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## Session 7

### Unclear ownership: an European conundrum?

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## Structure of the presentation

- Problems of co-ownership
- Problems of unknown ownership
- Problems of unclear ownership
- How to deal with that in a land consolidation project? Experience from Portugal
  - At the start of a land consolidation project in PT
  - Solutions in land consolidation projects in PT

## Problems of co-ownership

### 1.1 General

A land parcel is privately owned by a number of co-owners in undivided shares

- co-owners want to divide the parcel
- co-owners use separate portions of the parcel
- one co-owner wants to farm the land, the others agree ("compensation"?) or not
- co-owner(s) live outside the country or one/some can't be located

## Problems of co-ownership (II)

### 1.2. Inheritance

The owner has died and has more than one heir

- land parcel owned by the deceased person, heirs have not taken steps to take legal ownership
- heirs living in other countries, also dead or can't be traced
- due to law, estate must be divided equally among the heirs; farm must be treated along with moveable property → there can be no transactions on the farm until the entire estate is transmitted to heirs

## Problems of unknown ownership

2.1. State knows that the land is privately owned but the ownership of the parcel is unknown because:

- there is no record of owner
- the owner / heirs cannot be traced



2.2. State has not recognized that the land has no owner – but it is known locally that the landowner is unknown

## Problems of unclear ownership

3.1. Person claiming the parcel not shown in land registry/cadastral as the legal owner

3.2. Several people claim the parcel

3.3. Boundaries of land parcel(s) contested by neighbouring landowner(s)





## Problems of unclear ownership (II)

3.4. Land register / cadastre does not reflect the situation on the ground

3.5. During land consolidation, a land parcel identified as “unknown ownership” became state property but afterwards is claimed by a person

3.6. State acquired land but never completed the transfer procedures, and land registry / cadastre still shows the original owners



## How to deal with that in a land consolidation project? Experience from Portugal

General picture:

- inheritance law (Roman): co-owners
- living in urban areas
- no updated cadaster countrywide
- different registration systems: land rights  $\neq$  tax purposes
- high cost of land registration compared to market price of land
- land ownership strong impact due to cultural reasons
- legal restrictions prevent the formal subdivision of a parcel below a minimum area

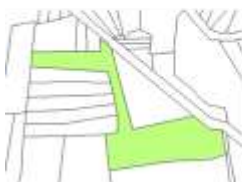
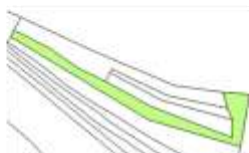


## At the start of a land consolidation project in PT

- Land parcels owned by several co-owners
- Unknown owner(s)
- No contact of the owner
- Absent owner(s)
- Outdated land registration: name of ancestors; situation in the field doesn't correspond to the register
- Abandoned land
- Land being used by other(s)
- Inheritance process not completed
- Unclear boundaries of land parcel(s)
- Size and shape of parcels not suitable for agriculture



### Unsuitable shape of parcels







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Unsuitable size x shape





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## Solutions in land consolidation projects in PT

- Problem: several co-owners

One or more co-owners own another parcel where he/she is the single owner → deduct the area and add it to his/her new plot



## Solutions in land consolidation projects in PT (II)

- Problems: unknown owner(s), no contact of the owner, absent owner(s), outdated land registration, inheritance process not completed, unclear boundaries of land parcel(s)

Team includes lawyers and topographers  
Team executes a cadaster for the purpose of the project  
Law defines procedures to deal with unknown and absent owners



## Solutions in land consolidation projects in PT (III)

- Problem: abandoned land  
New plot with no owner; can be leased; legislation provides for land to be owned by the state when it is known that land has no identified owner
- Problem: land being used by other(s)  
Under certain circumstances these can become legal owner(s)



## Solutions in land consolidation projects in PT (IV)

- Problem: size and shape of parcels not suitable for agriculture

The new allotment  
solves / improves this!



We'll come back to this topic in

### Breakout working group n. 3

“Finding owners and clarifying rights”



