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Brokerystė Lietuvoje: kaip dirbsime rytoj? Profesionalumo ir skaidrumo iššūkiai sistemai.

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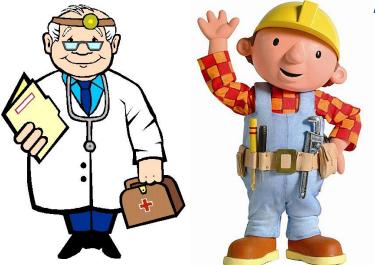




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NEKILNOJAMOJO TURTO BROKERIS











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NT BROKERIS ar NT AGENTAS

A **real estate broker** or **real estate agent** is a person who acts as an <u>intermediary</u> between sellers and buyers of <u>real estate</u>/<u>real property</u> and attempts to find sellers who wish to sell and buyers who wish to buy.

An **estate agent** is a person or business that arranges the selling, renting or management of <u>properties</u>, and other <u>buildings</u>, in the <u>United Kingdom</u> and <u>Ireland</u>. The term originally referred to a person responsible for managing a landed estate, while those engaged in the buying and selling of homes were "House Agents", and those selling land were "Land Agents". **However, in the 20th century, "Estate Agent" started to be used as a generic term**, perhaps because it was thought to sound more impressive. **Estate agent is roughly synonymous** in the <u>United States</u> with the term <u>real estate broker</u>. http://en.wikipedia.org



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NEKILNOJAMOJO TURTO AGENTAS. EUROPOS STANDARTAS.

"Nekilnojamojo turto agentų paslaugos. Nekilnojamojo turto agentų paslaugų teikimo reikalavimai" EUROPEAN STANDARD EN 15733 December 2009 / LIETUVOS STANDARTAS ANGLIŠKOJI VERSIJA LST EN 15733 2010 m. Sausis

CEN members are the national standards bodies of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, **Lithuania**, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom.

Europos standartas EN 15733:2009 turi Lietuvos standarto LST EN 15733:2010 statusą.

Šis Lietuvos standartas yra Europos standartizacijos komiteto (CEN) technikos komiteto CEN/TC 373 *Project Committee* - *Services of Real Estate Agents* parengto Europos standarto EN 15733:2009 *Services of real estate agents* - *Requirements for the provision of services of real estate agents*, kurį **Lietuvos standartizacijos departamentas** atgaminimo būdu **perėmė kaip Lietuvos standartą** LST EN 15733:2010, angliškoji versija.

"This document represents a first European consensus in specifying requirements for the services of real estate agents. Due to the number of different approaches presently taken at national level to the degree of supervision of real estate services in Europe, this document aims to set general requirements only, and should therefore be taken as the basis upon which higher professional service provision and professional competence requirements may be defined in the field of real estate services.

According to the CEN/CENELEC Internal Regulations, the national standards organizations of the following countries are bound to implement this European Standard: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom."

"Lietuvos Standartizacijos Departamentas prie LR Aplinkos Ministerijos"



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Taikymo sritis

Šis Europos standartas nustato reikalavimus nekilnojamojo turto agentų teikiamoms paslaugoms.

Šis Europos standartas taikomas paslaugoms, kurias verslas teikia verslui ir kurias verslas teikia fiziniams asmenims vartotojams.

Pažymėtina, kad daugelyje šalių yra patvirtintos nekilnojamojo turto agentų veiklą reglamentuojančios teisinės nuostatos, ir į jas reikia atsižvelgti. Nekilnojamojo turto agentai turi laikytis visų susijusių Europos ir nacionalinių teisės aktų. Jeigu šiame Europos standarte ir Europos bei nacionaliniuose teisės aktuose yra prieštaringų reikalavimų, viršenybę turi Europos ir nacionaliniai teisės aktai.

Šio Europos standarto reikalavimai taikomi visoms paslaugoms, tame tarpe ir elektroninėmis priemonėmis ir internetu teikiamas paslaugas.

Nekilnojamojo turto agentas - subjektas (individualus profesionalas, bendrija ar įmonė), kuris kliento vardu atstovauja klientą ar tarpininkauja tarp šalių nekilnojamojo turto sandoriuose ir kitose su nekilnojamuoju turtu susijusiose veiklose.

PASTABA: apibrėžtis gali būti, pavyzdžiui, apie šias veiklos rūšis:

- konsultacijas (pvz. klientams teikiamą informaciją apie turto rinkos vertę),
- turto rinkodara ir reklama,
- su pirkimu ir pardavimu susijusias paslaugas,
- su nuomojimu, išsinuomojimu ar išperkamąja nuoma susijusias paslaugas,
- teisių į nekilnojamąjį turtą nustatymą, įgijimą ir registravimą,
- su būstais ir kitokios paskirties pastatais bei žeme susijusias apklausas,
- sutarčių sudarymą,
- turto tikrinimo ir apžiūros organizavimą,
- pirkėjo ir pardavėjo suradimą bei sąlygų jų bendravimui sudarymą.



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- 2.2 Klientas šalis, kuri sudarė sutartį su nekilnojamojo turto agentu dėl agento teikiamų paslaugų.
- **2.3 Pardavėjas -** šalis, kuri siūlo parduoti ar išnuomoti turtą.
- **2.4 Pirkėjas** šalis, kuri nori pirkti arba išsinuomoti turtą.

Bet kuriai **2.2, 2.3 ir 2.4 straipsniuose nurodytai šaliai** nekilnojamojo turto agento teikiama informacija turi būti aiški ir nedviprasmiška, nepriklausomai ar ta informacija teikiama raštu ar žodžiu, elektroninėmis priemonėmis, ar kitaip.

Informacija klientui pirkėjui

Nekilnojamojo turto agentas privalo pranešti pirkėjui apie pirkėjo teises ir pareigas ir privalo laiku suteikti pirkėjui susijusią informaciją, kuri gali turėti įtakos bet kokiam su nekilnojamojo turto sandoriu susijusiam sprendimui, kaip kad:

- konsultacijas dėl ieškomo nekilnojamojo turto tipo rinkos kainų,
- tikslaus nekilnojamojo turto apibūdinimo (t.y. duomenų apie turto rūšį, dydžius, vietą ir susisiekimą),
- galimų išlaidų detalizavimas, kaip kad kainų, mokesčių valstybei, paslaugų kainų,
- informacijos (pvz. dėl nekilnojamojo turto nuosavybės registravimo) apie pardavėjo teisę į nuosavybę ar teisę disponuoti, įskaitant bet kokius servitutus ir įkeitimus ar kitus suvaržymus nuosavybės teisei ar disponavimui turtu,
- kadastro arba patvirtinto nuosavybės teise priklausančio turto plano,
- statinio charakteristikų ir aprūpinimo viešąja infrastruktūra apibūdinimo,
- dokumento, įrodančio, kad nekilnojamojo turto agentas jį įgaliojusios šalies vardu turi teisę imti mokestį už sandorį,
- planuojamų ir/ar vystomų susijusių teritorijų zonų statuso,
- atskleistų arba nekilnojamojo turto agentui žinomų trūkumų.

Informacija klientui pardavėjui

Nekilnojamojo turto agentas privalo pranešti pardavėjui apie jo kaip pardavėjo, teises ir pareigas ir privalo stengtis laiku suteikti pardavėjui visą susijusią informaciją, kuri gali turėti įtakos bet kokiam su nekilnojamojo turto sandoriu susijusiam sprendimui, pvz.dėl:

- parduodamo nekilnojamojo turto tipo rinkos kainų,
- galimų išlaidų, pvz. rinkodaros ir/ar susijusių kainų, mokesčių valstybei, paslaugų kainų,
- rinkodaros strategijų,
- galimybių pasiekti pridėtinę vertę,
- vietos mastu taikomų įstatymų ir pojstatyminių aktų,
- sandoriui sudaryti visų reikalingų dokumentų.



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Kliento ir agento sutartis

Nekilnojamojo turto agentas ir klientas turi pasirašyti rašytinę sutartį dėl paslaugų, kurioms atlikti samdomas nekilnojamojo turto agentas. Sutartyje turi būti nurodyta ši informacija:

- sutarties šalių pavardės ir adresai,
- nekilnojamojo turto agento registracijos numeris,
- -užduoties, kurią reikia atlikti, pobūdis,
- mokėtinas atlygis ir kompensuotinos išlaidos,
- įvairios sąlygos, įskaitant mokėjimo terminus,
- ar sutartimi suteikiamos išskirtinės teisės, ar ne, ir kokie yra išskirtines sąlygas apibrėžiančios sutarties terminai ir sąlygos,
- ar leidžiama samdyti subrangovus,
- sutarties pasirašymo diena, sutarties galiojimas ir nutraukimo terminai bei sąlygos,
- turto apibūdinimas,
- paslaugoms taikomi apribojimai,
- ar nekilnojamojo turto agentas atstovauja tik klientui, ar veikia kaip tarpininkas,
- nuorodos į susijusius įstatymus,
- formuluotė apie reikalavimus atitinkančią jurisdikciją,
- informacija apie draudimus (insurances) kaip reikalaujama šiame standarte.
- bet koks neatitikimas šiam Europos standartui,

PASTABA: Kad būtų kuo mažiau ginčų, nekilnojamojo turto agentams rekomenduojama sudaryti išskirtinio atstovavimo sutartis. Nekilnojamojo turto agentas negali pradėti pardavinėti potencialaus kliento turto tol, kol nėra pasirašyta kliento ir agento sutartis. Nekilnojamojo turto agentas turi informuoti klientą, kad jam gali reikėti sumokėti dvigubą mokestį už paslaugą, jei klientas įpareigos kitą nekilnojamojo turto agentą parduoti tą patį nekilnojamąjį turtą.



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Su sandoriu susijusi informacija

Nekilnojamojo turto agentas turi informuoti savo klientą apie sandorio šalių pareigas.

Nekilnojamojo turto agentas turi užtikrinti, kad nebus atskleista kliento informacija, nebent to teisiškai reikalaujama arba toks informacijos atskleidimas būtinas sandoriui sudaryti.

Jei nekilnojamojo turto agentas yra sudaręs kliento - agento sutartį tiek su pirkėju tiek ir su pardavėju, jis turi raštu informuoti ir pardavėją ir pirkėją, kad agentas atstovauja abi puses.

Pirkėjui dirbantis nekilnojamojo turto agentas per pirmąjį pokalbį praneša apie tai pardavėjui arba pardavėjo agentui.

Pardavėjui dirbantis nekilnojamojo turto agentas nedelsdamas turi pranešti pardavėjui apie visus gautus pasiūlymus dėl pardavėjo turto. Pernelyg nedelsiant turi būti pranešta pasiūlymą pateikusiai šaliai, ar pasiūlymas priimtas, ar atmestas. Nekilnojamojo turto agentai turi kaupti atitinkamus įrašus apie visus gautus pasiūlymus dėl turto ir atsakymus į juos.

Nekilnojamojo turto agentas praneša sutarties šalims, kad bus tikrinama jų tapatybė.

Interesų konfliktas

Nekilnojamojo turto agentas privalo vengti interesų konflikto ir nedelsdamas raštu atskleisti bet kokius asmeninius interesus.

Nekilnojamojo turto agentas privalo aiškiai pasakyti, jei pasiūlytas pirkėjas (pardavėjas) yra pats agentas arba fizinis ar juridinis asmuo, su kuriuo jį sieja ekonominiai interesai ar asmeniniai santykiai.



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Sandoriai

Nekilnojamojo turto agentas privalo paprašyti pardavėjo pateikti nuosavybę įrodančius dokumentus ir (arba) dokumentus apie turto situacija dėl patvirtintų ar rengiamų planavimo dokumentų, kadastro duomenis bei įvairius apribojimus ar klaidingus įrašus.

Išskyrus naują nekilnojamąjį turtą, kai jį sudaro nebaigta statyba, visą kitą rinkoje parduodamą nekilnojamąjį turtą vietoje turi apžiūrėti nekilnojamojo turto agentas arba jo įgaliotas asmuo.

Nekilnojamojo turto agentas privalo skatinti pirkėją ir dalyvauti kartu apžiūrint turtą prieš sudarant sandorį.

Nekilnojamojo turto agentas privalo perduoti pardavėjui susijusią, nekilnojamojo turto agentui žinomą informaciją, apie finansines pirkėjo galimybes užbaigti sandorį.

Nekilnojamojo turto agentas privalo stengtis, kad pirkėjas ir pardavėjas susitartų dėl klausimų, kurie turi būti išspręsti prieš ir atliekant sandorį. Nekilnojamojo turto agentas **privalo padėti paruošti sandoriui reikalingus dokumentus**.

Už raktus atsakingo asmens pareigos

Nekilnojamojo turto agentas, kuriam patikėti turto raktai, deramai rūpinasi jam perduoto ar nuomoti patikėto turto saugumu.

Nekilnojamojo turto agentas susitaria su klientu dėl turto apžiūrėjimo sąlygų (pvz. kada ir kaip galima apžiūrėti).

Pas nekilnojamojo turto agentą esančios su sandoriu susijusios lėšos

Pas nekilnojamojo turto agentą esančios klientų lėšos turi būti laikomos atskirai nuo agento nuosavų lėšų.

Nekilnojamojo turto agentas turi galėti bet kuriuo metu atsiskaityti už kliento vardu laikomas lėšas.

Nekilnojamojo turto agentas negali laikyti jokių klientui priklausančių lėšų, jei už jas nėra finansiškai laiduota arba jos nėra atitinkamai apdraustos.

Nekilnojamojo turto agentas užtikrina, kad avansas ir/ar palūkanos iš jų būtų sumokamos griežtai laikantis sandorio sutarties. Jei avansas mokamas nekilnojamojo turto agentui, jis privalo išrašyti kvitą.

Užrašo "Parduodama" naudojimas

Nekilnojamojo turto agentas užrašą "Parduodama" arba "Išnuomojama" gali pakabinti tik iš anksto klientui leidus.



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Nekilnojamojo turto agentų kvalifikacija ir kompetencija Bendro pobūdžio dalykai

Asmenys, prisiimantys šiame standarte apibrėžtas atsakomybes, turi turėti 6.2 punkte apibrėžtas profesines kompetencijas.

Kompetencijos geriausiai įvertinamos mokslo pasiekimais, o kai vertinama, standartas reikalauja išlaikyti su nekilnojamuoju turtu susijusių dalykų (sutinkamai su 6.2 punktu) egzaminus, kurie atitiktų mažiausiai 120 ECTS kreditų (*pagal Europos kreditų perkėlimo sistemą).

Prieš agentui savarankiškai imantis šiame standarte apibrėžtos atsakomybės, rekomenduojama studijuojant arba baigus pirmiau minėtas studijas šioje srityje padirbėti mažiausiai 12 mėnesių (dirbant visu etatu).

Pripažįstama kad ir kiti kompetencijos įvertinimo metodai gali būti taikomi.

Taip pat pripažįstama, kad kai kuriose profesinės praktikos srityse gali būti reikalaujama turėti ir aukštesnio lygio, nei išdėstyta, išsilavinimą.

Nekilnojamojo turto agentas turi turėti veikiančias darbuotojų atrankos ir vadovavimo jiems procedūras, kad atrinkti darbuotojai turėtų būtiniausius įgūdžius ir kvalifikaciją tam, kad gebėtų teikti visas nekilnojamojo turto agentų paslaugas.



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6.2. Profesinė nekilnojamojo turto agentų kompetencija

6.2.1. Svarbiausios kompetencijos

Nekilnojamojo turto agentas turi turėti užtektinai toliau išvardytų dalykų žinių.

- **6.2.1.1.** Nekilnojamojo turto rinka, kurioje agentas dirba (tame tarpe ir tarptautinius sandorius). Būtiniausios žinios:
- svarbiausi su nekilnojamojo turto sandoriais susiję finansiniai ekonominiai terminai ir apibrėžtys,
- su nekilnojamojo turto sektoriumi susiję pinigų, kredito ir bankų sistemos,
- su nekilnojamojo turto sektoriumi susijusi ekonominė ir politinė padėtis,
- pasiūla ir paklausa konkrečiame nekilnojamojo turto sektoriuje,
- su investicijomis į nekilnojamąjį turtą susiję klausimai.
- **6.2.1.2.** Nekilnojamojo turto rinkodara. Būtiniausios žinios apie įvairiausioms nekilnojamojo turto rūšims taikomus rinkodaros metodus ir techniką.
- **6.2.1.3.** Disponavimo turtu išlaidos. Būtiniausios žinios:
- su naudojimusi susijusios išlaidos (pvz. elektra, šildymas, metiniai mokesčiai, metinės išlaidos priežiūrai),
- įvairus su nekilnojamuoju turtu susijęs draudimas (pvz. atstatymo draudimas, paskolos turtui įsigyti draudimas, patalpose esančio turto draudimas).
- **6.2.1.4.** Nekilnojamojo turto sandorio finansavimo principai ir procesas. Būtiniausios žinios:
- su jkeitimu, paskolomis ir kitomis finansinėmis priemonėmis susiję teisės aktai,
- jvairių rūšių įkeitimai, paskolos ir kitokios finansinės priemonės,
- administracinis procesas, reglamentuojantis įkeitimo sandorio pradžią ir pabaigą.
- **6.2.1.5.** Turto rinkos vertės nustatymas. Būtiniausios žinios:
- vertinimo terminai ir vertinimo metodų pagrindai,
- skirtingi vertinimo tikslai,
- gebėjimas nustatyti, kokią vertinimo informaciją ir metodus reikia taikyti konkrečiomis rinkos sąlygomis.



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- **6.2.1.6.** Patalpų apžiūra ir matavimas. Būtiniausios žinios apie skirtingų nekilnojamojo turto rūšių patalpų matavimo principus ir terminologiją, atsižvelgiant į matavimo tikslą.
- **6.2.1.7.** Su agento veiklos sritimi susiję nacionaliniai ir Europos įstatymai, teisėkūra, reglamentai ir standartai. Būtiniausios temos:
- nekilnojamojo turto agentūra,
- sveikata ir saugumas, aplinkos klausimai, kovos su pinigų plovimu veiksmai,
- nekilnojamajam turtui taikomos subsidijos, išmokos ir mokestinės lengvatos,
- miestų planavimas ir nekilnojamojo turto vystymas,
- nekilnojamojo turto apmokestinimo principai,
- vartotojų apsauga,
- pastatams taikomų taisyklių rengimo principai ir pastatų kodai,
- nuomotojas ir nuomininkas,
- nekilnojamasis turtas,
- sutartys.
- **6.2.1.8.** Nekilnojamojo turto sandoriai. Būtiniausios žinios:
- gebėjimas paruošti nekilnojamojo turto sutartis arba padėti juos ruošti,
- mokėjimas įvertinti su nekilnojamuoju turtu susijusias sutartis ir įvertinti, ką konkreti sutartis gali reikšti klientui,
- jvairūs pardavimo (nuomos) būdai ir nekilnojamojo turto agento vaidmuo.



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6.2.2. Kitos kompetencijos

Nekilnojamojo turto agentas supranta toliau išvardytus dalykus.

- **6.2.2.1.** Nekilnojamojo turto sektoriaus, kuriame dirba agentas, statyba ir priežiūra. Būtiniausios žinios:
- statybų rūšys ir svarbiausia terminologija,
- pastatų konstrukcijos,
- statybos, renovacijos, remonto, perstatymo principai ir reikalingi leidimai,
- pagrindiniai statybos organizavimo principai ir specialistų komandos sudėtis bei vaidmuo,
- statybos reikalavimai, kuriuos turi žinoti nekilnojamojo turto agentas, kaip specialistas, ir klientas.
- **6.2.2.2.** Su aplinka ir energija susiję turto aspektai. Būtiniausios žinios:
- pagrindai apie medžiagų ir statinių gyvavimo ciklą,
- principai, susiję su energijos taupymu, garso izoliacija, drėgme ir šviesa,
- principai, susiję su taršos rizika ir išvalymu nuo taršos,
- natūrali su nekilnojamuoju turtu susijusi rizika (pvz. dirvožemio erozija, žemės drebėjimai, sniego griūtys, potvyniai).
- **6.2.2.3.** Mokėjimas skaityti (architektūrinius) brėžinius ir pastato specifikacijų išmanymas.
- **6.2.2.4.** Kadastro, topografiniai žemėlapiai (kai reikalinga) ir topografinė informacija. Būtiniausios žinios:
- nekilnojamojo turto informacijos registravimas valstybiniuose registruose,
- paprastai taikomos sąlygos ir apibrėžtys,
- teisinė ir praktinė kadastro informacijos reikšmė.
- **6.2.2.5.** Miesto ir kaimo planavimas. Būtiniausios žinios:
- su miesto ir kaimo planavimo dokumentais susiję terminai ir apibrėžtys,
- su miesto ir kaimo planavimo dokumentais susiję teisiniai ir praktiniai dalykai,
- planavimo dokumentu turinio vertinimas.
- **6.2.2.6.** Verslo administravimas. Būtiniausios žinios ir gebėjimas jas taikyti praktiškai:
- informacinių technologijų taikymas,
- dokumentacijos ir elektroninių duomenų valdymas,
- kokybės valdymas,
- konfliktų valdymas.



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6.2.3. Bendravimo ir pardavimo įgūdžiai

Būtiniausi gebėjimai:

- pristatymas raštu ir žodžiu,
- kliento poreikių nustatymas,
- derybų technikos naudojimas.

6.3. Tęstinis profesinis tobulėjimas

Nekilnojamojo turto agentas užtikrina, kad 6.2. punkte reikalaujama profesinė kompetencija būtų išlaikoma ir atnaujinama. Todėl būtina bent jau:

- reguliariai domėtis svarbiausiais teisės aktais, informacija ir įvykiais, kurie gali turėti įtakos nekilnojamojo turto agentui patikėtiems interesams,
- lankyti ir raginti savo darbuotojus lankyti bei tęsti specialius mokymo kursus, kurie leistų prisitaikyti prie susijusių teisės aktų ir profesinės praktikos pokyčių.

7. Draudimas

Nekilnojamojo turto agentai turi imtis priemonių, kad jų veikla būtų apdrausta priklausomai nuo agento vykdomų sandorių tipo ir vertės.

8. Skundų nagrinėjimas

Nekilnojamojo turto agentas turi raštu apibrėžtą skundų nagrinėjimo tvarką, kuri užtikrina, kad su visais skundais būtų dirbama be reikalo jų nevilkinant. Šioje skundų nagrinėjimo tvarkoje turi būti nurodyta, kad galima kreiptis į bet kokią nepriklausomą skundų nagrinėjimo tarnybą arba naudotis bet kokiomis alternatyviomis skundų nagrinėjimo priemonėmis.

PASTABA: nekilnojamojo turto agentas gali sužinoti apie skundų nagrinėjimo tvarką iš šios nuorodos į tarptautinius standartus: ISO 10002:2004 "Kokybės vadyba. Kliento pasitenkinimas. Skundų tvarkybos organizacijose gairės" ir ISO 10003:2007 "Kokybės vadyba. Kliento pasitenkinimas. Skundų tvarkybos ne organizacijose gairės"



Renginys profesionalams

LST EN 15733:2010

9. Etikos kodeksas

Nekilnojamojo turto agentas turi užtikrinti savo ir viso personalo narių žinias apie šį etikos kodeksą, pritarimą jam ir laikymąsi atitinkamų jame išdėstytų geros profesinės praktikos nuostatų bei standartų.

- 9.1. Nekilnojamojo turto agentas **nediskriminuoja klientų ir neatsisako teikti vienodai profesionalių paslaugų** kiekvienam klientui.
- 9.2. Nekilnojamojo turto agentas gina ir skatina teisėtą savo klientų interesą.
- 9.3. Nekilnojamojo turto agentas neturi teisės vykdyti perdėto spaudimo, kad laimėtį užsakymą ar užbaigti sandorį.
- 9.4. Nekilnojamojo turto agentas turi užtikrinti, kad **nebūtų atskleista kliento informacija**, nebent jos būtų reikalaujama teisėtai ar jos atskleidimas būtų reikalingas sandoriui sudaryti.
- 9.5. Nekilnojamojo turto agentas turi sąžiningai, dorai elgtis su visomis dalyvaujančiomis šalimis atsižvelgiant į jų teises.
- 9.6. Kur tinkama, nekilnojamojo turto agentas turi patarti nekilnojamojo turto agento neatstovaujamai šaliai, kad ji turėtų kreiptis dėl nešališko patarimo.
- 9.7. Nekilnojamojo turto agentas sąžiningumą laiko visų savo sandorių ir bet kokio bendravimo pagrindu. Agentas **neturi apsiimti vykdyti užsakymų**, kuriems jam trūksta žinių, įgūdžių arba patirties ir skrupulingai turi kreipti dėmesį į detales, siekdamas gauti būtiną informaciją bei ruošdamas su turtu susijusią informaciją. Agentas negali daryti jokių neteisingų, klaidinančių ar perdėtų tvirtinimų.
- 9.8. Nekilnojamojo turto agentas visus reikalus tvarko ir bendrauja sąžiningai. Nekilnojamojo turtas agentas neslepia verslo santykių su kitomis susijusiomis šalimis ir vengia interesų konflikto.
- 9.9. Nekilnojamojo turto agentas skatina sąžiningą konkurenciją.
- 9.10. Nekilnojamojo turto agentas užtikrina, kad santykiai su kolegomis visada būtų mandagūs ir pagarbūs.
- 9.11. Kad nepakenktų klientų interesams, nekilnojamojo turto agentas vengia bet kokio konflikto su kolegomis.

AGENTŪRU ASOCIACIJA

Renginys profesionalams

LNTAA ETIKOS KODEKSAS, DEKLARACIJA



LIETUVOS NEKILNOJAMOJO TURTO AGENTŪRU ASOCIACIJOS

ETIKOS KODEKSAS

Šį Etikos kodeksą parengė Lietuvos nekilnojamojo turto agentūrų asociacija (LNTAA). Juo siekiama skatinti etikos principus atitinkančią nekilnojamojo turto brokerių veikla. Etikos kodeksas reglamentuoja LNTAA brokerių elgesį, teikiant tarpininkavimo paslaugas ir konsultacijas klientams bei LNTAA brokerių elgesį ir santykius su kitais nekilnojamojo turto brokeriais.

- 1. Nekilnojamojo turto brokeris nuolat domisi svarbiausiais teisės aktais, informacija ir naujovėmis, kurios gali turėti įtakos jo veiklai.
- 2. Nekilnojamojo turto brokeris nuolat kelia savo profesine kvalifikacija, reguliariai dalvvauja mokymuos, seminaruose, savarankiškai įsisavina naujausią mokomąją ir informacinio pobūdžio
- 3. Nekilnojamojo turto brokeris nediskriminuoja klientų ir neatsisako teikti vienodai profesionalių paslaugu kiekvienam klientui.
- 4. Nekilnojamojo turto brokeris nedaro netinkamo spaudimo, kad gautu nurodymus ar užbaigtu
- 5. Nekilnojamojo turto brokeris užtikrina, kad nebūtų atskleista kliento informacija, nebent jos būtų reikalaujama teisėtai ar jos atskleidimas būtų reikalingas sandoriui sudaryti.
- 6. Nekilnojamojo turto brokeris teisingai elgiasi su visomis dalyvaujančiomis šalimis ir atsižvelgia
- 7. Nekilnojamojo turto brokeris gina ir skatina savo klientų interesus, tačiau tuo pat metu vienodai elgiasi ir su kitomis sandorio šalimis.
- Nekilnojamojo turto brokeris pataria nekilnojamojo turto brokerio neatstovaujamai šaliai, kur galima kreiptis dėl nešališko patarimo.
- Nekilnojamojo turto brokeris reklaminiuose skelbimuose pateikia teisinga ir tikslia informacija bei neklaidina visuomenės jokiais kitais būdais.
- 10. Nekilnojamojo turto brokeris nesiima vykdyti jokių nurodymų, kuriems trūksta žinių, įgūdžių arba patirties ir skrupulingai kreipia dėmesį į smulkmenas, siekdamas gautį būtina informacija bei ruošdamas su turtu susijusią informaciją. Brokeris nedaro jokių neteisingų, klaidinančių ar perdėtų pareiškimų.
- 11. Nekilnojamojo turto brokeris užtikrina, kad bendradarbiavimo salygos su klientais, įsipareigojimai ir šalių susitarimai būtų užfiksuoti raštu, pasirūpina, kad kiekviena šalis dokumento pasirašymo metu gautų po vieną originalų sutarties egzempliorių.
- 12. Nekilnojamojo turto brokeris užtikrina, kad sutartyse šalims pateikiama nedviprasmiška ir teisinga informacija, suderinami klientų interesai, tiksliai informuojami klientai apie prašomą atlygi už teikiamas paslaugas;
- 13. Nekilnojamojo turto brokeris sąžiningumą laiko visų savo sandorių ir bet kokio bendravimo pagrindu. Su klientais elgiasi dorai ir skaidriai, aiškiai deklaruoja savo interesa, nesiekia naudos ar pasipelnymo iš kitų rinkos dalyvių neišmanymo ar nepilnai disponuojamos informacijos;
- 14. Nekilnojamojo turto brokeris neslepia verslo santykių su kitomis susijusiomis šalimis ir vengia interesu konflikto.
- 15. Nekilnojamojo turto brokeris skatina sąžiningą konkurenciją.
- 16. Nekilnojamojo turto brokeris užtikrina, kad santykiai su kolegomis visada būtų mandagūs ir
- 17. Vykdydamas savo veiklą, nekilnojamojo turto brokeris, vengia bet kokio konflikto su
- 18. Nekilnojamojo turto brokeriui draudžiama viešai menkinti kito nekilnojamojo turto brokerio veiklą arba pasisakyti apie kito nekilnojamojo turto brokerio sandori.

LNTAA nariai privalo užtikrinti savo ir visų personalo narių žinias apie šį etikos kodeksą, pritaria jam ir laikosi atitinkamų jame išdėstytų geros profesinės praktikos nuostatų bei standartų,



LIETUVOS NEKILNOJAMOJO TURTO AGENTŪRU ASOCIACIJOS

SKAIDRIOS VEIKLOS DEKLARACIJA

Mes, žemiau pasirašę Lietuvos Nekilnojamojo Turto Agentūrų Asociacijos (LNTAA) nariai, suprasdami savo atsakomybę prieš klientus ir verslo bendruomenę, siekdami skatinti skaidrius nekilnojamojo turto rinkos dalyvių santykius,

Isipareigojame:

- Skaidriai apskaityti visas gaunamas pajamas bei išlaidas ir netoleruoti šešėlinės ekonomikos apraiškų nekilnojamojo turto tarpininkavimo versle;
- · Sąžiningai atstovauti savo klientams, siekiant maksimalaus turto savininkų, pardavėjų, pirkėjų, nuomotojų ar nuomininkų interesų tenkinimo;
- Atskleisti galimiems pirkėjams ar nuomininkams visą mums žinomą informaciją, siekti, kad nekilnojamojo turto sandoriai vyktų skaidriai, atvirai ir sažiningai;
- Laikytis LNTAA Nekilnojamojo turto brokeriu Etikos kodekso;
- · Laikytis Europos standarte nekilnojamojo turto agentų paslaugoms taikomų
- · Visada skaidriai ir aiškiai deklaruoti savo interesą, nesiekti naudos ar pasipelnymo iš kitu rinkos dalyvių neišmanymo ar nepilnai disponuojamos informacijos;
- Siekiant išvengti nesusipratimų ir interpretacijų, santykius su atstovaujamais klientais visada iforminti rašytinėmis sutartimis;
- Laikytis garbingos konkurencijos principų, skatinti konstruktyvų bendradarbiavima tarp nekilnojamojo turto agentūrų;
- Bendradarbiauti su Valstybės institucijomis formuojant nepakantumą šešėlinei ekonomikai:
- · Laikytis įstatymų ir kitų valstybės teisės aktų;

 Nesiekti konkurencinio pranašumo vengiant mokesčių;
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Renginys profesionalams

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MLS	LTIPLE LISTING SERVICE	IT OBJEKTAI	PRIDĖTI NT	DALYBOS	STATISTIKA	NUSTATYMAI				
Agentūrų aktyvumo statistika										
	Agentüra		Vartotojai	Aktyvūs	Uždaryti	Rezervuoti	Parduoti	Objektų suma		
Aldila	AIDILA		6	2	0	0	0	2		
MAREC	Amrec		2	3	1631	2	62	1698		
ANDINVEST	Andinvest		2	1	15	0	1	17		
APUS	APUS TURTAS		10	54	192	0	2	248		
1	Baltijos valda		1	0	0	0	0	0		
□ CAPITAL	Capital Real Estate		57	624	4092	0	61	4777		
CENTRO KUBAS	Centro Kubas		3	20	11	0	0	31		
CITUS	CITUS		19	11	296	0	0	307		
DNB	DNB būstas		66	1347	3946	0	71	5364		
infeal	INREAL		7	4	1	0	2	7		
Juvitus Bai erass	Juvitus		18	168	770	0	14	952		
OBER W HAUS	Ober-Haus		74	410	5857	0	0	6267		
OULEX	ONTEX		13	251	469	0	97	817		
RE//VIEX	RE/MAX Apex		11	136	5175	24	273	5608		
RE/MIX	RE/MAX Bravo		19	242	512	24	139	917		
RE/MAX	RE/MAX Experts		6	18	89	0	3	110		
RE//VIEX	RE/MAX Power		14	861	1011	41	194	2107		
RE//VIEX	RE/MAX Solutions		3	1	0	0	0	1		
2 Baltic	ReBaltic		6	11	10	0	0	21		
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Renginys profesionalams

CEPI: The Real Estate Professions and National Housing Markets in the European Union/CEPI, the European Council of Real Estate Professions 22/10/2013

CEPI (Conseil europeen des Professions Immobilieres)

The regulation of the professions is on the European agenda. The Communication published by the European Commission on 2 October 2013 on evaluating national regulations on access to professions 1sets out a work plan with regard to the mutual evaluation of professional restrictions foreseen in the modernisation of the Directive on the Recognition of Professional Qualifications. Real estate is part of the first cluster of professions to be evaluated. Regulation is also an important part of the discussion about the role of the liberal professions in European civil society 2020 and the implementation of the EU's 2020 strategy.

The starting point for any such discussions concerning the real estate professions has to be the inescapable fact that there are substantial differences in the level of regulation in different countries. There are also differences in the activities of professionals in various countries, the services which they offer and the structure of the professions.

It is also important to be clear what exactly is meant by regulation. For that reason, in section 1.2 of this report regulation has been broken up into different elements namely regulation of access, protection of title, registration and reserved activities. What appears to be evident is that these elements, or at least some of them, are present in the majority of EU countries, even those which are normally considered to be light on regulation. In addition to regulation in traditional form there has also been a trend towards the use of voluntary certification and self-regulation in a number of countries either as an alternative or complement to regulation. The growth of regulated education is another important factor which is dealt with in this report together with certification and self-regulation.



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No report on this subject could ignore the apparent trend towards deregulation. Indeed the real estate professions have been deregulated in some countries and the matter is under discussion in certain other countries. It is important to try and understand the reasons given for deregulation and also others which may be thought to underlie it. However there are also ongoing discussions about the introduction of regulation in some countries, even whilst others are deregulating. For example the introduction of regulation is under discussion in the Czech Republic and has taken place recently in Ireland with the creation of the Property Services Regulatory Authority in 2012 by the Property Services (Regulation) Act 2011. Therefore this issue is complex and involves varying trends. The substantial differences which exist in the level of regulation are reflected in the varying characteristics of the national markets which possess different features as outlined in section 2 of this report. This information is supported by the data and statistics in Annex 2 which contains more detail related to the comments made. An understanding of the markets is important because it influences the role and responsibilities of the stakeholders including those of real estate professionals. In completing this report CEPI hopes to contribute towards the ongoing debate at both EU and national level about the regulation or deregulation of professional services. Therefore the report draws some overall conclusions based on the information presented which it is hoped will contribute to the understanding of the real estate professions as well as the national housing markets. Having demonstrated how far these remain apart the assumption, and indeed conviction, of CEPI is that, with the deepening of the internal market in the European Union, ways have to be found of encouraging greater convergence for real estate professionals in terms of professional regulation.



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Regulation of real estate professions

The professions of property agent and property manager have been codified in most of the western European countries, although it may be surprising that this codification has been done at very different moments in time and to various extents. Most legislation is quite liberal, providing freedom of contract among parties. As a matter of fact, case law has always been important in real estate, and courts are continuously interpreting provisions of different acts.

In some countries the real estate professions have been deregulated. Having said this it is also notable that there are several countries in which regulation is being introduced or strengthened. Therefore the reasons behind this are considered together with the reasons to have some regulation in place. The final conclusions focus on the groupings of countries by regulatory model which can be discerned according to the level of regulation at national level. They also focus on the role of professional bodies and the responsibilities of professionals.

Regulation of property agents

The degree of regulation of property agents varies a great deal. For example in Belgium the profession is regulated by Royal Decree of 6 September 1993 on the protection of the title and of the practice of the profession of property agent plus a new Royal Decree of 30 August 2013 "Arret Royal relative à l'accès à la profession d'agent immobilier" and a Law of 11 February 2013 concerning the organisation of the profession of property agent. Property agents are regulated in Denmark by the law "Lov om omsætning af fast ejendom". In France the Law of 2/1/1970 Hoguet, due to be modified by the upcoming Laws Duflot 1 and 2, includes requirements for a professional card, liability insurance, financial guarantee and competence. In Austria qualification is required (with requirements for admission). In Italy property agents are regulated by Act 39/1989.



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CEPI: The Real Estate Professions and National Housing Markets in the European Union/CEPI, the European Council of Real Estate Professions 22/10/2013

In Finland property agents are regulated by the act of intermediary of real estate and rental apartments (laki kiinteistöjen ja vuokrahuoneistojen välityksestä 1074/2000) law of real estate and rental agencies (laki kiinteistönvälitysliikkeistä ja vuokrahuoneiston välitysliikkeistä (1075/2000) and regulation (valtioneuvoston asetus kiinteistönvälitysliikkeistä ja vuokrahuoneiston välitysliikkeistä 143/2001). The law 1075/2000 regulates the actions of agents when the client (buyer, seller, lessor or tenant) is a consumer. Each agency (and branch office) must have at least one responsible person who has the required certification (either LIKV or LVV). As from 1 January 2016 the law will change so that at least half of the agents employed must have the LKV or LVV qualification. In Sweden to exercise the profession it is necessary to be registered by a special legal agency called "Fastighetsmäklarinspektionen" (Swedish Estate Agents Inspectorate).

Property agents are regulated in Poland until the end of 2013 by the Property Management Act of 21 August 1997 and are then to be deregulated. The Netherlands has deregulated the profession of property agent. However there is generic regulation which regulates the function of a professional mediator (intermediary). This covers matters including the declaration of conflicts of interest, the right to remuneration and reimbursement of expenses etc. In Spain there is no longer regulation for property agents at national level since its removal in 2000 when the profession was deregulated. However Decree 1550/2011, of 31 October, complements the National Catalogue of Professional Qualifications, by establishing three professional qualifications relevant to the professional family of commerce and marketing, including that of property agent. Decree 614/2013, of August 2, establishes six certificates of professionalism of the professional family of commerce and marketing in the National Repertoire of certificates of professionalism including a certificate of property agent.

There is regulation in Catalonia (the Right to Housing Act nº 18/2007 of 28 December, Decree nº 12/2010), which has an estate agents' register which entered into force on 9 September 2010. Registration is subject to professional training requirements and the possession of civil liability insurance as well as indemnity or guarantee insurance. Registration allows the use of the emblem of estate agent licensed by the Government of Catalonia.



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In Ireland regulation has been recently implemented in the form of the Property Services (Regulation) Act 2011. In the Czech Republic there is discussion with the Ministry of Regional Development and in the parliament about the introduction of legislation. This would require agents to have liability insurance, separate accounts for each client, and some qualifications. It would also require a written contract between broker and customer.

Country	Regulation	Protection	Registration	Reserved	Certification	Self-	Regulated
	of access	of Title		activities	(voluntary)	regulation	education
AT	Yes	Yes	Yes	Yes	Yes	Yes	Yes
BE	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CZ	No	No	Yes	No	No	Yes	Yes
DE	No	No	Yes	No	Yes	Yes	Yes
DK	Yes	Yes	Yes	Yes	No	Yes	Yes
ES	No	Yes	No	No		Yes	Yes
EI	Yes	No	Yes	No	No	Yes	Yes
FR	Yes	Yes	Yes	Yes	No	Yes	Yes
FI	Yes	Yes	Yes	Yes		Yes	Yes
LU	Yes	Yes	Yes	Yes	Yes	Yes	Yes
IT	Yes	Yes	Yes	Yes			Yes
NL	No	No	No	No	Yes	Yes	Yes
PL	Yes (until	Yes (until	Yes	Yes (until	Under	Yes	Yes
	end 2013)	end 2013)		end	development		
				2013)			
SE	Yes	No	Yes	Yes	No	Yes	Yes
UK	No	No	Yes	No	Yes	Yes	Yes

See ANNEX 1 for summary of relevant legislation



Renginys profesionalams

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2.1.1 Regulation of access

Access to the profession is regulated in all of the countries which have regulation in place. In Belgium for example access is regulated and there are numerous possibilities to be admitted. In Germany official requirements do not really exist, being limited to a requirement to register in the commercial register. It is necessary to have a police clearance certificate and proof of financial solvency. In the UK, whilst there are no barriers to entry into the market, the Office of Fair Trading can ban or warn property agents (this can be described as "negative" licensing).

2.1.2 Protection of title

The title is protected in most of the countries which regulate the profession, except for Ireland. In Sweden the title itself is not protected but only a registered "fastighetsmäklare" is allowed to exercise the profession of property agent.

In Spain the title Agente de la Propriedad Inmobiliara (API) is protected although without reserved activities or rights other than the use of the title. The AEGI 2provides training for the use of this official title.

2.1.3 Registration

In Austria there is a requirement to register with the Chamber of Commerce. In Belgium this registration is covered by Article 2 of the Royal Decree of 6 September 1993 on the protection of the professional title and of the profession of property agent (Belgian Official Paper of 13 October 1993), the new Royal Decree of 30 August 2013 (Arret Royal relative à l'accès à la profession d'agent immobilier) and the Law of 11 February 2013 organising the profession of property agent. Registration with the BIV/IPI is mandatory in the form of registration on the roll of professionals maintained by the BIV/IPI. In addition, to open an office in Belgium a property agent has to register with the "guichet d'enterprise" which allocates a registration number to that company. In Ireland a Property Services Providers Licence is needed from the Professional Services Regulation Authority. In France it is the prefecture which delivers the professional card (authorisation to practise) to company directors, those responsible for the establishment and salaried persons.



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In Finland the property agent (which may include a company) intending to provide services must register with a regional state administrative office, although individual salaried employees do not have to do so. In Italy it is necessary to have the required qualifications (superior school education, attendance of a course at the chamber of commerce) and pass a written and oral exam in order to register the professional qualification at the chamber of commerce and begin to offer services as a property agent. In Spain all property agents must register with the public authorities in order to access the market. In Luxembourg establishment permission must be obtained from the Ministère des classes moyennes. In Poland a professional licence is issued by the Ministry of Transport, Construction and Maritime Trade, based on a qualification procedure and recorded in the Central Property Agent/Manager register. In Sweden registration is required with the Swedish Estate Agents Inspectorate. In Denmark you can work as a property agent but cannot use the title and will then need to have an agent who is registered with the public authorities to oversee your work (and assume the final responsibility). In the Czech Republic, although the profession is not regulated there is a general requirement for agents to be registered as a liberal profession. Similarly in Germany there is a requirement for every person seeking to do business to register in the commercial register. In the UK property agents who fall within the statutory definition of an estate agent must register for consumer redress. There is a choice of redress schemes, but the Property Ombudsman is by far the largest in the UK.

2.1.4 Reserved activities

In some countries only professionals can perform legally certain activities. This is not the case in most countries. Notably **in Belgium** there **is a quasi-monopoly with exemptions** from the requirements for those who sell their own real property (which applies to both private persons and companies) and for those belonging to a particular professional group (architects, surveyors and notaries). **In Finland** real estate business can only be carried out by agents and companies **registered by a regional state administrative office**. In **Luxembourg sales and rentals are covered** (except for private transactions). There is limited information available as to the percentage of transactions on a national basis in which professionals are instructed to provide services. In France this is approximately 50%, in Belgium approximately 60%.



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2.1.5 Certification

There are a **number of certification schemes** for property agents. In Belgium there are known to be a number of real estate offices that conform to **the ISO standards** and have obtained the **ISO certification** but this is **by no means an obligation.** At **European level** there are also the already existing **CEN standards for property agents**. (EN 15733:2009) These are largely intended to support professional activities in the newer EU Member States, particularly in Central Europe. It is not thought that they have been applied a great deal, except possibly to a small extent in Germany. They are considered as being expensive. They provide some recognition but for professional bodies in the sector **education and training are key and they tend therefore to look less at certification**.

In Germany certification as a property agent is provided by the IHK (Industrie und Handelskammer) International Chamber of Commerce. Various academies provide the course required in order to pass the exam (which is not a legal requirement to become a property agent). In Luxembourg the CIGDL 4provides a quality label for its members. In the Netherlands, after the abolition of the legally protected title for property agents, the NVM5 and two other branch organisations founded an independent and autonomous foundation (VastgoedCert), which has the task of certifying (on a voluntary basis) the professional skills of property agents. Within the foundation, sectoral organisations such as the NVM and stakeholders (including banks, the notarial professional organisation and consumer organisations) jointly determine the certification standards, as well as the actual preconditions. Certification also includes professional skills in surveying residential property (issuing valuation reports). Around 80% of property agents who work in the Netherlands are certified. Certification is valid for five years, and involves an obligation for continuous (lifelong) learning. The NVM has made certification a precondition for NVM membership.

Certification schemes are under development by the PREF6 in Poland. Their final form will depend on the final version of the regulations valid in Poland after deregulation. The professions are relatively new in Poland and have to find ways to achieve recognition, but well organised and sufficiently strong organisations representing property agents and managers as NGOs are able to implement rules, standards and certification systems.



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Professional associations are playing a strong role in the development of such certification schemes but public recognition by the authorities is given only in Belgium where the BIV/IPI regulates as a competent authority the access to the profession.

2.1.6 Self-regulation

There are a number of examples of self-regulation of property agents in different forms. CEPI member associations have a code of ethics. Lifelong learning also is available almost everywhere. Some, for example the Netherlands and Finland have their own training bodies. In both Belgium and France there are training centres owned by professional bodies. In Belgium the deontological code was drawn up by the BIV/IPI 7(and subsequently ratified by virtue of a Royal Decree) and the profession is frequently consulted on a voluntary basis with regard to legislative initiatives. In the Czech Republic qualification tests, liability insurance and an ethical code have been developed. In Germany there is an ombudsman and a complaint management system. In Denmark the DE has a set of quality standards that its members have to fulfil and live up to. In France the Duflot Law 2 will require a complaints management system to be in place.

In Luxembourg there is a code of ethics. In the Netherlands, in addition to making certification compulsory for any property agent seeking to become a member of the NVM, the NVM requires property agent members to undergo continuous training as part of their certification. The NVM requires the certification as a basic level and sets additional requirements in relation to professional expertise for its members. In Poland the newly developed SJ EXPERT Quality System is a tool supporting the activities of property agents and improving the quality of services. The system consists of a set of interrelated procedures, model documents and information needed in running a real estate office. If a company wants to use the system it will have to undergo an internal audit, observe legal requirements and its agents will have to follow professional standards and improvement of professional qualifications. The PREF will issue a quality certificate to real estate offices and confer the designation of PREF Property Expert on individual agents.



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In the **UK** members of the NFOPP9 who are **Principals, Partners, or Directors** (PPDs) must also:

- (i). Provide an annual accountants report
- (ii). Provide evidence of professional indemnity cover
- (iii). Contribute to a client money protection scheme
- (iv). Belong to a redress scheme.

The divisions of the NFOPP have professional codes which apply to all of their members (employees and PPDs). If appropriate, disciplinary action can be taken which can result in expulsion, but this does not prevent the agent from working. Only the Office of Fair Trading can prevent property agents from working in the UK if it bans them.

However in general there is little recognition given by public authorities to these selfregulatory schemes and measures.

2.1.7 Regulated education

In Austria there are education schemes and training programmes to become a property agent which are regulated and officially recognised. In Belgium there are recognised training programmes both at university and higher education level. In addition it is possible to enrol in a recognised training programme in night schools or through part-time daytime study. A specific real estate diploma is not an absolute condition to obtain access to the profession of property agent. Many other nonspecifically real estate related training programmes also give access to the profession in Belgium and the possibility has recently been further enlarged. The Royal Decree of 30 August 2013 (art 2a) provides that, as from 1 January 2014, bachelor degrees (minimum level 6 EQF) will allow access. In the Czech Republic the degrees of universities and higher vocational institutes are recognised. Ongoing professional training programmes offered for example by the ARK10 are recognised and standards are under development. In Germany the dual education system offers various opportunities to graduate in the real estate business. Furthermore, Bachelor and Master Programmes, approved by the authorities, have been developing for more than a decade. In Ireland property qualifications from awarding bodies are recognised by the Property Services Regulatory Authority. In France there are diplomas available from competent schools or universities (BAC+3, BTS, Master, specialist schools).



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The Finnish Chamber of Commerce holds exams which enable a person to qualify as a property agent. In Luxembourg such programmes are required by the law and organised by the chamber of commerce. In Poland every agent has to participate in 24 hours of training each year according to a list of seminars or workshops registered at the Ministry. Most of the training is **organised by the local property agents' associations**. **College education** is also provided in some Swedish universities. In Italy courses are provided by the chamber of commerce in addition to which there are university faculties that focus on real estate. In the UK there is no bar to initial access to work as a property agent or manager, including no educational requirements. There are qualifications provided by the NFOPP Awarding Body, which are voluntarily taken. The NFOPP Awarding Body is regulated by the Office of Qualifications and Examinations Regulation (OFQUAL) and offers regulated Property Qualifications. Members of the division of NFOPP (National Association of Estate Agents, Association of Residential Lettings Agents, Institution of Commercial and Business Agents, and National Association of Valuers and Auctioneers (real property)), are requested to hold a Level 3 regulated qualification within their specific area of property work. The NFOPP Awarding Body Technical Awards are Level 3 and they all sit within the Qualifications Credit Framework, and therefore are accredited and regulated by OFQUAL. The NFOPP Awarding Body also provides Level 4 qualifications in Residential Estate Agency, Residential Lettings & Property Management and also Commercial Property Agency, which will become regulated by OFQUAL before the end of 2013. In some countries, for example France and Germany, institutes owned by professional bodies and linked to universities may award diplomas. These are recognised by the authorities and so provide a form of regulated education.



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2.3 Regulation or deregulation of real estate professions

It is important to mention the issue of deregulation and the reasons behind it and also for having or retaining some regulation. There are reasons given for deregulation, but also other reasons which are thought to underlie it. Clearly also there remain reasons to have regulation in place.

2.3.1 Reasons given for deregulation

There have been discussions for some time at different levels concerning the deregulation of professional services, including those provided by property agents and property managers. In some countries deregulation has already taken place. What then are the reasons given for deregulation in different countries? One example of a country which has deregulated the real estate professions is the **Netherlands**, which deregulated in 2001. The reasons given at the time were **the need for fewer restrictions on market forces (fewer obstacles in practising the profession) and the need for fewer laws.** Whilst there has been a small increase in the number of professionals active over the years since deregulation, **this does not seem to have had a significant effect on the level of fees.**

A current example is that of Poland where both professions are to be deregulated as from the beginning of 2014. The general reason given for the introduction of legislation deregulating the professions was to facilitate access to the labour market, especially for young people and high school graduates. Nevertheless we can see that, over a period when the professions have been regulated, there has been a large increase in the number of professionals (see data and statistics in Annex 2). This increase may well largely reflect the fact that it is still a developing market. Deregulation of the real estate professions was discussed in Austria approximately 10 years ago but did not go ahead. In Spain the current discussion about the deregulation of property managers is part of a larger discussion about the existence of the guilds or colegios. Property agents in Spain have already been deregulated with the previous arrangement with the API having been said to be too much of a club. In general the financial crisis and its consequences have tended to result in the colegios being considered to be too protective and insufficiently transparent as well as anti-competitive for the current economic environment.



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However, we have seen no studies explaining the reasons for the decisions made to deregulate, nor indeed the consequences of deregulation. Undoubtedly there has been pressure on certain countries to remove professional restrictions for economic and political reasons. In particular Spain and Ireland have signed memoranda of understanding requiring them to deregulate professions as part of the package of requirements related to the receipt of financial assistance via the European Financial Stability Facility. The process of economic governance known as the European Semester has also been used to introduce country-specific recommendations relating to professional regulations.

2.3.2 Reasons thought to lead to deregulation

There are also considered to be other underlying reasons for deregulation in the view of CEPI member associations. In the Netherlands the view of the NVM is that deregulation came about at a time when market forces and deregulation were too easily linked to one another. The realisation is now growing that deregulation does not automatically lead to a more effective market, and certainly not to greater quality or protection for consumers. In addition the existing legislation for the recognition of property agents was out of date, as it did not contain any provision for periodically revising professional capability. Rather than improving the existing legislation, the government chose the easiest option, and abolished it.

In Poland deregulation is seen by the PREF as a political issue. The way of processing (no public consultation) and the ignoring of legally acquired rights and professional titles suggest a contradiction with the Polish constitution. There is another reason which is often quoted as being a motivating factor behind deregulation. The removal of regulation gives more freedom to banks and other institutions with interests in the real estate sector to act and expand their own involvement in the sector.



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2.3.3 Reasons to have some regulation in place

The question of what reasons exist to have some regulation in place was put to CEPI member associations. In Belgium the concrete added value of the regulation of the real estate professions is seen as qualitative support and protection of the consumer.

In Denmark almost 90% of all property management companies are members of the Danish Property Federation. Therefore self-regulation of the industry and the property management companies is very strong. Members of the association also appreciate and comply with their code of ethics. Based on this Danish public law is not considered to seem inadequate.

In Ireland regulation has been introduced recently, with the establishment of the Property Services Regulatory Authority (PRSA) on 2 April 2012. There the reason given for the existence of regulation is to protect the public interest. In addition other professionals were already regulated. The fact that agents can hold money on behalf of third parties was also sensitive and a factor influencing the decision to introduce regulation rather than delegating the role to professional associations. In the Netherlands the fact that the market in the Netherlands has been able to regulate itself to such a considerable degree is down primarily to chance and the history of regulation in that country until 2002. Training and codes of conduct are important and ensured by the NVM. This reflects notably the dominant market share of the NVM (which represents approximately 70% of property agents in the country covering roughly 75% of residential transactions) and the fact that property agents in the housing market also happen to be surveyors (and the market does require that house surveyors be certified). However it is very difficult to force professionals to submit themselves to certification requirements if they are allowed to practise the profession without certification. For a certification body too, it is not easy to gain social recognition if everyone is free to set up competing institutions. Consumers do not see the differences between the various certification schemes, while real estate professionals prefer to go for the least expensive and easiest solution, or indeed do not bother to get certified at all. The likelihood is that there will be consideration of the introduction of some regulation in the near future in the Netherlands, as is already the case for the valuers where the development of regulation is under discussion.



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In Poland the real estate market is still in transition. New legal and economic rules and conditions should be defined, explained and promoted by professionals. Most clients are not educated and experienced enough to see the risks and traps in real estate decisions. There is a need for professionals as advisors and guides. The position and image especially of property agents is still "under construction". If this profession is opened for everyone, without any conditions and requirements, it is thought that the level and prestige of services will fall into decline very soon. The state is obliged to protect private entity and ownership rights. By deregulating the state in fact acts against its citizens and sadly no one would like to discuss it.

In the UK, it is the view of the NFOPP that property agents should be subject to stronger regulation. The Office of Fair trading currently has what is known as a negative licensing scheme, but this is considered to be insufficient. The NFOPP also thinks that letting agents (probably including block managers) should also be regulated. The requirements which they think are appropriate for all sales and lettings agents are those which apply to their members (as detailed earlier in 2.2.7). In general terms they feel strongly that there should be proper controls over those who help others deal with the biggest purchase of their lives. Lettings also involve vast quantities of client funds which is one of the reasons why they think letting agents should be regulated. Evidence along these lines has been presented by the NFOPP to the Communities and Local Government Select Committee on the Private Rented Sector which reported on 18 July in favour of the regulation of letting agents, albeit at the basic level that currently applies to property agents.



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2.4 Conclusions

There are certain conclusions to be drawn which are applicable to both property agents and property managers. These concern certain regulatory models, the role of professional bodies and also the responsibilities of professionals.

2.4.1 Regulatory models

The same general current models (regulation, certification and self-regulation) apply to both property managers and property agents but with some differences in application. There are also common requirements on registration and a strong trend towards regulated education for both professions. Where regulation exists the title is likely to be protected although there is less evidence of reserved activities. Professional education is an important common element which is valued highly in the sector and which is of strong interest to professional associations.

Substantial differences in national models are reflected in regulation, traditions and the strength of self-regulation and certification schemes. Deregulation is not always a simple matter. It tends to be seen as politically motivated by the professionals. There appears to be a general political assumption that deregulation leads to greater economic competition. However this needs to be substantiated and it is a topic which merits further study, particularly with regard to the Netherlands, Spain and Poland.

As well as the recently introduced legislation in Ireland already referred to, there are ongoing discussions in some countries including the Czech Republic about the possible introduction of some form of regulation. In France and Belgium, regulation was recently strengthened. Reasons given for this are mostly higher professionalism, the need for secure quality services, and to contribute to stabilising the market. In other countries, notably Spain, Italy and the Czech Republic there are measures which have been introduced which are not referred to as direct regulation but in effect tend to have the same result. This is tending to blur the borders of what is and is not considered to be regulation.



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Certain models can be further broken down on a national basis into different groups:

- The first identifiable group is of countries which apply a basic level of regulation supplemented by additional rules, including Germany, Italy, and possibly Austria.
- The second group of countries, France, Belgium, Denmark and (until the end of this year) Poland, has strong regulation with rules regarding access to the profession and schemes to follow up the implementation of those rules. This second group is also characterised by close dialogue between professional associations and the state.
- The third group follows the model applicable in the UK where the **professions themselves are not regulated but there is de facto regulation (in the form of negative licensing) and also strong self-regulation.** The Netherlands is fairly close to this situation. Until 2002 only the title to the profession was regulated. Today in the Netherlands there are strong professional associations. As such they readily attract new entrants. It is a form of market recognition followed by the authorities. Whilst these countries do not have regulation controlling access to the professions it is evident that they have a body of regulations concerning company law, anti-money laundering regulations etc. with which real estate professionals have to comply.
- -The fourth group is in Scandinavia (notably Sweden and Finland). In these counties there is regulation with particular emphasis on consumer protection. For example in Sweden agents are required to look after the interests of both parties.
- The fifth and final group consists of countries in which there is no regulation.

 This group includes Bulgaria, Romania and the Baltic States as well as the Czech Republic (although there is discussion about the introduction of regulation in the Czech Republic). These are countries in which there is little support available for professional services and are also countries in which there are demands for the introduction of rules because of lack of regulation, self-regulation or other means of support for professional services.



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2.4.2 The role of professional bodies

There is little recognition given by public authorities to self-regulatory schemes and measures at present although in Italy the law of 14 January 2013 concerning deregulation also aims to promote the membership of professional bodies. However in some countries there is a strong link between professional bodies and the national authorities. Indeed in Spain there is an obligation to consult with professional bodies (or collegios). In Belgium the BIV/IPI is the official controlling body, the authorities also consult regularly with the representative professional body the CIB. Also in Denmark decisions taken by the professional body are recognised by the state. In many other countries there is a strong working relationship. Professional bodies are also involved strongly in self-regulation and regulated education.

2.4.3 The responsibility of professionals

The reasons given for the existence of regulation include the need for consumer protection and prevention of fraud in particular in general and ensuring that the consumer gets the right information and is covered by professional liability insurance. Such discussions on the introduction of regulation therefore tend to focus on the need to act in the public interest in order to protect consumers when dealing with what may be the most important financial transaction of their lives for many individuals. It is also one which requires increasingly technical knowledge and expertise to ensure a good result and proper service together with a correct and responsible attitude.

Working in a fast changing and complex market calls for a high level of professionalism on the part of real estate professionals. There are different ways of responding to this requirement, but the responsibility for and contribution of real estate professionals to a stable market needs to be highlighted. This must be looked at a national level according to the characteristics of the national housing markets.



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4. Overall conclusions

Apart from the intermediary conclusions in the previous chapters, the following overall conclusions can be drawn from the information presented in this report.

- **4.1 There remains great diversity at national level.** This is both a fact and a problem for the integration of Europe. The structure of the real estate professions in various countries and the characteristics of the national markets are very different. There are also other factors, technical, legal, social and otherwise, which are important for an understanding of the role of professionals and of the market in different countries. This makes accurate comparisons very difficult.
- **4.2** The levels of regulation are higher in general in the Western European countries than those in Central Europe. It is also likely that there is more discussion in the Western European countries about deregulation (with the exception of Poland).

Professional associations are in general better established and stronger in Western than in Central Europe. For example the Netherlands has deregulated but the professional associations remain strong and have an important function in the market. This may well have resulted in an outcome different from that which might have occurred in another country with different traditions and institutions. This gives rise to a particular concern in terms of the national housing markets of the Central European countries which are themselves in an early stage of development in terms of the free economy. There is a clear and consistent message from professionals that these countries in particular are in need of points of reference which at the moment are not present. Finding a solution to this is of fundamental importance to the stability of these markets.



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4.3 There is a trend towards increased regulation of the markets and areas in which there is perceived to be risk, albeit limited largely to financial and fiscal measures, no doubt because of the influence of the economic and financial crisis. Following concerns about the housing bubbles which were at the heart of the economic and financial crisis there is a recognised need for a stable real estate market to avoid the excesses of the past which contributed to the economic and financial crisis. There is regulation being brought in at the EU and national level with a view to avoiding the problems of the past caused for example by irresponsible lending being tackled now at EU level by the Mortgage Credit Directive. There is a constant emphasis on the need for greater economic regulation and control in the process of the European Semester and the country-specific recommendations being issued by the EU to national governments amongst which both the housing markets and professional regulation regularly feature. This trend to more regulation of the real estate markets is in contrast with a trend to deregulate real estate professions and services which is evidenced in a number of countries but derives in many cases from the implementation of EU legislation, most importantly the Services Directive, and of Memoranda of Understanding which have been signed between the EU and some Member States. It is not easy to perceive the full logic behind these trends and the coherence of the policy reasoning.



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4.4 As exceptions to a general trend towards more deregulation, we have been informed of decisions or discussions in some EU Member States to develop new regulation for the real estate professions (Ireland, Czech Republic), to add to existing regulation (France, Belgium) or take some measures to support self-regulation and validate the qualifications of professionals (Italy and Spain). We understand that these measures are taken because of a need for increased protection of consumers and recognition of a professional's competences. It may be asked why there is little coherence between those measures in different countries? Do they aim to meet the same objectives or to simplify and make regulation more transparent? It is not easy for them to be compared and for common objectives to be identified. It is also striking that some countries insist on the non regulatory character of new measures (for example in the Czech Republic, Italy and Spain). This calls for more discussion about what is meant in principle by regulation and also registration which may mean either a formal registration system or registration in accordance with general requirements regarding commercial activities.

4.5 There appears to be no evidence of a direct link between deregulation and an increase in competition or lowering of fees. Similarly this is the case as between regulation and restriction of competition or higher fees. It seems that much of the debate about deregulation focuses on the need for economic growth based on the assumption that a free market is helpful for the creation of economic growth. The available information does not confirm this assumption. The Netherlands was deregulated in 2002. The subsequent increase in the number of professionals is not more significant than in other surrounding countries. In Belgium, strong regulation has not limited the number of professionals as the numbers there have developed in a similar way to that in the Netherlands. In both countries, the fees of professionals

follow a similar trend. If Spain had a large number of professionals active up until 2007, this was mainly due to the housing bubble; as a consequence we are currently seeing a very strong and equivalent decrease in the number of Spanish professionals. Notwithstanding the existence of specific regulation in Poland, the number of professionals has increased exponentially which in this instance has mainly to do with the development of the new sector and profession in that particular country.



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4.6 There are many relevant regulations in the real estate sector in different forms but there are very few reserved activities. In general the market itself is open to the extent that not only are there other actors involved (and increasingly larger competitors) but that a large percentage of transactions (sales and rentals) are carried out by private individuals. The use of a professional service is at the discretion of the consumer who is free to choose a professional.

LIETUVOS NEKILNOJAMOJO TURTO
AGENTŪRŲ ASOCIACIJA

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LIETUVOS RESPUBLIKOS NEKILNOJAMOJO TURTO BROKERIŲ ĮSTATYMAS?