, but only for Spanish source income. It is levied as a flat tax rate of 19 percent or 21 percent (depending on the amount of the taxable gain) (19 percent since 1 January 2010), both for residents and non-residents (Global Accounting & Auditing SL 2008; 2010; Kirchheim 2005, p. 548). The flat rate only applies if the property is sold after being owned for more than one year; otherwise the capital gain is added to the income and taxed at progressive rates (GPG 2007; Spanish Tax Specialists 2007). The tax base is the net gain determined as the difference between the gain earned and any expenses that are deductible according to the law (such as adjusted acquisition costs or improvement costs) (see e.g. Kirchheim 2005, p. 549; Global Accounting & Auditing SL 2008).

There are some differences in the tax situations of residents and non-residents. If a non-resident is selling, 3 percent of the sale value (of declared value of the property) will be withheld directly by the purchaser or the notary and will be paid to the tax authorities within 30 days to secure tax liability. This amount will be then deducted from the total tax, which must be paid within 3 months. If there is a loss, 3 percent is returned within six months (Global Accounting & Auditing SL 2008; Searl 2009, p. 29). If the tax is not paid, the real estate itself becomes liable (Kirchheim 2005, p. 549). This rule applies only to non-residents; for residents the income-tax return is made together with other incomes (Global Accounting & Auditing SL 2008).

Some exemptions to the tax exist. If the gain from the main residence is reinvested in a new main residence within two years of the sale, there is a hold-over relief of up to 100 percent according to a proportion of the reinvested gain (Spanish Tax Specialists 2007; Global Accounting & Auditing SL 2008; Kirchheim 2005, p. 549; Searl 2009, p. 185). The rule, however, applies only to tax-residents who have lived in the property for at least three years (GPG 2007; Global Accounting & Auditing SL 2008; HomeEspana 2009; Searl 2009, p. 185). If a person is over 65 and is a tax-resident (one who has lived in the main residence for more than three years), the gain is tax-free (Spanish Tax Specialists 2007; Searl 2009, pp. 28, 185; Global Accounting & Auditing SL 2008). If a property belongs to a couple that is not married, both persons are treated as individuals for tax purpose (Global Accounting & Auditing SL 2008).

4.2.7 Sweden: Profit from the sale of residential property in Sweden is taxable as income tax, according to the Income Tax Law (SFS 1999:1229) (Inkomstskattelag (1999:1229)). The primary rule is that the profit is calculated as the difference between the aquisition sum and the sale sum, taking into account sale and acquisition expenses (such as agent's commission, the stamp duty tax etc.), and the costs of improvements (costs associated with new construction, additions or rebuilding, as well as repairs and maintenance that improve the property) if applicable. The latest tax change took place on 1 January 2008 and new regulations apply for the first time on the 2009 income-tax return. The tax rate is 30 percent of the taxable profit, which has been increased from 2/3 to 22/30 of the profit, which is equivalent to an increase from 20 to 22 percent on the entire profit. A loss can be deducted by 50 percent. The tax may, however, be postponed, if certain criteria are fulfilled such as, for example, acquiring a replacemnet home (a house or an apartment) within a certain time. Tha basic condition for postponement is that the profit (postponement amount) is at least SEK50,000 for each tax liable person and that the persons applying for the postponemnt are planning to take up residence in the new home. The principal place of residence, which has been sold, must be a private residence and must be the tax liable person's permanent place of residence, which means that it must have served as the priamry abode for at least one year immediately before the disposal or for at least three out of the preceding five years. A tax postponement is always in proportion to the amount invested in the replacement home and there is a limit on the amount. The maximum is SEK1,600,000. The annual interest must be paid on the total postponement amount at 0.5 percent. The postponement possibility in Sweden may also be used when buying a permanent home in another EEA country. A permanent home in another EEA country can be regarded as a principal palce of residence. The tax payment will then be due when the new home is sold, unless another one is purchased (see e.g. SKV 2010). More detailed information on the incme tax regulations can, for example, be found in Grauers (2010, pp. 194-233).

5 Transparency in transaction costs

The fundamental transaction cost in Denmark is the registration fee, but additional costs need to be taken into account, for example, the estate agent fee and the advocate's fee. In England, the main costs include the Stamp Duty Land Tax (SDLT), the registration fee and the cost of the conveyancer (inclusive of local authority searches etc.). The costs in France and Spain include transfer tax/fee (or VAT), land registrar fee and notary fee; however, in Spain there is also a tax on a land value increase. The costs in Germany and Poland include transfer taxes, a registration fee and a notary fee, and the main costs in Sweden consist of a stamp duty tax and a land register fee; and, in most cases, an estate agent fee needs to be added. Beside an estate agent fee which can be added in all countries, there are other costs that may be necessary, for example, the cost of an energy performance certificate, the cost of structural or valuation survey, and the cost of financing and mortgage arrangements.

5.1 Transfer tax/fee and VAT

5.1.1 Denmark: There is no transfer tax in Denmark, although, according to ZERP et al. (2007b, p. 71), the registration fee may be regarded as a kind of transfer tax.

5.1.2 England: All land transactions in the UK are subject to the Stamp Duty Land Tax (SDLT) (with some exemptions or reliefs), which applies whether or not any party to the transaction is a resident of the UK. The buyer is liable for the tax (Cookson & Murrin 2009, p. 120; ZERP et al. 2007b, pp. 92-93; Jacob & Kinsella 2005, pp. 642-644; LSBU/CEPI 2005; Land Registry 2010; HMRC 2010). SDLT is calculated on a value called the "chargeable consideration" (which can vary depending on several factors). The tax is charged as a percentage of the amount paid for a property, where a higher percentage applies to higher-value transactions (HMRC 2010).

Some transactions are not liable to SDLT, either because they are below the threshold or because they qualify for relief. SDLT is not required for transactions completed on or after 12 March 2008 if an acquisitions chargeable consideration is less than £40,000 of if the consideration is between £40,000 and £125,000 for residential land (Land Registry 2010; HMRC 2010).

The tax rates for residential properties are: up to £125,000 – zero (the starting threshold was reduced from 175,000 back to £125,000 from 1 January 2010); above £125,000 to £250,000 – 1 percent (or zero for first-time buyers; first time buyers have a threshold of £250,000 from 25 March 2010 up to 24 March 2012 inclusive); above £250,000 to £500,000 – 3 percent, above £500,000 – 4 percent (from 6 April 2011 above £1,000,000 – 5 percent). The tax is charged at the specified rate on the entire amount paid. In areas defined as disadvantaged a higher threshold of £150,000 applies for residential properties (HMRC 2010; Cookson & Murrin 2011).

SDLT must be paid with 30 days of transfer completion (GPG 2007; Cookson & Murrin 2009, p. 120; Cookson & Murrin 2011; ZERP et al. 2007b, p. 93). A Land Transaction Returns is submitted to HM Revenue & Customs, which issues a certificate that must be submitted to the Land Registry before the transaction can be registered. The Return may be submitted online from which a receipt can be printed (Land Registry 2010; HMRC 2010). Detailed tax information is available both at HM Revenue & Customs (see http://www.hmrc.gov.uk/sdlt/index.htm) and Land Registry (see http://www1.landregistry.gov.uk/legislation/stampduty). Generally, the VAT is not payable on the purchase of residential real estate in the UK, even if the dwelling is newly built (Jacob & Kinsella 2005, p. 645).

5.1.3 France: All sales are subject to a registration fee (also called transfer fee/tax if VAT is not applicable) or VAT (French TVA). The standard rate of the transfer fee is 5.09 percent of the purchase price and is usually paid by the buyer (however, the parties are jointly liable). VAT at the rate of 19.6 percent is applicable on the first sale of new buildings within five years of their completion. When the VAT is applicable, €125 will be added (transfer of a building land, provided the purchaser is a VAT payer and undertakes to erect a building within a specific period of time) or Land Registry tax of 0.715 percent (for properties off plan) (ZERP et al. 2007b, p. 124; GPG 2007; None & Gargaro 2009, p. 136; Manasse 2005, pp. 251-252; Charles & Oldra 2011). The tax is collected by the notary at the closing or if a notary is not used, within one month following the date of transfer (None & Gargaro 2009, p. 136; Charles & Oldra 2011).

5.1.4 Germany: The transfer tax (RETT; Grunderwerbssteuer) in all German states is 3.5 percent of the purchase price (gross value of the transaction), except for Berlin, where it is 4.5 percent. The tax rate is set by each federal state (which is why it can vary). Even though the tax is a state tax, the municipalities may receive a share of the revenue according to state legislation. VAT is not applicable for private purpose. It is usually the buyer who bears the cost of the tax, but according to the law both parties are jointly liable for the tax. Payment of the tax is due about four weeks after the notarial contract has been signed, and payment of the tax is necessary for the registration in the Land Registry (see e.g. ZERP et al. 2007b, pp. 137, 141; Junghänel & Muschter 2009, p. 144; GPG 2007, Murray 2007, p. 48; PCC 2008, p. 129; Rehkugler & Bechtold 2005, p. 150; Bird & Slack 2002; Lindner-Figura 2011). For transactions with property value below €2,500 and for transactions between relatives there is no transfer tax obligation (DIA/CEPI 2006).

5.1.5 Poland: The transfer tax in Poland, so-called Tax on Civil Law Transaction (TCLT) ("Podatek od czynności cywilnoprawnych", PCC), is 2 percent of the transaction value, market value of a property (see the Act of 9 September 2000 on Civil Law Transactions Tax; Ustawa z dnia 9 września 2000 r. o podatku od czynności cywilnoprawnych). This means that the tax amount may be adjusted if the purchase price significantly differs from the market value of the property. The buyer is liable for the tax according to the chapter 2 article 4 of the Act. The tax must be paid to the tax authorities within 14 days from the conclusion of the transfer agreement. The tax is withheld and paid by a notary (see chapter 5 article 10 of the Act). The transfer tax for a mortgage deed is 0.1 percent of the mortgage value and the buyer is liable for the tax (see chapter 3 article 7 and chapter 2 article 4 of the Act). For detailed information see, for example, Bielniak and Wierzchowski 2004, pp. 89-90; eGospodarka.pl 2010; FM 2008). As the transfer tax concerns the secondary market, sale on the primary market may be subject to VAT.

A standard rate of VAT is 23 percent. Development land sales are also subject to VAT of 23 percent. Sales of new-built residential buildings and apartments (from developers) are subject to a reduced VAT of 8 (including land) (Brzeziński 2010; see Act of 11 March 2004 on Goods and Services Tax, with further amendments (Ustawa z dnia 11 marca 2004 r. o podatku od towarów i usług)).

5.1.6 Spain: The transfer of real property is either subject to a transfer tax ("Impuesto sobre Transmisiones Patrimoniales", ITP) or to VAT ("Impuesto sobre el Valor Añadido", IVA). The transactions are subject to the transfer tax when they are not subject to the VAT (when the seller is not taxable under VAT rules or the transfer is exempt from VAT). For example, rural land and the second and subsequent transfer of urban buildings are subject to transfer tax, but new properties which are sold for the first time (except for new construction by a

developer) are subject to the VAT plus stamp duty ("Actos Jurídicos Documentados", AJD) of 1 percent or 2 percent. The tax is set by the Autonomous Community (Autonomía) at the property location. The tax rate is 8 percent of the real value of the property. The VAT is in Spain 18 percent; however, for residential properties the rate is reduced to 8 percent (Del Moral 2011; Ortega & Nistal 2009, p. 319; Kirchheim 2005, pp. 546-547; GPG 2007; Searl 2009, pp. 48-49). The rate is 8 percent from the 1st of July 2010 (Helme 2010). When buying a plot with intent to build the VAT is 18 percent plus stamp duty of 1 percent (ZERP et al. 2007b, pp. 341-342; Global Accounting & Auditing SL 2010). ITP is paid by the buyer (Ortega & Nistal 2009, p. 319; ZERP et al. 2007b, pp. 341-342; Kirchheim 2005, p. 547; GPG 2007; Del Moral 2011). The tax is paid within 30 working days from the authentication of the notarial deed (Del Moral 2011; Ortega & Nistal 2009, p. 319; Kirchheim 2005, p. 547) and any delay raises the costs by incurring the legal interest rate. Ownership cannot be registered if the tax is not paid (Kirchheim 2005, p. 547). IVA is the responsibility of the seller; the seller charges the buyer and pays the tax authorities (Ortega & Nistal 2009, p. 319; Kirchheim 2005, p. 547).

The mortgage cost for a loan is 1 percent plus the value of future interest payments, which gives approximately 1.75 percent of the mortgage value (Global Accounting & Auditing SL 2010; ZERP et al. 2007b, pp. 341-342).

Tax payment can be made with the help of notary, advocate, tax advisor or gestor administrativo. The notary informs the tax authorities about all deeds s/he has authorised on a monthly basis. In the near future a notary should be able to pay the tax online on behalf of the client (ZERP et al. 2007b, pp. 341-342).

If the former owner did not pay the tax and, as a consequence, the property is not registered, but a notarial deed exists, the transfer tax must be paid before the new acquisition takes place, plus an additional 5 percent for every six months the property hasn't been registered. If a deed does not exist the new purchaser must turn to a court (Global Accounting & Auditing SL 2008).

5.1.7 Sweden: A stamp duty tax ("stämpelskatt") in Sweden is charged according to the Law (SFS 1984:404) (Lag (1984:404) om stämpelskatt vid inskrivningsmyndigheter). The tax is calculated on the purchase price; however, if the purchase price is below the assessed value of the property, the tax is calculated on the assessed value, which is updated every year. The tax for private persons is 1.5 percent (see e.g. LM 2010). Both the buyer and the seller are jointly liable for the tax; however, it is usually the buyer who pays it (section 27 of the Law; Sahibzada & Tryselius 2009, p. 327; ZERP et al. 2007b, p. 353; Murray 2007, p. 274). The tax is paid to the government, but is handled by the Land Registration Authority (Inskrivningsmyndigheten), which is the National Land Survey of Sweden (section 1 & 31 of the Law). The tax is levied in connection with the registration of ownership (section 25 of the Law), and must be paid within one month from the day the decision on tax is available to the applicant (section 31 of the Law).

The tax for the mortgage is calculated on the mortgage value and is 2 percent (section 24 of the Law; LM 2010). The tax for the mortgage is charged when application for the registration of the mortgage is made (section 1 & 2 of the Law). The person applying for the mortgage registration is liable for the tax (section 27 of the Law).

Table 5.1 VAT-rates in the respective countries

Country	*VAT-rate*
Denmark	25
England	20
France	5.5, 19.6
Germany	7, 19
Poland	7, 23
Spain	8, 18
Sweden	25

5.2 Registration fee

5.2.1 Denmark: The registration fee in Denmark is regulated by Tinglysningsafgiftsloven (LBK nr. 426 af 14/05/2007). The information on rates can also be found on the Tax authority's webpage (see Skatteministeriet at http://www.skm.dk) (see also e.g. Ejendomsregistrering i de nordiske lande 2006). The information can be found both in Danish and English. The registration fee on title deeds consists of a fixed fee of DKK1,400 per document plus 0.6 percent of the purchase price. If the purchase price is less than the official assessment, 0.6 percent of the assessment value is payable. The registration fee for a mortgage deed also consists of a fixed fee of DKK1,400 per document plus 1.5 percent of the loan amount. There is no transfer tax in Denmark, though the registration fee is regarded as a type of transfer tax (see ZERP et al. 2007b, p. 71). The buyer usually pays the fee, but the parties may make another agreement. The responsibility for the fee is regulated in section 4-18 of Tinglsyningsafgiftsloven, which says that in connection with a change of the ownership, both the person who acquires and the person who transfers is responsible for the fee, and in the case of a mortgage arrangement, both the mortgage-taker and the mortgage-giver are liable.

5.2.2 England: The Land Registry fee varies according to the value of the real estate and is paid by the buyer. The fee is calculated according to the following scale (amount of value / fee): £0-50,000 / £50; £50,001-80,000 / £80; £80,001-100,000 / £130; £100,001-200,000 / £200; £200,001-500,000 / £280; £500,001-1,000,000 / £550; £1,000,000 and over / £920 (Land Registry Corporate 2009; Land Registration Fee Order 2009).

5.2.3 France: In France, the Land Registrar fee (for the salary of the registrar) is 0.10 percent (GPG 2007; Manasse 2005, p. 252). The registration costs are higher if the property is financed by a mortgage.

5.2.4 Germany: The registration fee in Germany is paid by the buyer to the land registry. The fee is fixed by law and depends on the value of the property (GPG 2007; DIA/CEPI 2006). According to the GPG (2007), the registration fees are around 0.2-0.5 percent of the purchase price and according to DIA/CEPI (2006), the fee is on average 0.3-0.4 percent of the purchase price. According to Expatica (2011), the land registry fee is around 1 percent, according to PCC (2008), the fee is between 0.8 and 1.2 percent of the declared value (see PCC 2008, p. 129), and according to Berlinglägenheter (2010), the fee is approximately 0.5 percent. The registration fee for the mortgage is approximately 1.2 percent of the declared value PCC 2008, p. 129). In some case it is, however, unclear whether the notary fee is included in the registration costs. See, for example, Notary and land cost calculator at http://www.interhyp.de for an estimation of the costs (for the direct link see References in the end of the article). According to this calculator the costs do not exceed 0.5 percent of the purchase price.

5.2.5 Poland: Entries into the Mortgage and Land Register are subject to charges. According to article 42 of the Act of 28 July 2005 on court costs in civil cases (Ustawa z dnia 28 lipca 2005 r. o kosztach sądowych w sprawach cywilnych), the registration fee (on application to record a property/to change an existing file) is fixed at PLN200 (approximately €52 in September 2010). The fixed fee for opening a new file is PLN60 (approximately €15 in September 2010). The registration fee is usually paid by the buyer to a notary in connection with the drafting of a contract (Brzeski, Dobrowolski & Sędek 2004, p. 294; article 4 of the Act; ZERP et al. 2007b, p. 249).

5.2.6 Spain: The registration fee in Spain depends on the value of the property. It is usually paid by the buyer (ZERP et al. 2007b. pp. 338-342). It costs approximately €500 to register the deed and for a mortgage an additional €500 (Global Accounting & Auditing SL 2008). Registration costs are based on tariffs approved by the Government (Cologio de Registradores de la Propiedad y Mercantiles de Espanã 2010). More detailed information can be found at http://www.registradores.org.

5.2.7 Sweden: In Sweden land registration fees are fixed and charged according to the Ordinance (SFS 1987:452) on fees at the courts (Förordningen (1987:452) om avgifter vid de allmänna domstolarna). The fee is SEK825 per property deed and SEK375 per mortgage deed, and is handled by the Nation Land Survey of Sweden (LM 2011).

5.3 Legal fees

5.3.1 Denmark: Since it is recommended that a buyer in Denmark use the service of an advocate, the cost of an advocate should be mentioned. According to ZERP et al. (2007b), advocates are usually paid by the hour, but a fixed fee may be agreed on in connection with a property transaction. ZERP et al. (2007b) refers to the study of the Danish Competition Authority from 2004, in which it was found that the average fee (roughly estimated) was DKK9,500, i.e. €1,275 including VAT. According to GPG (2007), the cost of an advocate is between 0.1 percent and 0.5 percent of the property value (plus 25 percent VAT; however, it is expected that the cost should not exceed 0.5 percent of the property value including VAT).

5.3.2 England: In England, legal fees include the costs of a conveyancer, local authority searches, obtaining copies of documents etc. The cost of a conveyancer can vary as it is based on the amount of time spent on the transaction; these costs can be charged as a percentage of a purchase price plus VAT (for example, 1-3 percent of a purchase price plus 17.5 percent VAT (20 percent VAT from January 2011) or as a fixed amount (from, for example, five hundred pounds up to several thousands. Both buyer and seller bear their own costs (LSBU/CEPI 2005; ZERP et al. 2007b, pp. 82, 91; Cookson & Murrin 2011). According to GPG (2007), the fees are around 0.5-1 percent of the sale price, and according to ZERP et al. (2007b, p. 89), the fees are approximately 0.5 percent for each party. Local authority searches vary from under £100 to nearly £200 (see e.g. Perkins, ed., 2005, p. 4/3). For some examples see, for instance, UKLRS (2008) (http://www.landsearch.net/localauthority.asp) or CNC Searches Ltd (2010) (http://www.cncsearches.co.uk).

5.3.3 France: In France, an essential legal cost is the notary's fee. The notary's fee is fixed by law (GPG 2007; Murray 2007, p. 38; ZERP et al. 2007b, p. 120; Davey 2006, p. 134). The amount is generally around 1 percent plus 19.6 percent VAT. The fee is usually paid by the purchaser (GPG 2007; Manasse 2005, p. 237). When two notaries participate in a transaction, there is no extra cost, since the fee is shared between the notaries in accordance with their

tasks (GPG 2007; Murray 2007, pp. 32, 38; Manasse 2005, p. 238). Any fee amount over €80,000 (exclusive of VAT) may, however, be negotiable (ZERP et al. 2007b, p. 120; None & Gargaro 2009, p. 134). Since the notary's fee is based on the sale price (there is both fixed and variable amount), there is a sliding scale, normally 5 percent of the purchase price for the first €3,050, with a reducing rate to 0.825 percent for amounts above the first €16,770, plus VAT (Davey 2006, p. 134; Manasse 2005, p. 252; None & Gargaro 2009, p. 134; EFIP 2007). According to Charles and Oldra (2011), the fee is approximately 0.825 percent exclusive VAT.

In the case of a notary acting as an agent (to find a buyer for the seller) the fee is negotiable (ZERP et al. 2007b, p. 124). According to ZERP et al. (2007b, p. 124), the fee is approximately 2.5-5 percent of the sale price, and according to Davey (2006, p. 122), the commission is usually 2 percent and is paid by the buyer. The notary fee is, however, usually lower than the fee of an estate agent. Mortgage arrangements increase the costs (see e.g. Murray 2007, p. 38).

5.3.4 Germany: A notary's fee in Germany depends on the notary's service and the value of the transaction (Murray 2007, p. 50; DIA/CEPI 2006). The fee is governed by the federal law on costs in matters of voluntary jurisdiction (Kostenordnung), which means that it is the same for the entire country (ZERP et al. 2007b, pp. 130-131). The fee is fixed by the law (fixed fee scale), and only in connection with contract execution does the notary have any fee flexibility (GPG 2007; Junghänel & Muschter 2009, pp. 142-143; Murray 2007, p. 50; ZERP et al. 2007b, p. 134). The fee may also be higher if the price is paid via a notarial escrow account (notaranderkonto) (ZERP et al. 2007b, p. 137). According to GPG (2009), the fee usually ranges from 0.5 to 1.5 percent of the purchase price. According to DIA/CEPI (2006), the fee for drawing the sale contract is on average 0.7 percent of the purchase price, according to Expatica (2011), the fee is about 1.5 percent, and according to Berlinlägenheter (2010), the fee is approximately 1 percent. Both parties are liable for the notary's fee, but the fee is usually paid by the buyer (Murray 2007, p. 50; GPG 2007; BNotK 2011). More detailed information about notaries can be found at the website for Bundesnotarkammer (BNotK) (see http://www.bnotk.de). For estimation of the costs see, for example, the fee calculator at http://ww.bnotk.de or the Notary and land costs calculator at http://www.interhyp.de (for the direct link see References at the end of this document).

5.3.5 Poland: A notary fee in Poland is regulated by the Ordinance of the Minister of Justice of 28 June 2004 on the maximum notarial fee (with further amendments) (Rozporządzenie Ministra Sprawiedliwości z dnia 28 czerwca 2004 r. w sprawie maksymalnych stawek taksy notarialnej). For the maximum fee schedule see Table 5.1. A VAT of 23 percent must be added on the amount. The fee is usually paid by the buyer or may be divided between the parties by agreement. For preparation of a notarial deed documenting the establishment of a mortgage to secure a bank loan granted for building a house or buying a house/dwelling, 1/4 of the maximum rate is applicable (§7 of the Ordinance).

Table 5.2 Notary fee

Value in PLN	*Fee in PLN*
Up to 3,000	100
Above 3,000 to 10,000	100 + 3% of the amount above 3,000
Above 10,000 to 30,000	310 + 2% of the amount above 10,000
Above 30,000 to 60,000	710 + 1% of the amount above 30,000
Above 60,000 to 1,000,000	1,010 + 0.4% of the amount above 60,000
Above 1,000,000 to 2,000,00	4,770 + 0,2% of the amount above 1,000,000
Above 2,000,000	6,770 + 0.25% of the amount above 2,000,000, but not more than 10,000 respective 7,500 in the case of relatives

5.3.6 Spain: A notary in Spain is paid according to a statutory fee scale; however, the fee can vary within a specified range and may be reduced up to 10 percent (Kirchheim 2005, p. 547; Ortega & Nistal 2009, p. 318; ZERP et al. 2007b, pp. 338-341). The fee covering a value that exceeds €6,000,000 may be freely negotiated (ZERP et al. 2007b, pp. 333-337). According to Global Accounting & Auditing SL (2008), the notary fee is approximately €500, according to Home Spain (2010), the fee is between €300 and €500 and according to Searl (2009), the fee is between £350 and £600. The fee is usually paid by the buyer (ZERP et al. 2007b, pp. 338-341; Global Accounting & Auditing SL 2010; GPG 2007). According to GPG (2007), the notary fee inclusive of land registry fee is approximately 0.5-2 percent, depending on the value of the property.

An advocate in Spain is usually paid on the basis of time spent at an hourly charging rate; however, a fixed amount for certain transactions can also be negotiated (Ortega & Nistal 2009, p. 318). The cost for an advocate is approximately 1 percent of the purchase price; if each part has an advocate the total cost for the transaction will be 1 percent plus 1 percent (Global Accounting & Auditing SL 2010). According to GPG (2007), the fee is usually 1-1.5 percent plus 18 percent VAT.

5.3.7 Sweden: As the conveyancing process in Sweden is conducted by an estate agent, see the next chapter for information on fees.

5.4 Estate agent fee

5.4.1 Denmark: The estate agent fee in Denmark is negotiable. According to Clausen (2006), a typical fee is 3-4 percent of the purchase price. In addition, a fee for collecting the documents and advertising etc. can be added, which gives the total of 6-8 percent of the purchase price (see Clausen 2006, p. 61). A VAT of 25 percent is already included. In ZERP et al. (2007b, pp. 69-70), it appears that the cost of advertising is approximately DKK16,000, i.e. €2,150 including VAT (more in the Copenhagen area and less in the provinces). The cost of the collecting the documents is approximately DKK375, i.e. €50 including VAT. ZERP et al. (2007b) states that according to the study made by the Danish Association of Chartered Estate Agents agent fees are lower than those suggested by these other sources. According to CEPI (2011), the agent fee is approximately 3-5 percent.

5.4.2 England: The agent's commission in England can vary depending on many factors; it is usually a percentage of the sale price and is paid by a seller. The average fee, according to ICREA (2010) and LSBU/CEPI (2005), ranges between 1.5-2 percent of purchase price for

sole agency and 2.5-3 percent for multiple agency. According to ZERP et al. (2007b, pp. 86, 90), the fee is 1.5-2 percent for sole agency, 0.5 percent for sub-agency and 2-4 percent for joint or multiple agency; according to GPG (2007), the fee is 2-3.5 percent and is typically lower when only one estate agent is involved and higher if several agents are used; and according to Murray (2007, pp. 60, 316), the average fee is 2 percent. The commission is subject to the VAT at 20 percent (ICREA 2010; ZERP et al. 2007b, pp. 86, 90; GPG 2007; Cookson & Murrin 2011).

5.4.3 France: An estate agent in France is usually paid on the basis of a percentage of the sale price. The commission is freely negotiable and is paid by the principal (usually the seller). The amount according to ZERP et al. (2007b, p. 123) is approximately 6-8 percent. According to Manasse (2005, p. 238), the commission from the seller usually does not exceed 5 percent plus VAT at 19.6 percent and the commission paid by the buyer does not exceed 3 percent. According to Davey (2006), the general rule is that the seller pays the commission; however, in some regions it is the buyer who pays (however, the fee is usually included in the advertised purchase price). The fee ranges from 5 to 10 percent (plus VAT); in the regions with competition the fee is usually 5 percent; however, the fee may be as high as 10 percent (Davey 2006, pp. 121, 200). Similar information can also be founded in Hodgkinson (2008, p. 105) and Kälin (2005, p. 15). According to BKN (2009, p. 22), the fees is usually 5-8 percent, and according to GPG (2007), the fee ranges from 4 to 10 percent (plus VAT), with 7-8 percent as the most common amount, and the fee is typically split between the parties. The agent's fee is paid first when the sale is finally completed by the notary (Davey 2006 p. 121). According to Charles and Oldra (2011), the fee is approximately 1 to 5 percent of the sale price and according to ERA Europe (2009, p. 36), the average commission (among their estate agents) in 2008 was 5.21 percent. According to CEPI (2011), the agent fee is approximately 3-8 percent.

5.4.4 Germany: In Germany, the estate agent fee is freely negotiable, but is usually contractually agreed on as a certain percentage of the purchase price. The fee also varies greatly depending on, for example, the size of the transaction (Junghänel & Muschter 2009, pp. 142-143). According to GPG (2007), it ranges from 3 to 6 percent of the purchase price, plus 19 percent VAT and is paid either by the buyer or the seller, or split between the parties. Murray (2007, p. 39) reports that the fee is between 3 and 5 percent and is usually paid by the seller. According to ZERP et al. (2007b, p. 136), there is a local custom in many regions with relation to the fee, which results in, for example, Munich or Würzburg charging 3 percent plus VAT while Bremen charges 5 percent plus VAT. According to ZERP et al. (2007b, p. 128), it is usually the buyer who pays the fee. According to Junghänel and Muschter (2009, pp. 142-143) and Lindner-Figura (2011), the fee varies from 3 to 6 percent, and according to DIA/CEPI (2006), the fee is 3.48 to 6.96 percent including VAT. According to Alphare (2008), the fee is 6 percent plus VAT, but varies state by state; in Berlin the fee is payable by the buyer, while in some states it is split between the parties. On Expatica (2011) fees between 3.5 and 6 percent including VAT are found, and at the webpage for German-Hawk-Group (2010) the fee ranges between 3 and 6 percent plus VAT depending on the region. According to the Global Real Estate Project by Burns School of Real Estate and Construction Management (2007), the commission is typically paid by the seller and it ranges from 3 to 5 percent. According to the website, How to Germany's (2010), the commission is, in most cases, between 5 and 7 percent of the purchase price, and is sometimes paid by the buyer, sometimes split between the parties and sometimes paid exclusively by the seller. According to ERA Europa (2009, pp. 40-43), in 2008, the average broker commission (among their

estate agents) was 3.48 percent; however, for high-level professional services the client can expect to be charged at 5-6 percent commission rate.

5.4.5 Poland: The agent's fee in Poland is paid by the principal (the party who signed the contract with the agent); if the agent is commissioned by both parties the fee is paid by both the seller and buyer. According to ICREA (2010), the fee is 2.5-3 percent of the value of the transaction and according to (GPG 2007), the fee for the purchase of a residential apartment is typically 3 percent. ZERP et al. (2007b, p. 248) reports that the usual amount is between 1 and 3 percent and is paid by both parties separately. According to WSGN/CEPI (2010), the remuneration can be up to 2.9 percent plus VAT of the selling price and is paid by both the buyer and seller (together 5.8 percent). According to Brzeziński et al. (2005, pp. 149-150), the fee is usually 2-3 percent of the transaction value (although transaction value can be defined in different ways); for both parties of the transaction the rate is 4-6 percent. The VAT of 23 percent is added to the remuneration. According to CEPI (2011), the agent fee is approximately 2-6 percent.

5.4.6 Spain: The estate agent fee in Spain can be freely negotiated and is usually calculated in accordance with a percentage of the sale price. According to ZERP et al. (2007b, pp. 337-338), the fee is usually 3 to 8 percent of the sale price (the average is 6 percent), but in some attractive tourist areas as, for example, the southern cost, agents can charge up to 10-20 percent. According to Kirchheim (2005, p. 536), the commission is between 5 and 7 percent, and according to Global Accounting & Auditing SL (2008) and Home Spain (2010), the average fee is 5 percent plus 18 percent VAT. The agent's fee is normally paid by the seller (Kirchheim 2005, p. 536; Global Accounting & Auditing SL 2010; ICREA 2008); it can, however, happen that in some tourist regions the fee can be charged to the buyer (ZERP et al. 2007b, pp. 338-341). The agent is usually remunerated in connection with the signing of the final documents at the notary office (ICREA 2008); however, the parties may make another arrangement (Kirchheim 2005, p. 536).

5.4.7 Sweden: In Sweden, according to section 21 of the Estate Agents Act (SFS 1995:400), unless otherwise agreed, an estate agent's commission is calculated as a specified percentage of the purchase price. The agent is entitled to the commission only if the agreement for the sale has been entered into as a result of the agent's service as an intermediary between the person who retained her/his service and a person introduced by the agent (section 21 of the Act; Katzin & Tegelberg 2010, pp. 45-48; Murray 2007, p. 287). However, if the agent has received an exclusive listing and a sales agreement is concluded within the period during which the exclusive right was applicable, even if the transaction was concluded without the agent's mediation, the agent is also entitled to the commission (section 21 of the Act; Murray 2007, p. 287). The agent can be also entitled to compensation for other expenses in addition to the commission, however, only if this has been separately agreed upon (section 22 of the Act; Katzin & Tegelberg 2010, pp. 45-48).

The commission is Sweden is usually borne by the seller (see also Murray 2007, p. 286, ZERP et al. 2007b, p. 352) and there is no fixed rate for a commission; it is up to the agent and principal to agree upon before entering the listing. The commission is generally between 2-5 percent of the purchase price but can vary (see e.g. Murray 2007, pp. 51-52, 286, 289). There is no statistical data available on commissions. The service of the agent is subject to a VAT of 25 percent; however, in a consumer transaction the VAT is always included in the commission (see e.g. Fastighetsmäklarnämndens faktablad). Besides a commission based on a percentage of the purchase price, a flat fee also an option in some cases, for example, when selling co-op flats. There are also agents who offer limited services at a lower price, for

example, Hemverket (see http://www.hemverket.se), which charge SEK5,000 (August 2010) (see e.g. ZERP et al. 2007b, pp. 351-352).

5.5 Other costs

5.5.1 Denmark: In Denmark, energy labelling and property condition survey fees are limited by Danish statuary laws. The fees depend on the size and the age of the building. The maximum fee for a property condition survey can be found in Bekendtgørelse nr 1309 af 16/12/2008 om huseftersynordningen, the maximum costs are from DKK5,400 (approximately €679) up to DKK9,994 (approximately €1,258) includning VAT. The maximumm fee of an energy label can be found in Bekendtgørelse nr 452 af 10/06/2008 om gebyrer og honorarer for ydelser efter lov om fremme af energibesparelser i bygninger. The maximum fees for a single family house are from DKK2,500 (approximately €317) up to DKK3,500 (plus DKK1,000 if the buidning was built before 1940, plus DKK500 if the energy labelling is undertaken for the first time) (approximately €445 resp. €572), including VAT. If energy labelling is carried out in connection with a property condition survey, the costs are reduced by DKK400 (approximately €50). The costs are usually borne by the seller.

5.5.2 England: In England, there are many costs that must be taken into account, for example, the cost of an energy performance certificate, the cost of a homebuyer's report or a structural survey, the cost of a valuation survey, the cost of arranging a mortgage etc. An energy performance certificate for an average-sized house costs approximately £100 (see e.g. Directgov 2010; Residential Landlord 2010), a valuation report costs approximately £100-250 but can be more expensive depending on the size and the value of the property (see e.g. Go Direct UK 2010; ZERP et al. 2007b, p. 91). The cost of a homebuyer's report ranges approximately between £250-1000, depending on the size of the property, its value and the region where it is located (see e.g. Home Buyers Reports 2009; Propertywide.co.uk 2010; GPG 2007; Home.co.uk 2010; Local Surveyor 2008; ZERP et al. 2007b, p. 91; Surveyors Report 2010). The cost of a full structural survey ranges roughly from £500 to £1500 (see e.g. GPG 2007; Propertywide.co.uk 2010; ZERP et al. 2007b, p. 91; Surveyors Reports 2010). The costs for arranging a mortgage are, according to ZERP et al. (2007b, p. 91), approximately £450-500 but other costs may be added, for example, broker's fee for arranging a mortgage etc.

5.5.3 France: In France, according to Davey (2006, p. 138), a technical survey is usually not required by lenders; however, a valuation is required, which can raise the costs. The costs of the necessary survey depend on the nature and situation of the property (None & Gargaro 2009, p. 134). Some transactions may require inspections for different substances/materials (for example, asbestos, lead) or insects (for example, termites) etc., which may involve the cost of necessary treatments or controls (Murray 2007, pp. 37-38; Davey 2006, pp. 130-131). In Davey (2006, pp. 130-131), the cost estimate for this kind of inspection is approximately €180-1000 (tests for lead cost approximately €400-700). According to ZERP et al. (2007b, p. 123), the fees for technical services usually ranges between €600 and €1000 and are paid by the seller. A basic structural survey costs range, according to Davey (2006, pp. 129-130), between £200 and £500, and a full structural survey costs between £500 and £1,500.

5.5.4 Germany: As in the other countries, a professional survey of a property is advisable also in Germany in order to avoid unforeseen costs. The survey can be done by, for example, an official surveyor (amtlich vereidigter Sachverständiger) from the local building office (Bauamt), an architect or a home inspector (Housinspektor) (see e.g. http://www.der-

hausinspektor.de). The fees can vary in different parts of the country. As an example can be given the costs charged by Der Housinspektor (2004); the basic fee is between €300-350, plus additional percentage of the savings negotiated by them (approximately 20-30 percent of savings depending on the value of the property, plus 19 percent VAT (this is not an example of the variance in fees; it only shows one fee situation).

5.5.5 Poland: In Poland, other costs that can be added are, for example, the cost of a valuation and the cost of a technical survey. The cost of valuation may be necessary if the purchase is financed by a bank. Both costs vary depending on the scope of services. According to ZERP et al. (2007b, p. 248), valuation costs can range between €200 and €400. As an Energy Performance Certificate is mandatory in Poland, its cost must be added. The cost varies depending on the size of the properties. The approximate cost for an apartment is PLN300-700 and for a one-family house PLN500-1,200 (see e.g. Matusiak 2009; Świadectowenergetyczne.net 2010; IKC 2010).

5.5.6 Spain: The seller in Spain must pay a local tax on the increased value of the land from the date the owner acquired the property to the time of the present sale, called "plusvalia" ("Arbitrio sobre el Incremento del Valor de los Terrenos"). The tax may be paid instead by the buyer, depending on the agreement. The tax rate is set by the respective municipalities and is based on the administrative value (cadastral value) of the property. It is calculated on the rateable value of the property and the number of years that it has been in possession of the present owner (Global Accounting & Auditing SL 2010; Ortega & Nistal 2009, p. 319; Kirchheim 2005, p. 549; Searl 2009, p. 49).

Technical services may be a valuation in connection with the credit secured by a mortgage or a structural survey. The costs of these vary, as they are not regulated; however, some guidance can be provided by professional organizations (ZERP et al. 2007b, pp. 338-341). In ZERP (2007b, pp. 338-341) there can be found some sample costs reflecting the most common fees charged by the valuation companies that work for banks: technical services for a mortgage value of €100,000 cost €130, for a mortgage value of €250,000 cost €202, for a mortgage value of €500,000 cost €313, for a mortgage value of €1,000,000 cost €623, and for a mortgage value of €5,000,000 cost €2,706. According to Global Accounting & Auditing SL (2008), the cost of valuation is approximately €500-700 on a standard property and the cost of a structural survey is approximately €2000. If the property is financed by a mortgage, the valuation is usually required by the bank (Global Accounting & Auditing SL 2008).

5.5.7 Sweden: In Sweden, different types of structural surveys can be found, the most common one is called "överlåtelsebesiktning (jordabalksbesiktning)" according to the SBR-model (SBR - Swedish Association of Building Engineers (Svenska Byggingenjörers Riksförbund)). This kind of survey costs approximately SEK6,500-7,500 but can vary depending on the type of property etc. (see e.g. Köpa-hus 2010; HedBtBe 2008; Korrekta besiktningar och värderingar 2010; Jan Källman IngByrå 2007). The inspection is usually ordered and paid by the buyer.

From 1 January 2009 one and two-family houses must have an energy declaration before they can be sold. If there is no energy declaration, the buyer has the right to order an energy declaration at the seller's expense (see e.g. Boverket 2008; 2009). According to Hus & Hem (2008), the prise for the declaration can vary from SEK3,000 up to SEK10,000. An energy declaration can only be carried out by a professional accredited by Swedac. A register of accredited professionals can be found at Swedac (Swedish Board for Accreditation and Conformity Assessment (see http://www.swedac.se). More information on the energy declaration can be found at Boverket (2010) (see http://www.boverket.se/energideklaration)

or at Energimyndigheten (2010) (Swedish Energy Agency, see http://www.energi-myndigheten.se).

5.6 Cost summary

Some selected costs such as transfer tax/fee, registration fee, legal services (for example, notary fee, advocate fee etc.), and estate agent fee, are summarised in Table 5.3.

Table 5.3 Cost summary

Country / Costs	*Transfer tax*	*Registration fee*	*Legal service*	*Estate agent fee*
Denmark	No tax	Basic fee DKK1,400 plus 0.6% of purchase price	Advocate fee approx. DKK9,500 (incl. VAT); or 0.1-0.5% of property value (+25% VAT)	3-8% (incl. 25% VAT)
England	0-4%	£50-920	Around 1% of sale price (+ 20% VAT)	1.5-4% (+ 20% VAT)
France	5.09%	Approx. 0.1-0.15% (Land Registrar's salary 0.10% of purchase price)	Notary fee around 1% (+ 19.6% VAT	3-8% (+ 19.6% VAT)
Germany	3.5% (Berlin 4.5%)	Around 0.2-0.5% of purchase price	Notary fee 0.5-1.5%	3-6% (+ 19% VAT)
Poland	2%	PLN200	Notary fee approx. €25-€3600 (+ 23% VAT)	2-6% (+23% VAT)
Spain	7-8%	Approx. €500	Notary fee approx. €500; Lawyer approx. 1% (+ 18% VAT)	5% (+ 18% VAT)
Sweden	1.5%	SEK825	No need	2-5% (incl. 25% VAT)

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