



LEGAL-REGULATORY SOLUTIONS FOR STRENGTHENING CIVIC INVOLVEMENT IN CONDOMINIUM MANAGEMENT IN ARMENIA:

UTILIZING THE KNOWLEDGE WEALTH FROM VISEGRAD STATES AND UKRAINE

November 2014

LEGAL-REGULATORY SOLUTIONS FOR STRENGTHENING CIVIC INVOLVEMENT IN CONDOMINIUM MANAGEMENT IN ARMENIA:

Utilizing the Knowledge Wealth from Visegrad States and Ukraine

November 2014

Submitted to: Habitat for the Humanity of Armenia

Prepared by: Astghine Pasoyan

DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Contents

List of Tables	4
Introduction	2
Background.....	6
1. Policy Overview	8
2. Definitions of Common Property.....	10
3. Establishment/Creation of Condominiums	11
4. Forms of Building Management Bodies	12
5. The Number of Buildings/Part of the Buildings per Condominium	15
6. Majority Voting	16
7. Organizing and Funding Maintenance of Common Space	19
8. Contracting with Utilities Supply Companies.....	22
8.1. <i>Property administrator companies</i>	23
8.2. <i>Municipally-appointed administrator companies</i>	23
9. Enforcement Tools for Maintenance Fees Collection.....	24
10. Pre-Condition for Condominium Borrowing.....	27
11. Adjacent and Occupied Land and Inbuilt Premises: Common Ownership and Collateralization	29
11.1. Using Common Property as Collateral or Alienation.....	29
11.2. Non-Residential Inbuilt Premises.....	30
11.3. Land Ownership.....	31
12. Regulation of Miscellaneous Issues.....	32
12.1. Condominium Charter.....	32
12.2. Absence of Initiative to Establish Condominium.....	32
12.3. Low-Income Households Participation in Financial Matters	32
13. Financing Maintenance and Renovation	34
13.1. <i>System of generating funds for renovation and maintenance</i>	34
13.2. Need for more flexible access to public funding.....	35
13.3. Access to donor-funded grant schemes	35
14. Summary of Key Problems, Issues and Recommendations on improving operation of homeowners associations and strengthening the regulatory framework in the field.....	38
Annex I: Comparison of Common Use Property Management: Homeowner Associations versus Condominium Associations.....	43

List of Tables

Table 1. Legislative Acts and Laws regulating the Residential Building Management, Maintenance and Operation	9
Table 2. Applicable legal provisions for forms of regulated multi-apartment building management	14
Table 3. Legal regulation of the number of buildings within one association/condominium.....	16
Table 4. Legal Provisions for Majority Voting on Building Management and Maintenance Issues	18
Table 5. Legal Provisions for Funding Maintenance of Common Space	21
Table 6. Legal Provisions Regulating HOA/Condominium Ability to Contract as an intermediary with the utility service provides	24
Table 7. Legal Provisions for Enforcement of Maintenance Fees and Treatment of Non-Payers.....	26
Table 8. Legal arrangements (bylaws) creating pre-condition for condominium borrowing	27
Table 9. Legal Provisions Regulating Condominiums/HOAs’ Ability to sell/use land or other common property as collateral.....	29
Table 10. Inbuilt non-residential space/entities’ (shops, garages, etc) participation in condominium management and maintenance	30
Table 11. Legal Provisions Regulating Ownership and Management of Land under Condominium Property.....	31
Table 12. Regulation of Miscellaneous Issues: Charter Substance, Local Government Interventions, Low-Income Households Participation in Financial Matters	33
Table 13. Common Means of Financing Capital Repair and Renovation (including Thermo-Modernization).....	36

Introduction

Habitat for Humanity Armenia Foundation, within the framework of its “Strengthening civic involvement in condominium management in Armenia” Project financed by the International Visegrad Fund, aimed at improving the legislative and policy environment for the management of condominiums (multi-unit apartment buildings). The Project focused on improving the implementation of housing rights in the collective housing sector with the participation of civil society utilizing the positive examples of policy and legal environments in Visegrad states (Poland, Czech Republic, Slovakia and Hungary), as well as Ukraine; while developing a knowledge and advocacy platform to impact policy change in Armenia.

The present study represents the regional (international) research component based on the national studies conducted for all of the Visegrad states as well as Ukraine and Armenia. All national studies were aimed at instigating a strong civil society-led policy improvement on condominium legislation, to allow for a knowledge based comparative analysis and compilation of a seminal reference material on improvement of home-owners associations based on studied best practices, draw conclusions and recommendations for associated housing policy strengthening.

The findings of the national studies were presented and discussed at a regional conference held in Yerevan, Armenia on 29-30 September, 2014.

Background and Summary

The transformation of the political and economic systems in the Central and Eastern European countries after the collapse of the Soviet Union and the fall of the Berlin Wall required establishment of the new system regulating everything from the basic economic activities to national policies and regulatory frameworks. These transformations affected all sectors of the economy, and the housing sector, among others. In the new market economy the rules favored private property, democratic election of governance schemes, market-based regulation of economic activities, cost-recovery pricing of services and focus on customer satisfaction. While the legal-regulatory transformation required a substantial reform effort, and followed the Western best practices, it is the change of mindset that requires more time. The new policies in the housing sector made fundamental changes to the functional elements of the building management and maintenance practices, converting them from the state-regulated municipal service to a self-regulated, owner-driven service. While the regulatory solutions were easily available to be borrowed from the more Western neighbors, such as Germany or Austria, the enforcement required an adequate awareness and perception of these new rules, as well as the presence of adequately qualified cadres of professionals to perform under these new rules. This process has been aggravated by the complex economic downfall and low affordability of a large share of the population in the CEE countries, as housing maintenance payment had to compete with the more urgent needs that the citizens of transition economies were struggling to address. In the meantime, the legal authorities and competences of the state, regional governments, municipalities and citizens have changed. The state maintained the social function (poverty benefit and social housing). The state government was also responsible for developing and enforcing the housing policy and regulating the relationships and services vended to the housing sector. The independent national regulator further regulated the rules and terms of utility service provision in the housing sector, among others. The municipal authorities (local governments) were tasked to organize the local utility supply (water, heat, waste removal), while also being responsible for the un-privatized housing and emergency situations in the residential building sector. The housing management companies operate on a free market.

The present analysis reviews the legal-regulatory framework formed in the Visegrad states (Czech Republic, Poland, Hungary, and Slovakia) as well as Armenia and Ukraine, then further reviews the practical experience of condominium performance in these countries to draw recommendations on how to improve the legal-regulatory framework in the housing sector, as well as best improve the effectiveness of condominiums.

The particular focus of the assessment is also to seek solutions to the current problems of condominiums and multi-apartment buildings in Armenia, hence the analysis is specifically structured to address the bottlenecks commonly hampering the effective maintenance and renovation of condominium buildings in Armenia, as well as other countries of the region. The primary legal-regulatory and institutional issues resulting in poor management and maintenance of MABs include the following:

- Remaining legal gaps in definition of the rights of the HOA and ownership over the common spaces. Existing regulations and organizational structures of the condominiums not implemented effectively; new structure and regulations are required, requires legislative changes. In addition, the HOA members are not completely aware of the legal-regulatory provisions related to the daily operations of the condominium.

- Weak capacity for building management, project development, financial planning and management, fund-raising, human resources, reporting and customer/member relations. Most of condominiums are not experienced in management of investment projects. However further education of condominium and mutual trustful relationship between condominium staff and residents could become a strong base for investment of a residential energy efficiency project.
- Poor creditworthiness due to their untested status, weak decision-making powers, slow development, failure to collect service fees, and failure to conduct creditworthy accounting, bookkeeping and reporting.
- Lack of own or external financial resources and continued slow progress in lending to HOA despite their status of a legal entity and a stamp, which allows them to enter contracts and vend services, however, they do not own any property (*de jure*, the condominium members are the joint owners of common spaces, while *de facto*, this ownership is not registered in any manner). In the absence of registered property, condominiums cannot offer any collateral for commercial borrowing. In addition, many condominiums, that are managed by the chairpersons, elected from among the neighbors, have poor bookkeeping. In addition, to make the service affordable and raise the collection rate, the service fees are set at a low level, which keeps the condominium cash flow at an insignificant level.
- Difficulty securing the necessary number of votes for strategic decision-making with respect to heat supply issues; the situation is exacerbated by the growing number of autonomous apartment-level solutions) and the significant share of absentee households (Empty apartments (10% in survey sample, up to 20% throughout the country)
- The need, often, for the lender to sign individual loan contracts with each households due to mistrust and lack of experience of vending lending services from the intermediary (HOA or ESCO).
- Poor maintenance resulting in poor energy performance, leading to social burden, aging housing stock, the common spaces in poor technical condition
- Mixed ownership of owners / tenants
- Poor performance – does not meet obligations, standards, customer satisfaction needs. A significant portion of existing condominiums is not established by the owners.
- While fees already set too low, collection rate remains low, due to insolvency of the residents as well as lack of acknowledgement of responsibility for maintenance of the common shared property.
- Financial sources of most of condominiums are limited because of residents' insolvency, which could impede to undertake capital renovation investment projects.
- The condominium management staff must strengthen its capacity through enhancement of knowledge and fund raising skills and focus on improved quality of building maintenance services.
- The owners' level of awareness, responsibility and organization is unsatisfactory and further deteriorating. The condominium management staff and residents need to be trained before initiating any investment project aimed at improving building state of repair and maintenance.

The above issues require legal-regulatory intervention, capacity building, and design of financing schemes the best practices for which are explored in the present report further. The analysis below seeks to identify solutions and recommendations for the problems and issues identified by the survey conducted for Armenia based on the experiences of Czech Republic, Hungary, Poland, Slovakia and Ukraine.

1. Policy Overview

The market restructuring of the early 90s in the Central and Eastern Europe mean privatization for the housing sector. Over a course of several years the privatization reform has transitioned the fully municipal multi-apartment housing stock to predominantly private owners with small share of nationally or municipally owned apartments, which have not been privatized for a number of reasons. The privatization was not organized as thoroughly everywhere. In a rush to expedite the reform, the privatization did not always address the repair needs, the market value, or means of organization of the privatized housing. Many of the buildings that hosted those privatized apartments were in immediate need of repair and maintenance investments at the moment of privatization. Hence, developing legislation that stops the processes of deterioration of the existing housing and ensures that new housing conforms to modern building standards has been the focal point of numerous reports on the housing markets in the region. One of the main concerns is that existing regulation on the ownership of common property does not provide adequate incentives for owners to invest in their improvement.

The concept of condominium ownership provides a solution with a long tradition in Europe: it is a special type of building ownership, where the exclusive ownership of a unit in a building, i.e. apartment, is combined with a shared ownership of the common building areas that are used by all owners and occupants of the building.

The aim of the present paper is to conduct a cross-country analysis of several key areas pertaining to management and maintenance in multi-apartment housing, particularly looking at the current evolution stage of condominium legislation with respect to proper building management, maintenance and operation with adequate civic participation.

In all the reviewed country examples in the region there are laws and legislative acts on establishment and operation of the residential buildings management bodies/condominiums (Table 1), and the governments of those countries understand and acknowledge the importance of proper maintenance and operation of the housing stock. However, it is important to highlight that in some countries the governments started the privatization process of the housing stock to disclaim responsibility for its maintenance and operation, especially in the countries where the housing stock started to deteriorate rapidly because of a number of reasons, including the poor quality of heating in the buildings (e.g. Ukraine), years of poor maintenance and insufficient repair, poor economic state of the population hampering maintenance fee collection (e.g. Armenia), etc. – all resulting in deterioration of building structures and infrastructure. For example

uneven heating caused corrosion/damage of buildings internal and external walls (from formation of condensate on walls), fractures of cold water supply pipes (frozen pipes), and other domino effects.

Table 1. Legislative Acts and Laws regulating the Residential Building Management, Maintenance and Operation

#	Country	Primary Related Laws and Legislative Acts
1.	Armenia	Law on Condominiums Law on Multi-Apartment Building Management Civil Code; Government Decision on Mandatory Norms on Maintenance and Conservation of the Common Shared Property in Multi-apartment Buildings
2.	Czech Republic	Civil Code; The Building Act
3.	Hungary	Act on Condominiums (The first condominium law was created in 1924); Act on Housing Cooperatives; Ordinance of the Ministry of Local Governments on the conditions and detailed procedures of conducting commercial condominium management and property management activities; Decree of the Minister for National Development on the professional conduct of condominium and property management, real estate intermediary and valuation services and the detailed rules of their registration.
4.	Poland	Act on Ownership of Premises Civil Code and the Code of Civil Procedure (for smaller HOAs)
5.	Slovakia	Law on Restitution; Law on Adjustment of proprietary relationships and settlement of proprietary interests in housing associations (housing privatization); Law on Ownership of Apartments
6.	Ukraine	Law on Property; Law on Privatization of State Housing; Civil Code

The above legislative acts and laws (Table 1) are necessary but insufficient for proper enforcement of effective operation, management and maintenance of housing stock. Incentive mechanisms and financing tools are necessary for enforcement of these laws. The legislative framework in the reviewed countries also heavily leans on associated laws, such as the civil code, the construction code, laws on subventions and loans for capital repair or thermo-modernization of buildings, privatization laws, etc. The Condominium or Home-owners Association (HOA) that are legislated by the laws are only effective if and when the respective changes are made in associated laws, the secondary legislation is developed to

spell out individual rules and procedures, and political will is exercised to enforce the policy and institutional schemes.

The efficient management of the buildings starts from the coordinated activities and common interests of the home-owners, and the first step can be the establishment of the building management body/condominium.

2. Definitions of Common Property

The Laws do not define in the necessary level of detail what is considered common property, leaving room for misunderstandings. The definition of common property needs to be exhaustive and in addition to exterior walls shall also refer to roofs, corridors and stairwells, pipes, etc., also the common property that serves all occupants of the condominium complex such as surrounding areas – gardens, lawns, parking, wooded areas (if owned by the condominium owners), rooms used by doormen (if any) or common storage areas (where all occupants store bicycles, children strollers, ski racks etc.), rooms for utility equipment and other common spaces. The common areas are common property of all the unit owners, and because these cannot be divided among these owners, there needs to be a mechanism for their management.

Not less important is the ownership issue of immovable property (and fixtures) in a building that is designed to have separate units interconnected through common areas, which are inseparable from an architectural and engineering standpoint from the units, which is particularly an issue for the infrastructures for heat and water supply, etc. An important legal distinction which can be made in the legislation, depending on the requirements of the Civil Code, is the treatment of common property as either a shared asset owned and managed by the condominiums, or as shared asset which is only managed by the condominium, but not owned. For example, the 2004 amendment of the legislation in Armenia has made this transition, making the condominiums not a form of ownership, but merely a form of management. The ownership of common assets makes the condominiums potential borrowers, landlords, as well as a more trustworthy business partner. For example, in Romania the condominiums offered their roofs for placement of advertising banners, in Poland, the roof of the condominium building could serve as the collateral for a bank loan, or even sales asset, if the legislation allows so as it does in the Czech Republic. The common ownership, if such provision exists, requires a formal documentation of the commonly owned property, registration of this asset with the state cadastre, as the laws governing real estate require (e.g. ownership certificate, schemes/passports, etc.). If the reform transfers the ownership, but leaves the necessary documentation incomplete, the condominium ability to exercise ownership over common space would be limited. The Slovakian model registers the common premises with the state cadastre or property and writes the property and right of lien over to the condominium. This creates a clear understanding of the ownership and rights and responsibilities associated with it.

3. Establishment/Creation of Condominiums

The condominiums (or another building management bodies) are created to manage the common-shared properties of the multi-apartment buildings. In some of the reviewed countries, Poland for example, the condominium (or home-owners association) is created automatically, i.e. the association is registered when the first apartment in the building is privatized. In other countries an association can be established only if some percent of the apartments in the building are privatized. For example in Moldova, if there are more than 60% of privatized apartments in a building, an Association of Owners of Privatized Apartments should be created and registered within 3 months since the General Assembly of Owners was convoked by transferring the assets to the Association for further management and the financial means obtained as a result of the technical maintenance for the last 2 months¹, as well as money compensations provided by the legislation (Law on Privatization of the Housing Fund Art.22.).

It is absolutely necessary to establish assemblies of co-owners in condominium complexes – it is one of the key recommendations in modernizing the housing market in a post-communist environment. Experience from other countries, however, shows that the mere adoption of condominium legislation is not enough to ensure the formation of assemblies of co-owners. In addition to the legal requirements, the Condominium Laws should also include activities supporting owners in establishing assemblies: incentives for establishment should include measures to strengthen the role of assemblies in other related legislation and in financing and grant schemes.

Simplified assembly mechanism is necessary when full assembly is not possible. Forming the assembly (general meeting) without the full participation of all owners is a move in the right direction. In this region where many seasonal workers move between countries for months and emigration rates have been so high that “closed doors” comprise 10-25%, full document consent is rarely feasible. It is unclear what rate of common share participation should be the absolute minimum to form the assembly so that this provision is successfully implemented at any given property; however a one-third representation of the share in common property is unnecessary. It is common practice in other countries to form such assemblies with much smaller representation of the share in common property.

There needs to be clarity as to the necessary level of social pressure in Armenia (or any other country on condominium reform path) to accept such assemblies before enshrining the percentage in the law. The legal mechanisms provided should ultimately provide a mechanism through which in situations where people that have lived for decades in a building and have not been able to agree on simple issues such as stairwell maintenance will be able to agree on such complex issues as collectively investing in renovations, setting administration fees or taking on mortgage loans. Most laws do not have sufficient detail on this matter, which is a serious omission and should be adequately addressed when new laws are being drafted or old ones modified.

¹ preceding to the date of building transfer to the Association

The role of local government is very important for the establishment of the building management body, since the residents are not always aware and consequently not ready to take actions towards the management of their building common property. This is why the appropriate supportive activities (financial, institutional) from local governmental bodies/municipalities and/or specific advisory centres are necessary to help the residents to establish building management bodies.

For example in Romania, the local councils of municipalities, cities, communities and other municipal sectors provide assistance to the Associations of Housing Owners on creation, reorganization, operation and management. Moreover, if the chairperson does not fulfil his/her obligations, the local councils should organize a general assembly within the Association to solve the problem or organize new elections.

Another example can be Albania's case – while not yet applied in practice, the Albanian Condominium Law stipulates that if the assembly was never organized, each of the co-owners has the right to organize its meeting and if the co-owners refuse to organize their assembly, then each co-owner addresses the request to organize the organizational meeting to the chairman of the municipality/commune for establishing the assembly. In Armenia the local government has limited the time for condominiums to be created voluntarily, reserving the right to assign a management scheme for buildings which did not take the initiative. As a result, some condominiums were created with top-down mandate from the municipal authorities and currently host hundreds of buildings on their list.

Involving the municipalities in endorsing the assemblies and ensuring that the owners are mandated to actively participate in the decision-making process, as well as carrying their share of the financial burden is a very positive step. However, if such a commitment is put through the condominium law and effectively imposes duties upon non-participant owners, it should balance this intervention with guarantees that the assembly will maintain the common areas to the benefit of all owners. A common pitfall in many laws is a provision describing what happens when the assembly of co-owners has to collect money to pay for unexpected maintenance, tax, and related fees when owners flat-out refuse to make payments. A solution debated in other countries in the region is the possibility to “evict” such owners by consensus among the other condominium owners. It is to be discussed whether such a mechanism would gain public acceptance in a given country, including Armenia.

4. Forms of Building Management Bodies

There are different types of residential buildings management bodies in the region, and in different countries they have different forms/names like the following:

- Condominium,
- Homes owners association (HOA),
- Apartment association,
- Housing Cooperative,

- Trust management body (individual trust manager),
- Licensed management body (manager).

And since the management of the housing stock of different countries were studied in the framework of this study, different names for the building management body are used in this paper.

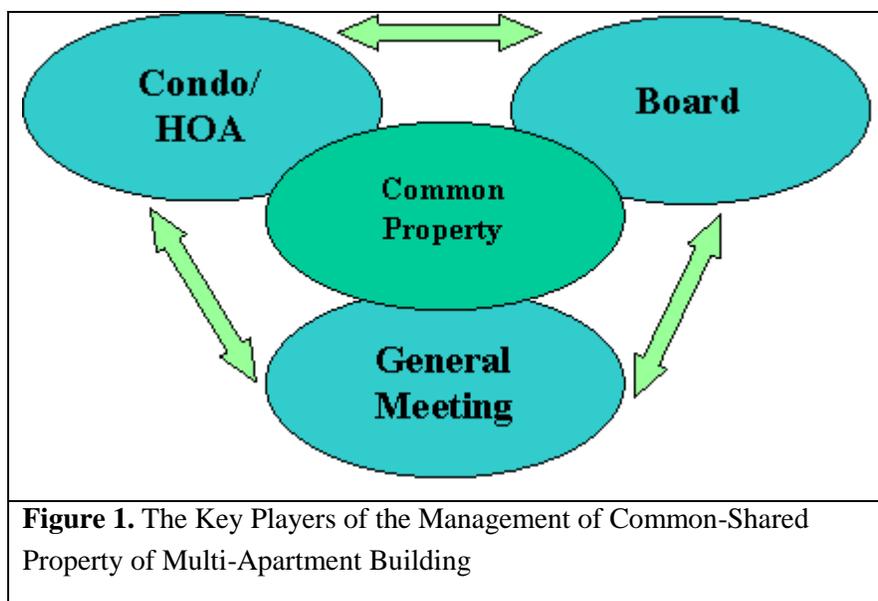
However, given the particular legal definitions in place in a particular country, the aforementioned management bodies can be different and have different statuses and obligations. Annex I describes the comparison of common use property management by the HOAs versus condominium associations.

There is no “one size fits all” regulation for all multi-unit buildings. There needs to be a differentiated type of regulatory intervention: a “lighter regime” for buildings with few owners, a “heavier-handed” regulation for buildings that have multiple owners, multiple floors, or in some cases multiple buildings, etc. Requiring a building to form an assembly and hire an administrator is an unnecessary administrative burden if this action does not promote better communication between the owners of the units or does not facilitate the better management of the property. In the case of a 2-unit building, this may actually be the case. However, a multi-unit building with a large number of owners, including owners that do not live on the premises, etc. require a completely different set of regulation - a more prescriptive one where owners are given less discretion as to whether to and how to communicate regarding maintenance and repairs.

Also there needs to be a special mechanism to regulate the common areas in luxurious residential complexes, i.e., the “gated community” type, and mixed administrative/ commercial/ residential buildings, i.e., luxury tower complexes type; that have a significant amount of costs associated with common areas that are not necessary to facilitate condominium ownership but are critical selling points, such as wooded surrounding areas, common gardens, pools, parking areas.

In the studied countries for the management of the common-shared properties of the multi-apartment buildings the managers are elected by the **home-owners** or the **board**, which, in turn, is elected by the **general meeting** (see Figure 1). However, in some countries, for example Moldova, the management can also directly be conducted by the owners, when the condominium has no more than 4 owners who own not more than 4 apartments.

In some countries, the association is viewed as an NGO under the acting legislation. And it is important for those entities to be democratic, when most of the decisions concerning maintenance, renovation and management of the building (conducted by the board or a hired professional assets manager) are made based on votes taken by the apartment owners.



The management body can sign contracts with the specialised entities (i.e. administrators or administration companies, auditors or auditing companies, etc.) to conduct different activities related to the common property management, operation and maintenance.

Table 2. Applicable legal provisions for forms of regulated multi-apartment building management

Country	Forms of Condominium (multi-apartment building) management (HOA, trust management, licensed management, etc.)
Armenia	The three forms -- HOA, trust management, licensed management -- are provided under Multi-apartment management Bodies Law, in practice -- licensed management only has one precedent.
Czech Rep	n/a
Hungary	A condominium can be created if there are more than one owner in a building, and has to be if there are 4 or more. In all condominiums with over 6 units, the owners' association is to be managed by a common representative, or by an executive committee if an executive committee is called for in the foundation deed or bylaws. Ch. 1, Article 6(2); Ch. III, Article 21(2) and (3).
Poland	The HOA in Poland is an independent body, which is managed in democratic ways. The HOA is represented by an elected board. Most of the decisions concerning maintenance of the building, refurbishment and management (e.g. by the board or by a hired professional assets manager) are made based on votes taken by the apartment owners. The law makes a distinction between the so-called “large” (more than seven premises) and “small” HoA

	(under seven). For smaller HOAs, the issues of co-ownership are regulated by the Civil Code and the Code of Civil Procedure
Slovakia	The management of the house is realized by establishing association of owners of apartments and non-residential spaces in the building (hereinafter referred to as "HOA"), if the owners of apartments and non-residential spaces have not concluded the contract with another legal entity or natural person (hereinafter "Administrator"). Each administrator must have under the Trade Act registration for that activity.
Ukraine	The legislation provides for HOA, cooperatives and municipal maintenance (outsourcing to licensed management possible)

5. The Number of Buildings/Part of the Buildings per Condominium

The condominium can be created for different number of building and apartments, and it is possible to meet condominiums with different number of buildings and part of the buildings in the studied countries of the region. However, for each country/case the most efficient option for common-shared property management can vary.

In general, the legislation can and does define a management body for the following number of buildings/parts of the buildings that can be established:

- one building,
- part of the building with a separate entrance, floor or hallway,
- several buildings belonging to more than 2 owners,
- several buildings with common land and infrastructure: residential buildings for one family, villa houses, garages or other objects.

In some countries associations of privatized apartment owners can be created also by territorial feature (common infrastructure) if the buildings are connected to one water or heat supply pipe and if the number of apartments does not exceed the defined number (for example that number is 500 in Moldova).

In general, the classic form of the building management assumes an establishment of a management body for one building, while in some cases the management of the building can be more efficient if the management is done in each of the entrances (for example in Bulgaria), or floors or certain part of dwelling, for example in Romania, an associations of owners can be created for each section or hallway of the residential building, if the common property segment associated with the section or hallway can be delimited and if the common costs could be distributed between the owners of the sections or hallways.

Furthermore, to avoid some possible bottlenecks related to the use and maintenance of the common-shared properties, different countries develop different approaches. For example, in Hungary, if the condominium consists of more than one building or definable property, the owners of one portion (or more than one but less than all) can vote by a simple majority to request the court to split off from the existing condominium and establish a new condominium.

Table 3. Legal regulation of the number of buildings within one association/condominium

Country	No. of buildings/apartments per HOA/Condo
Armenia	Not regulated. Any number of buildings can be a part of one condominium, as long as each of the buildings has a separate budget.
Czech Rep	Not regulated, in practice any number of buildings occurs in existing HOAs.
Hungary	In a condominium that consists of more than one building or definable property, such as a stairwell, the owners of one portion (or more than one but less than all) can vote by a simple majority to petition the court to split off from the existing condominium and establish a new condominium.
Poland	In general, a homeowner association (HoA) is set up within one land property which in most cases refers to 1 building. Condominiums are usually much larger as they comprise from few to several thousand inhabitants living in a given housing estate.
Slovakia	Voting quorum for individual types of decision-making (simple majority for general issues, including a voluntary auction of the defaulter`s apartment or a two thirds quorum for the approval of a credit, construction on the roof of the house and the change of the form of house management).
Ukraine	Legislation only stipulates that no more than one HOA should be per building.

6. Majority Voting

The most of the decisions concerning maintenance, renovation and management of the building are made based on votes taken by the apartment owners, and it is important to have straight decision making rules.

The decisions are made based on the majority voting, which is, in general, simple majority of homeowners accounted by share in common ownership. In some countries of the region (Estonia, Armenia, Poland, Romania, etc.) the simple majority voting based on “50% + 1” quorum of the participants present at the general assembly, however the definition of “majority” differs by the subject of the decision, as defined by the Charter or the legislation.

In many cases the laws do not contain detail on the governance, decision-making and communication within the assembly in a coherent manner. Instead, the laws merely specify varying voting percentages for taking decisions. For example 90% affirmative votes of the share in common property when setting the fees for administrators or when taking on a mortgage loan to refurbish the building may be impossible to achieve in most buildings. The experience from countries in transition shows an unnecessarily high approval mark seriously impedes the decision-making process. A 75% affirmative vote mark would be more than sufficient and just: in many EU countries, approval is set on the basis of a qualified majority- 51% of the share in common property; which does not violate the constitutional rights of individual homeowners.

The approval mark of voted share in common property for “ordinary improvements” is not defined; in this case a qualifying majority - 51% - of the voted share in common property should suffice. Moreover, the provision is also incomplete as it does not differentiate between “ordinary improvements” and “big improvements”- it only sets different majorities of voted share in common property that is necessary for their approval. For example in Bulgaria, the General Assembly of the owners shall adopt decisions: a) unanimously for undertaking actions for additional storey and extension, as well as for establishing right to usage or construction; b) by a majority of at least 75% for evicting an owner; c) by a majority of at least 67% for renovation and for a general repair; d) and for the other cases - by a majority of at least 50%. In some other countries (for example Hungary) the day-to-day operations of the condominium are conducted under the rules and procedures established in bylaws, which can be adopted and amended with 2/3 approval.

The experience from specific HOAs in Ukraine raises an important flaw in the simple majority regulation with majority attendance of the meeting. The legality of passing resolutions with simply 50%+1 vote of the 50%+1 member present creates a condition in which as little as 26% of the HOA members can make a decision for all members. While this decision is legitimate within the acting regulations, in case if the remaining 74% refuses to pay the fees associated with the above decision, the legal enforcement of those fees through court will be a major financial burden to the minority making the decision. Hence, it is advisable to not only seek compliance with the legislation and the minimal voting threshold but also financial legitimacy of decisions by a larger share of members.

Types of improvements funded must be defined in the greatest detail possible to avoid potential conflicts among neighbours. Examples of “ordinary improvements” are remodelling, painting, replacing windows, electric rewiring, installing new heating units etc.; examples of “big repairs” are roof replacements, insulating exterior walls, replacing pipes, boilers, foundation works etc. This by no means is an exhaustive list. Another option to regulate this matter would be to differentiate “ordinary” from “big” improvements by placing a monetary value on them – below a certain monetary value improvements are deemed “ordinary” and above that value improvements are considered “big” ones and require a greater level of approval as manifested by a higher percentage of the share in common property.

Also, for the convenience of the owners there should be a provision allowing participation in the assembly via a representative; however, there should be restrictions on the number of owners (or

percentage share in common property) that one representative can represent at the assembly, otherwise the whole concept of collective management by the assembly may become obsolete.

The other issue requiring legal solution is the need to include long-term occupants in the decision-making process. A good Condominium Law should provide for proper balance between owners and long-term occupants. The Condominium Laws also need to consider the rights of long-term tenants – these should be able to participate in the decision-making process, specifically when it comes to maintenance and repairs. To avoid potential conflicts among the actual residents in the building – resident owners and tenants - it is advisable to mandate that long-term tenants are also registered somehow (as well as the owners/tenants of premises such as shops, offices, garages etc.) and place them on a more equal footing with the owners in the decision-making process.

Occupants must have influence in the decision-making process with respect to construction planning, maintenance planning or renovation works as they are directly affected by such measures.

As a general rule owners should cover the cost of necessary repairs according to their share in the building’s common property, while the occupants should share in the cost for the maintenance of common areas according to the rate of occupancy – 5 people living in a 3 bedroom apartment should pay 3 times more than 1 occupant of the same space, regardless of ownership percentage. Such a prescriptive intervention in the decision-making of the assembly of co-owners will eliminate possible conflicts between resident owners and long-term occupants in the future. As the financial means available at the HOA management’s disposal increase, more technologically advanced means can be used to apply differentiated charges. An HOA in Slovakia, for example, has made a transition to magnetic key of the building entrance doors and elevators, which allowed to monitor the traffic by households, and reveal how much more often some residents (e.g. dog-owners needing to leave the house several times a day) use the elevators compared to the others (e.g. lonely pensioners, that does not even leave the house every day), and applied a diversified charge for the elevator access, accordingly.

Table 4. Legal Provisions for Majority Voting on Building Management and Maintenance Issues

Country	Majority voting (50%+1) and mandatory enforcement of majority voted decision
Armenia	Simple Majority (50%+1) sufficient for establishing a condominium. Decisions on budget require 2/3 majority. Modification, sale, leasing of common space require 100% agreement.
Czech Rep	According to the new civil Code, the Assembly can pass the resolution only if homeowners having more than half of shares are present. For approval of resolution the simple majority is needed if the Charter does not state differently. New legislative framework also enables distance voting.

Hungary	The day-to-day operations of the condominium are to be carried out under rules and procedures established in bylaws, which can be adopted and amended with 2/3 approval.
Poland	In general simple majority of owners of flats accounted by share in common ownership (over 50% of shares in common ownership or by majority of owners (1 owner = 1 vote) Art. 23
Slovakia	The Law stipulated the voting quora for individual types of decision-making: (a) simple majority for general issues, including a voluntary auction of the defaulter`s apartment; (b) 2/3 quorum for the approval of a credit, construction on the roof of the house and the change of the form of house management. The decisions are passed with majority votes.
Ukraine	<p>Civil Code: Possession, use and disposal of common property in total shall be made by mutual agreement of all co-owners (100% agreement)</p> <p>Law on HOAs: Co-owners of MB who formed an HOA may pass decisions by majority (no need for 100% agreement). Decisions on reconstruction and renovation of the building are passed if supported by ¾ of votes of the HOA members who are present at the meeting. Quorum requires 50%+1.</p> <p>In practice, many HOAs use so-called “voting in writing”. This is mentioned in the Model Charter, but no procedure is determined. Some HOAs pass a special decision on the procedure, but most of HOAs just collect signatures under the so-called “voting lists” which are regarded as an annex to the minutes of the respective general assembly.</p>

7. Organizing and Funding Maintenance of Common Space

The building management body takes care of the general maintenance, repair and operation of the common areas. And in most of the countries of the region the general assembly or the board makes decisions about the use, operation, rehabilitation/reconstruction and reorganization of the common property by majority vote.

The management costs mainly include the following:

- consumable expenses for maintenance of the common areas;
- expenses for basic, current or urgent repairing of the common areas; and
- compensation for the services provided by the building management body for the maintenance of the building.

The management costs are calculated per one square meter of the total area of the apartment unless appropriate legislative articles on building management bodies prescribe otherwise. In other words, the management costs for the common property are distributed among the owners of separate apartments in reference to their shares of the common areas, defined based on the ratio of their individual unit/apartment area to the total area of all the units/apartments. In some countries of the region, according to the legislation, the ownership of the appropriate part of the common property is fixed in the apartment-ownership certificate in the form of the ratio. There are countries where separate funds exist for the building management and refurbishment/renovation, which are formed from the monthly payments and the level of which is set up by the general assembly of owners. In Bulgaria, the General Assembly of the owners or the association shall establish and maintain a Repair and Renovation Fund formed from the apartment-owners fees collected and other sources. The fund's means are used mostly for repair, renovation, reconstruction and reorganization of the common areas, as well as for equipment purchase and implementation of the measures and instructions of the technical passport of the building. The latter technical passport is a noteworthy element of building maintenance oversight by the Government. Regular building inspections/audits allow the Government to identify major intervention needs and mandate their implementation with consequent oversight. This allows reducing the frequency of emergency situations and exercising state control over the building maintenance issues regardless of the voluntary initiative of the home-owners to take care of their building.

Furthermore, the building technical passport as well as maintenance and operation manual are of high importance for assuring the proper maintenance and operation of the residential buildings. However, at present not every country of the region have the complete legislation and mechanisms to conduct the passportization process, and in some cases the buildings' infrastructure is not even registered anywhere and complete information on buildings (including design documents) is absent or dramatically outdated.

And though in some studied countries there is legislation towards the compulsory norms for protection of common shared property, which lists inspections of buildings' technical conditions among compulsory norms, this is not enough to develop the complete passport for the building.

For the countries which have technical passports, during the maintenance and renovation of the common areas; in the first place it is important to conduct construction activities for bringing the building into compliance with its technical passport. The financial means for the renovation should be provided immediately according to the decision of the managing board/manager and the confirmation of the general Assembly. If the repairing costs are covered by an apartment-owner, the expanses should be reimbursed by the general Assembly decision, or deducted from his/her instalments for the fund. If the owner has not been reimbursed, he/she have the right for file an application against the rest of the owners, who are responsible for the reimbursement.

In addition to the above-mentioned management costs, the apartment-owner also should pay for the communal services (like water supply, sewerage services, electricity, natural gas and heat and hot water supply) and land tax. In some cases the building management body collects the fees for the communal services on contractual basis.

Table 5. Legal Provisions for Funding Maintenance of Common Space

Country	Maintenance of common space provisions
Armenia	Owners and occupants shall pay the expenses for the maintenance of condominium common
Czech Rep	Tenants are, in general, not obligated to pay for the services to the HOA, but directly to their landlords. According to the legislative framework, homeowners are obliged to contribute to the repair fund and pay for utilities. The amount of payments depends on the homeownership share and has to be approved by the Assembly of Homeowners. Payments are usually made on a monthly basis and collected via bank transfer. HOA is eligible to enter into contract for the lease of the common parts, but subsequently, the rental income has to be divided between co-owners based on their co-ownership shares.
Hungary	The law allows the general assembly of the owners to make decisions about the use, operation, and rehabilitation of the common property by majority vote. Ch. III, Article 22. Proportionate or pro rata payment of common expenses and voting is required, unless the foundation deed or bylaws provide otherwise. Ch. II, Article 17 and Chapter III, Article 27(1).
Poland	The HOA pays from the monthly charges collected from all co-owners into two funds: (1) management fund, (2) refurbishment fund. The level of charges is set up by general assembly of owners by majority of votes. In addition to monthly collections, the HOA accrues revenues from rent of premises for owners' needs such as storage boxes, premises for keeping bikes and trolleys, spaces (attic) for drying washed linen, etc.
Slovakia	By law, home owners are obliged to make monthly payments for services and to generate funds for repairs and maintenance depending on their shares in the property. Every house has its own fund in which accumulates financial sources for small as well as big repairs or from which house pays regular installment loans, which applied for repairs. The funds are broken down by (a) management; (b) repair; (c) targeted routine maintenance services (e.g. elevator, cleaning, etc.)
Ukraine	Expenditures for maintenance and repairs of common property have to be distributed between the co-owners proportionally to their apartments' areas. The HOA members must contribute to the Repair fund (obligatory) and Reserve fund (obligatory). Payments to these funds are additional payments to a maintenance fee. The HOA may voluntarily decide to compile Special funds for other ad-hoc needs. In practice most HOAs do not have repair and reserve funds. Some HOAs do have a

Repair Fund, but almost no HOAs have a Reserve Fund. The most important decisions, including the decisions on reconstruction and renovation of the building, are taken at the general assembly of a HOA. Most issues are passed by the majority of 2/3 of the participants of the meeting.

Some HOAs lease common spaces, use rent money and earnings from TV- and Internet-providers for building maintenance.

8. Contracting with Utilities Supply Companies

In most of the studied countries the apartment-owners conclude contracts with utilities directly or as members of the HOA make contracts with the HOA on housing maintenance, and the Association in its turn makes such contracts with utility enterprises (see Figure 2) on good conditions or competitive basis or provides these services with its own resources. The list of such works and services including the payment procedures are established by the contract concluded between HOA and its apartment-owners. In other countries, such as Albania, the Law does not clearly define the assembly as a contracting body, instead it notes that the assembly of co-owners can serve as a counterpart in municipal support initiatives aimed at renovating the common property. What is usually lacking is a more detailed description that designates the assembly as the counterpart group contracts for the supply of utility service - electricity, heat, water, cable TV, and internet - to the building at preferential prices.

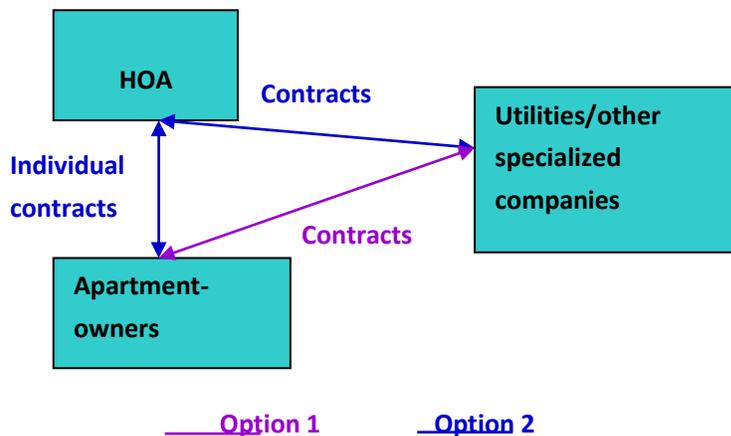


Figure 2. Contracting between Apartment-Owners, HOAs and Utilities

Furthermore, the condominium can make some additional revenues (commissions) from collected fees for utilities on contractual basis with services providing companies (most usually water supply).

The contracts between the HOA and different service providing companies are conducted for not only providing utility services but also management, maintenance, repair, replacement and modification of the common areas/properties. Some forms of

management contracts that can be outsourced from the HOA/condominium are described below (based on the Albanian experience).

8.1. Property administrator companies

It is common for the condominium legislation to allow that the assemblies transfer the care of the common property to specialized property maintenance companies – administrator companies. The grey area of the legislation does not always define the standards that such companies should adhere to in a sufficient level of detail. Guarantees that the administrator is capable of performing the maintenance and repair activities for which it is hired need to be prescribed in great detail.

The list of services performed by administrator companies – the “packages of administration” needs to be sufficiently detailed. The law needs to specify in the greatest possible detail what the administrator should do to - at a minimum what problems the administrator should be able to address. The administrator company should take care of fire alarm systems, lighting and elevator maintenance, ventilation systems, heating and plumbing systems; ventilation systems, be able evaluate building systems for general safety, perform inspections and certifications required by law, manage area cleaning, take care of pest control, roof replacements, painting and waterproofing and re-modelling work as needed. These are just a few examples. Such a list should be exhaustive and clearly defined. The fee should be calculated according to the services actually performed, and the frequency of their performance by the administrator.

The provisions are necessary in the Law as to what happens if an administrator company does not perform its duties – e.g. removing the administrator company from the book of administrators in case of mal-performance. There should also be some sort of financial guarantees in cases of failure or breach of duties – either by way of cash or bank-issued performance bond, or insurance for personal services, or a combination of both.

Also the assembly should require that the administrator company purchases insurance covering the common property including fire, roof leaks, elevator malfunction; wiring and plumbing malfunction etc.

8.2. Municipally-appointed administrator companies

The right of the municipality to make decisions on behalf of the owners needs to be balanced by greater liability. Provisions that allow the municipality to contract administration companies - on behalf of the assembly when such assembly is not established for an extended period of time - creates opportunities for rent seeking behaviour (corruption) by the municipal officials. By way of example, it is more likely that buildings with “less affluent” or unsophisticated owners, as well as buildings with a large number of “absentee landlords” will fall in to the category that require municipally-appointed administrator companies. Such owners, as they are typically more “detached” from their responsibilities associated with ownership, are most likely to fall victim to criminally-motivated schemes by administrator companies aided by willing facilitators within the local government.

That being said it is absolutely clear that such a mechanism is necessary for the successful implementation of a condominium law. However, there must be stricter requirements and responsibilities on such “municipality-appointed” administrators. Basically the owners are forced to purchase the

services of the administrator against their will, so such administrators should have a greater liability than the freely-contracted ones. A good idea would be to provide municipal guarantees: performance bonds, co-insurance for service performance; for such municipally appointed administrators. In this manner the municipality will also carry the burden for non-performance.

In such cases the customer service standards, accounting methods, financial management methods etc., need to be defined - in the greatest detail possible – as to avoid any form of mismanagement. Also, the penalties that may be imposed upon administrator companies in cases of breach of service should include a fee imposed for each day of noncompliance with established standards, if the condominium law allows for such form of penalties.

Table 6. Legal Provisions Regulating HOA/Condominium Ability to Contract as an intermediary with the utility service providers

Country	Legal Provisions for Contracting of utilities
Armenia	2/3 majority can allow contracting of any services (including utilities). No legal barriers exist.
Czech Rep	n/a
Hungary	Although not a full legal entity, the owners’ association has been given new powers to enter into contracts and for most purposes to act with legal authority on behalf of the individual owners.
Poland	HOA can do contracting, however it is not a legal person. Local regulations require that HoAs conclude contracts for (a) removal of garbage, (b) cleaning of communal areas, (c) removal of snow and icicles from the roof, (d) removal of snow from pavements, etc.
Slovakia	HOAs can contract utilities, management companies, accounting services and other service vendors based on the Assembly decision.
Ukraine	If the HOA is a “collective customer” of the utilities providers, money flows from co-owners through the HOA to the utilities providers

9. Enforcement Tools for Maintenance Fees Collection

In the studied countries of the region there are different mechanisms to control the fee collection process and treatment of non-payers. The main controlling methods are the following:

1. **Fines** – upon delay of payment of management fees, the HOA management board may require from apartment-owner a fine for delay, for example in Estonia of up to 0.07 per cent of the amount for each

calendar day the payment is delayed. While in Albania, if an owner does not pay the administration fee at the defined time, he pays an interest of 10% of the tariff for every month of delay.

2. **Disconnection from services** – the non-payers can be disconnected from the use of services provided by HOA (like light on the hallway floor, etc.).

3. **Auction** – in extreme cases, for example in Poland, the flat belonging of the owner who has debt toward HOA can be subject of auction, and the municipality have to find social flat for him (if he full fill requirements). In Hungary, the association may file a lien on the owner’s property who is more than 6 months delinquent in payment of condominium fees. In Slovakia the lien can be exercised after three written warnings to the holder of the arrear, based on board decision.

4. **Execution order** – for example in Albania if the co-owner did not pay the unpaid fees together with the relevant interests even during the third month, then the executive (or the administration company authorized by the executive) is addressed to the court to issue the execution order, as well as to the Bailiff Office for the obligatory execution of the decision of the assembly of co-owners for obliging the payment of the unpaid administration fees and the relevant interests.

The experience of the studied countries shows that the most effective method of the treatment of non-payer is their disconnection from the provided services. However while this treatment is acceptable for the cases when a single apartment is provided with particular services, there are cases when other neighboring apartment-owners also can suffer from disconnection. For example during the following cases it will be impossible to treat the non-payer in a way that will have no influence on other apartment-owners who, for example, pay regularly:

- heat supply services, if the system is constructed with the vertical distribution scheme,
- garbage removal,
- light on the hallway,
- elevator maintenance,
- cleaning services, etc.

A Condominium Law must require that all owners must share in the cost of maintenance and repairs – this is probably the single most important tool to generate the necessary funding to renovate buildings and keep the maintained accordingly. An interest rate in case of delayed payments can be applied (a bit too high, but applied in Albania’s Condominium Law – 10%). In most cases of non-payment it can easily snowball to unmanageable proportions. The rate should be similar to the interest rate imposed in cases of delayed payment of municipal/state withholdings (usually less than 10%).

A provision is also necessary allowing the assembly, or the administrator, to request an execution order from a Court, and consequently to a court executive or a private collection company or alike. Such a provision is absolutely necessary but it is unfortunately insufficient to guarantee successful implementation. There must be a mechanism that guarantees enforcement of such execution orders. The

provision should also specify for example what happens if the owners do not have the money to pay for fees and interest. An even more difficult question is: what if almost all of the owners do not pay the fee and interest? A solution used in most countries is foreclosing on the property, which in some cases may be inapplicable due legal restrictions and socio-political implications.

Table 7. Legal Provisions for Enforcement of Maintenance Fees and Treatment of Non-Payers

Country	Provisions for Fee Enforcement
Armenia	In case of 2 month failure to pay, legal provision allows suing in court. The Charter of each condominium can establish other procedures, not regulated by Law, including fees, penalties, and substitution with labor, material or other contributions.
Czech Rep	The HOA has the right to prosecute homeowners, which are in arrears with payments of contribution to the fund for repairs and modernizations and for utilities and in extreme cases HOA can even ask the court to seize the dwelling. However, juridical processes in the Czech Republic are very lengthy and costly. Unfortunately, there are no data about the delinquency rate concerning HOAs available in the Czech Republic.
Hungary	The association may file a lien on the property of an owner who is more than 6 months delinquent in payment of condominium fees.
Poland	<p>Operation of the so-called “e-courts” has been found helpful in some cases of debts of inhabitants being in arrears with administrative charges and advances for supplied utilities which issue enforcement titles in a very short time (in some cases, within 1-2 weeks) that allow enforcement of amounts due directly from income of a homeowner association member that is in arrears. Calling for e-court sentence is appropriate in particular in cases when the owner of indebted flat is not in difficult financial situation but for instance wants to maximize the revenue from this flat’s rent. Obviously, the practice itself does not help to decrease debts of households in difficult financial/social situation. To remedy the difficult financial situation of families leading to indebtedness, municipal social assistance services can allocate to eligible families (low income criteria) a monthly housing subsidy (amount regulated by local law) and (available from 2013) energy supply subsidy for the poorest families. In 2012, the average number of households from HoAs receiving housing subsidies compared to the total number of subsidies allocated to recipients in other structures (municipal, private, condominiums, and social housing associations) amounts to 12-14% depending of region of the country.</p> <p>In extreme cases the flat belonging to one of the owners who has debt toward HOA can be subject of auction, and the municipality has obligation to find for him the social flat, if he full fill requirements for obtaining the social flat.</p>

Slovakia	Lien on the apartments for the benefit of the HOA or the owners as a protection against defaulters, what was recorded on a sheet of home ownership in the Cadaster, based on simple majority of members. This secures claims arising from the house administration. Used only on about 1% of the cases.
Ukraine	Through Court procedures under the Civil Code

10. Pre-Condition for Condominium Borrowing

In most of the studied countries of the region (for example Poland, Estonia, Hungary), the building management body should have a bank account and may exercise ownership rights over the common property, which allows the management body to borrow in its own name, using the assets of the association for this purpose. It can take credits from the banks for implementing projects on restoration and reconstruction of the entrances, elevators and surrounding areas. In most of the countries it is possible to take credits only towards the mortgaging of co-ownership act in the Office of Immovable Property Registration, and the manner of the mentioned act is defined by the decision of the Council of Ministries.

In some cases (Poland for example) the banks do not require mortgage/collateral, but the proxy to the bank account where the charges from co-owners are collected.

However, there are countries in the region, where the common areas are not considered as management body's assets. This together with low-level of service fee collection (due to the management body's new status) creates non-favourable conditions for condominiums applying and taking credits from the banks, and consequently implementing proper maintenance of the common areas.

Table 8. Legal arrangements (bylaws) creating pre-condition for condominium borrowing

Countries	Provisions
Armenia	No legal provision exists. Condominiums are only an exploitation and service entity, have no property, and so cannot borrow. In theory, if all apartment owners agree, the borrowing can happen, that would require individual loan contracts along with the collective one.
Czech Rep	HOAs are eligible to apply for support from government subsidy programs (Panel, Green Savings). According to official reports, government subsidy programs were widely used by HOAs. The Czech citizens can also benefit from state subsidy program Support for housing savings. The program offers the savings premium and low-interest loans. According to the new civil Code, the HOA Assembly can pass the resolution on borrowing (as well as any others) with simple majority of present homeowners (unless the

	Charter states otherwise). Quorum requires homeowners having more than half of shares to be present.
Hungary	The owners' association is given explicit authority to undertake major repairs or renovation of the commonly owned property upon approval by a simple majority of owners. The association may undertake obligations in its own name, including those relating to renovation or management of the common property or ownership of a unit in the building. Ch. I, Article 3(1). The law also provides that an association may exercise ownership rights over the common property and "bear the encumbrances on the common property." Ch. IV, Article 43, amending Civil Code Section 578/I. This allows the association to borrow in its own name, using the assets of the association for this purpose.
Poland	The HOA's board may borrow a loan upon consent of the majority of inhabitants expressed by way of resolution. The HOA should have the bank account, should be registered in real estate book and in the court and have the elected and registered board. The banks in Poland do not require the mortgage, but the proxy to the bank account where the charges from co-owners are collected, and the decision on taking and repayment of the loan in given amount taken by majority of votes. Within the framework of the Law on Loans and Subventions, the HoAs can obtain also a subsidy for incremental rehabilitation and renovation works (not necessarily linked to energy efficiency improvement), such as: improvement of overall buildings' technical condition, renovation / replacement of central heating installation, installation of hot/cold water pipes, sewage, roof repair, staircase or entrance renovation, lift installation/renovation. The condition to benefit from the subsidy is to obtain a loan from one of 8 banks appointed to distribute public subsidy funds. The subsidy that is allocated to a loan directly reduces the amount of credit by 10-15% (direct settlement between the bank and the Subsidy Fund. HoA must prove liquidity, creditworthiness, fulfilling energy audit recommendations.
Slovakia	In addition to their own resources, apartment owners also have the opportunity to raise funds from the state, which are earmarked for certain purposes of rehabilitation (e.g. reinforcing panel buildings), and also loans are available from banks.
Ukraine	HOAs received loans from a state fund under a special low-interest program. Generally, there are no legal obstacles preventing HOAs from receiving loans, and more and more HOAs become organizationally ready to take loans

11. Adjacent and Occupied Land and Inbuilt Premises: Common Ownership and Collateralization

11.1. Using Common Property as Collateral or Alienation

The reasonable selling or especially lending of the common property can be seen as additional source of revenue for the building management fund, such example of the common area can be the basements, which or the part of which are not used by the home-owners. In some countries (for example Hungary), sale or rental of common property is permitted with a 2/3 vote of the ownership interests, as long as this is permitted in the foundation deed and the portion of the common property, which can be sold or rented. However in many studied countries, there is no proper legislation allowing the sell or renting of the common areas.

Table 9. Legal Provisions Regulating Condominiums/HOAs’ Ability to sell/use land or other common property as collateral

Country	Relevant Provisions in the Legislation
Armenia	Not allowed. If all apartment owners agree, they may arrange this, but the condominium cannot make this decision.
Czech Rep	According to the legislative framework, the HOA is a legal entity established to provide the building and land administration. The HOA may acquire property only for the purposes related to the administration, operation and repair of common parts. It may not be directly or indirectly involved in any other kind of business activities.
Hungary	An association may exercise ownership rights over the common property and bear the encumbrances on the common property. Sale or rental of common property is permitted with a 2/3 vote of the ownership interests, as long as this is permitted in the foundation deed and the portion of the common property to be sold or rented can be formulated as a separate property. Ch. I, Article 3(2).
Poland	Legislation allows the HOA to alienate common premises, in addition to the right of auctioning the non-payers private property.
Slovakia	The owners had to decide on purchasing land, they could only buy the adjacent land, which was fenced and/or served exclusively to the house. They can sell the land with the exception of the land under the house
Ukraine	Not allowed.

11.2. Non-Residential Inbuilt Premises

It is important to establish appropriate rules for the owners and/or lenders of the different non-residential inbuilt areas of the building, since the mentioned areas do not have the same level of access to the common shared property and most importantly to the services provided by the building management body as it has the regular apartment-owner of that building. Those services include the maintenance, repairing, reconstruction, utilities, etc.

Consequently, the owners or lenders of the different type of premises in the building must pay different and appropriate level of fees. In most of the countries (Moldova, Romania, Slovakia) of the region, the owners of non-residential premises (i.e. shops, restaurants, garages, etc.) participate in maintenance of common areas, and the established participation share can vary for different groups of owners depending on the type of their occupied premises.

For example in Bulgaria, owners and lenders of shops, restaurants, industrial, business and other type of commercial premises (using the common property), who have higher access to the services than normally, should pay up to 5 times higher fees for maintenance and operation of common areas than the ordinary owners.

Table 10. Inbuilt non-residential space/entities’ (shops, garages, etc.) participation in condominium management and maintenance

Countries	Relevant Legal Provisions
Armenia	Residential and non-residential are treated identically, no diversification.
Czech Rep	Homeowners form the management.
Hungary	Proportionate or pro rata payment of common expenses and voting is required, unless the foundation deed or bylaws provide otherwise. Ch. II, Article 17 and Chapter III, Article 27(1). The right of owners in a particular condominium to approve bylaws that apportion costs on a different basis may be important. For example, in a case where an occupant of a unit uses substantially more heat or water or generates more trash than the average occupant because of the use of the unit, cost sharing on the basis of the size of the unit may not be fair.
Poland	According to legislation, the term “housing assets” managed by the HOA also refers to other premises and facilities that are included in the residential building or located outside it the existence of which is necessary for proper use of apartments by inhabitants. Such assets also include the space of commercial premises in the homeowner association's property, e.g. shops, warehouses, space of advertising billboards, roof space provided to telecom operators. Such space may be rented which frequently constitutes substantial income of HoAs allowing

	them for example depreciating increasing costs of use of common areas. The last described income (rent of space to entities external to HoA, i.e. non-HoA members) is however subject to taxes, while the other revenues of the HOA is tax exempt.
Slovakia	The HOA is established with participation of both owners of apartments and non-residential spaces in the building.
Ukraine	Non-residential premises can also become members of the HOA and will need to pay maintenance

11.3. Land Ownership

The issues of land ownership are not adequately addressed in the condominium legislation. In most cases, the government maintained the ownership over land, except the land adjacent to the condominium building. In Latvia, the Law says that the apartment property is independent object of real property rights where individual has exclusive rights to the separate property, but indivisible part of a dwelling house and land parcel is common property owned by all owners of apartment properties. The Land-book law says that apartment property has to be consolidated in Land-book as independent real property.

In Moldova, Condominium is a unified complex of real estate which includes land within the established boundaries and buildings associated with this land, other real estate objects. Land associated with the residential buildings and other objects in condominium are transferred by the local public authorities as a common property into common ownership of the owners free of charge.

Nonetheless, exercising this ownership over the adjacent land is not clearly spelled out in the legislation. For example, allowing the condominium to rent space for garages would be a major source of much needed revenue; nonetheless, the condominiums are not always legally allowed to manage this land at their discretion. There are cases, for example in Armenia, where while the legal definition is not present, the local community councils have granted the condominium permission to lease the land/garages.

Table 11. Legal Provisions Regulating Ownership and Management of Land under Condominium Property

Country	Available Relevant Provisions
Armenia	Adjacent land (10 meters from the building wall) is the collective property of all condominium members (but not the condominium). For example, if the building is in emergency situation, members can decide to dismantle and build a new one on the same land.

Czech Rep	The new Civil Code defines common parts as parts of immovable property that are, by their nature, intended to serve all the owners, specifically mentioning the land or the property right to the land, on which the building was constructed, along with the building and its elements.
Hungary	n/a
Poland	The HOA size is defined by the single land slot property. As a result the HOAs can become quite large if the buildings are allotted on the same property.
Slovakia	The owners had to decide on purchasing land, they could only buy the adjacent land, which was fenced and/or served exclusively to the house. As stated in the first answer they could sell the land except land under the house.
Ukraine	Land assigned for HOAs management allocated by local authorities, may include public green and other landscape. Cases registered when the HOAs reclaimed the adjacent lands from local authorities through court. This issue under dispute within the new legislative process in this sector.

12. Regulation of Miscellaneous Issues

Aside from the above key elements in the legislations governing the condominium operations, there are a number of other issues that arise for legal regulation and may or may not be reflected in the legislation. These particularly refer to what a Condominium charter should contain, how the government shall deal with the buildings where condominiums did not form with the residents' initiative and how the financial matters are solved for low-income members of the condominiums, who may not be capable to properly pay the maintenance fees, and any other associated minor or major expenses.

12.1. Condominium Charter

To provide the minimum framework and areas for the Condominium Charter, the Laws either provide substantial detail in a separate chapter regarding the mandatory provisions a Charter should contain, or the Laws includes a sample charter or assigns a Government entity to provide such a charter template during enforcement phase.

12.2. Absence of Initiative to Establish Condominium

In cases where there has been lack of initiative from building dwellers to organize, hold a general assembly and form a condominium, the legal provision (often spelled out in the Laws on Local Government) are charged with the right to maintain and manage the building and withhold service fees, while working with the apartment owners to strengthen initiative for condominium formation.

12.3. Low-Income Households Participation in Financial Matters

The legal provision usually gives the condominium general assembly freedom in developing and approving the administration criteria and cost, administration fee, as well as the manner and time of payment for each co-owner. Consequently, if the assembly deems appropriate, it can waive or discount the fees to low-income households, or propose alternative procedures.

Table 12. Regulation of Miscellaneous Issues: Charter Substance, Local Government Interventions, Low-Income Households Participation in Financial Matters

Countries	Template/Sample Charter for HOA/Condo creation	Local Government Intervention when Condominiums Do Not Form with Own Initiative	Low-income households' participation in financial matters
Armenia	Not available, several templates were designed by NGOs and donors, but none certified by Law. The Condominium Law Article 6 describes the necessary provisions to be included in the Charter.	Local Authorities takes responsibility of the management and maintenance of the condominium property, supporting the building in its decision making, encouraging condominium creation. Nonetheless, without simple majority, no condominium can be created.	Not regulated by Law. In practice, fees are waived or discounted for low-income households based on the decision of the General Assembly.
Czech Rep.	n/a	n/a	HOAs are eligible to apply for support from government subsidy programs (Panel, Green Savings) to cover low-income households share
Hungary	n/a	municipalities are also active in providing financial support for the renovation of housing within their territory; a particularly important part of which is their emergency fund for buildings in a life threatening state of repair	Is a subject for General Assembly Decision. Government funded housing subsidies provide opportunities for condominiums and housing cooperatives as well as individual owners for investment, as well

			as EE retrofitting.
Poland	n/a	n/a	The municipal social assistance services can allocate to eligible families (low income criteria) a monthly housing subsidy (amount regulated by law) and energy supply subsidy for the poorest families.
Slovakia	n/a	n/a	n/a
Ukraine	model HOA Charter approved by the Order #141 of the State Committee for Housing and Municipal Economy of Ukraine on August 27, 2003	Municipality assigns the building over to a municipal maintenance company (Zhek). Pending draft legislation also may introduce the management by a licensed manager (physical person) in the absence of an HOA.	Low-income households are subsidized by the state. The family benefits are aggregate sums including housing subsidy.

13. Financing Maintenance and Renovation

13.1. System of generating funds for renovation and maintenance

Most laws designate the assembly of the co-owners as the organization tasked with generating the financial resources to renovate the deteriorating buildings, thus addresses the most acute problem in the housing market of the SEE and CIS countries – financing renovations. Unfortunately, expecting that the necessary funding is collected solely via contributions by the individual condominium owners is a bit naive – over 80% of the residential units in SEE and CIS countries are privately owned with a large portion of the owners having little disposable income, not to mention old-age pensioners and single-parent households.

The financial contributions required from owners of condominiums to improve the common property in the buildings they live can be significant considering the poor construction quality of the buildings combined with the lacking repairs or maintenance over time. The unfortunate combination of

condominium owners with little or no disposable income, and the need for significant investment in maintenance and repair of the run-down housing makes achieving the intended results via owner contributions nearly impossible: the exorbitant cost of repairs cannot be sustained by condominium owner contributions alone because many people simply do not have the money or access to credit as their earning patterns will likely place them outside of the target group of credit institutions.

Income inequalities among condominium owners in a building make the problem even worse – while some owners may have the necessary financial resources, others, within the same building may not. In such a vicious cycle the financial burden will fall on the relatively affluent owners within the building which will create significant source of conflict among neighbours.

13.2. Need for more flexible access to public funding

The public funding schemes described in most laws or operating in practice do not appear to be complex enough as to provide the necessary funding in all cases where it is needed. There needs to be some form of public funding or a publicly-guaranteed scheme to support to the low-income owners. In some countries there have been debates to introduce public sector housing support systems guaranteeing the ability of low-income owners to meet the financial obligations stemming from condominium ownership: for example direct transfers, tax breaks, etc. Other countries have debated to introduce “de-privatization” of housing - where the government acquires the condominium from low-income owners and guarantees their right to stay on as tenants. Similarly, such a solution needs to be scrutinized for public support and acceptance in the country.

It must be noted that financial assistance to condominium assemblies will bring about social benefits. Condominium ownership is to a large extent the most widespread access to capital for most ex-Communist country citizens. Public assistance in renovating the common property of the buildings will increase the value of the property as a whole, and the value of the individual condominiums. Units in renovated condominium complexes will be more attractive to banks in cases of mortgage lending; can generate higher sale prices thus provide greater access to capital for their owners.

13.3. Access to donor-funded grant schemes

Given the massive scales of the residential buildings that need refurbishment and are or are not organized in condominiums, and combined with the current economic and financial situation it may be naive to expect that funding schemes for improving the housing stock can be implemented without donor support. If donor support can be made available for such schemes, the framework for its distribution should be introduced by this law. The legal framework should make assemblies more attractive as partners to donor initiatives and grant schemes.

Forming assemblies of co-owners is absolutely necessary to help owners benefit from housing initiatives that support the renovation of multifamily apartment buildings and surrounding areas. This is necessary because of the way donor support schemes are structured: for example assemblies can be counterparts to EU institutions under such initiatives, individual owners cannot.

The legislation needs to introduce a mechanism for municipally-administered financial support for the renovation of common property, however, it does not define it in the sufficient level of detail. Legal provisions are necessary to designate the assemblies of co-owners as counterparts in donor-funded housing improvement initiatives and identify these as beneficiaries in energy efficiency grant schemes. In addition, energy efficiency measures need to be defined in the greatest possible level of detail.²

The current mix of financing solutions applied in the target countries is summarized in the below table.

Table 13. Common Means of Financing Capital Repair and Renovation (including Thermo-Modernization)

Country	Available Relevant Provisions
Armenia	<ul style="list-style-type: none"> • HOAs own resources (usually insufficient) • Municipal subsidies for specific urban development programs (e.g. Mayor-supported playgrounds, entrance doors, etc.) • Condominium Finance Loan from Habitat from Humanity of Armenia within the HFHA Condo or REELIH Project with 30% municipal subsidies.
Czech Rep	<p>HOAs are eligible to apply for support from:</p> <ul style="list-style-type: none"> • State subsidy programs (Panel, Green Savings), these are very popular and widely used by HOAs. • State subsidy program “Support for housing savings.”
Hungary	<ul style="list-style-type: none"> • Payments from owners (limited, not very popular); • Financial Reserves • Bausparkasse (combined financing from condominium association + individual owners), may be combined with a loan – can reach 0% effective interest rate • Loans from commercial banks • EU Grants (very limited, available once or twice a year, total budget per year is EUR 5-10 million for the whole country, almost exclusively for thermal insulation) • Grants from local governments (drying/dried up due to crisis) • Local government/state emergency funds (e.g.: natural gas supply cut off due to bad piping,

² This is also a requirement is there is need to align with the requirements of EU Directive 2002/91/EC on the energy performance of buildings. In the context of the Directive energy efficiency measures include insulating the outside walls and the roof of the building, installing efficient windows and doors, efficient lighting in the common areas, efficient cooling systems, heat recovery systems etc.

	<p>disasters, etc.)</p> <ul style="list-style-type: none"> • Few private initiatives in very small value (banks, energy companies, etc.)
Poland	<p>The renovation fund will cover the costs of scheduled renovations and upgrades of systems and buildings that are approved under a resolution of inhabitants at an annual meeting of members/owners.</p>
Slovakia	<ul style="list-style-type: none"> • favorable credits provided by the State Housing Development Fund established by law in 1996 for a new construction as well as for the repairs (EUR 4,989 million disbursed to date). • A system of building savings which was adopted from the German and Austrian models by law in 1992, and which has provided 2,014 mil Euros by now. • Commercial lending with quite low interest rates, competing with the state support funds. Today, the interest rates range between 2.98 and 4.50 %. • State sponsored credit guarantee program to the owners since 2000 – guarantee fee paid to Slovakian Guarantee and Development Bank. • Alternatively, currently banks find sufficient to have the Maintenance and Repair Fund of the house as a guarantee, in addition to the full detail of management data of the house for the last three years. • State subsidies from Ecofond • State program is designed to assist in elimination of construction design flaws for existing buildings
Ukraine	<ul style="list-style-type: none"> • Own Repair Fund: Many HOAs conduct major repair works alongside routine building maintenance. Such major repairs include, for example, repairing the roof, replacing the pipes in the basement, installation of building (collective) heat meters, etc. • State or municipal financing, finance major repairs from money saved from other items of expenses (from routine maintenance and heating) which is not in strict accordance with the legislation. • Rental fees collected for leasing out common spaces, collecting commissions from TV- and Internet-providers, etc. • Commercial loans: Five Ukrainian banks offer uncollateralized (unsecured) loans for HOAs and Housing cooperatives. The lending program is mainly aimed at the reconstruction and capital and current repairs (thermal insulation of roof and walls, installation of new windows, modernization of networks, boiler and heating systems, installation of individual heating substation, repair of elevators, lighting of common areas, etc.). Interest rates remain high and unfavorable for HOA investments.

14. Summary of Key Problems, Issues and Recommendations on improving operation of homeowners associations and strengthening the regulatory framework in the field

In spite of successes in establishment of building management bodies, in some of the countries in the region the following major institutional and technical problems still exist and need to be addressed:

1. **Problem/Issue** – Experience from the target countries, as well as other countries of the Central and Eastern Europe shows that the adoption of existing legislative acts and laws are necessary but insufficient for successful formation of assemblies of co-owners as well as proper enforcement of effective operation, management and maintenance of housing stock.

***Recommendation:** a) Adequate secondary legislation should be carefully developed and enforced for providing a clear and effective set of functional models and a standard set of rules for all multi-apartment building management bodies. (b) Incentive mechanisms and financing tools are necessary for enforcement of these laws. In addition to the legal requirements, the Condominium Laws should also include activities supporting owners in establishing assemblies (see also the next Problem/Issue): incentives for establishment should include measures to strengthen the role of assemblies in other related legislation and in financing and grant schemes. (c) Simplified assembly mechanism is necessary when full assembly is not possible within range of financial legitimacy.*

2. **Problem/Issue** – Lack of governmental support for the creation, reorganization, operation and maintenance of the condominiums.

***Recommendation:** The local government or national housing agencies can provide either financial or consultancy support to the condominiums, especially to the new established ones. There are good examples within the studied countries, where there are appropriate departments within municipalities or national agencies providing institutional advisory services for the establishment of condominiums, covering range of issues related from registration to basic tips on organization, management, reporting, accounting, project development, budgeting, etc. including the public outreach disseminating the crucial minimal basics necessary for getting the enthusiasts started on the above issues and start looking for more information.*

3. **Problem/Issue** – Improper level of collective decision making: a) it is unclear what rate of common share participation should be the absolute minimum to form the assembly so that this provision is successfully implemented at any given property; b) in some cases people that have lived for decades in a building and have not been able to agree on simple issues are not ready to make collective decision on such complex issues as collectively investing in renovations, setting

administration fees or taking on mortgage loans. This situation is further aggravated in countries with significant emigration rate, hence absentee home-owners.

Recommendation: a) Simplified assembly mechanism without the full participation of all owners is necessary when full assembly is not possible. b) Exercising the existing legal provisions which allow taking legal action against private property of passive households if they fail to act on the responsibilities bound with the right of apartment ownership (many countries have such legal language in existing laws, but fail to exercise this right). c) Sufficient details on this matter should be included when making appropriate modifications to the existing legislation or developing new laws to create simple and clear procedures that cannot have potential false interpretations.

4. **Problem/Issue** – The “one size fits all” regulation for all multi-apartment buildings is not always efficient. Very small (one small building) and very large (hundreds of buildings) condominiums exist: their operational procedures have to differ as the problems they are facing are quite different. Small condominiums have limited operational cash while larger ones have no transparency or possibility to legitimately reach majority voting.

Recommendation: a) There needs to be differentiated types of regulations for different types of buildings and residents: a “lighter regime” for buildings with few owners, and a “heavier-handed” regulation for buildings that have multiple owners, many floors, or in some cases many buildings, etc. b) the legislation should define and allow establishment of the assemblies for different number of buildings and give the households and building administrators possibility to create or change the form of the assembly for the better management and operation of the property.

5. **Problem/Issue** – The apartment-owners sometimes do not properly recognise the idea of common-shared property and there is no appropriate awareness on their ownership and understanding of conditions of the building’s common premises (basement, roof, as well as cold water supply and sewage, electricity and natural gas supply, heating and hot water supply in-building networks/systems, etc.). Once they recognise their direct ownership of the particular part of the common-shared property they might change their behaviour and will be more responsible for the management and maintenance of the building’s common property and consequently the building itself. In some countries of the region, the ownership of the specific part of the common property is fixed (usually in form of ratio) in the apartment-ownership certificate, however because of the low level of awareness there is no proper understanding of their responsibility in maintenance and operation of the common-shared property in that countries too.

Recommendation: a) Formally register the common premises with official state cadastre agency according to acting laws of property registration; b) Make appropriate amendments to the existing legislation and develop necessary procedures for registration of the common-shared properties/areas and fixing those in individual apartment-ownership certificates. c) Raise awareness on understanding of responsibilities for each apartment-owner’s for their part of

common property through all possible means of public outreach from printed leaflets and newspapers, billboards and banners to public service announcements on television and radio.

6. **Problem/Issue** – No technical and energy passports of buildings and operation and maintenance manual which lead to poor and inefficient maintenance of the buildings. In most of the countries of the region there is no complete legislation for building passportization, and consequently the responsible person for the passports development and update.

***Recommendation:** Development/amendment of the appropriate legislation for organising the building passportization procedure and legal enforcement of passport requirement through parallel legal procedures (e.g. passport required for real estate sale or rental); development of the mechanisms insuring the governmental involvement and coordination in developing the buildings passports, as well as an adequate procedure for covering the passportization cost.*

7. **Problem/Issue** – Lack of clear priorities set for the proper management of the building. In some cases the allocation of limited financial resources is prioritized for solving the more visible local problems and/or maintain compulsory norms for protection of common shared property on the short-term basis, which can discriminate over more long-run building maintenance needs.

***Recommendation:** a) The legislation and regulatory acts should firstly define procedures for monitoring building condition, including routing building inspection and procedures for building passportization; Secondly, define the priorities for building proper maintenance and operation, i.e. in the first place it is important to conduct construction activities for bringing the building into compliance with its technical passport. b) Depending on the stage of condominium development and dissemination, if the government is yet to transfer building ownership to condominiums, these buildings should be brought to proper shape before this transfer (or receive the preliminary minimal repair investment funds from the government). Since the previous management body was tasked to maintain the building in an adequate shape, transferring the buildings to condominiums in a poor condition limits the condominiums chances of success, as it will not be able to generate sufficient funds for routine maintenance before major capital repairs will be necessary. c) Separating the fee collection by designated expenditure components, including Part 1 – Routine Maintenance; and Part 2 – Repair Funds, as well as other ad-hoc funds which the condominium members deem appropriate. This would allow concurrently earmarking funds for competing purposes without sacrificing any purpose.*

8. **Problem/Issue** – In some cases, there is no sufficient detail about the administrator company's activities, it is just mentioned that the assemblies transfer the care of the common property to specialized property maintenance companies – administrator companies.

***Recommendation:** The list of services provided by the administrator companies needs to be sufficiently detailed. The law needs to specify in the greatest possible detail what the administrator should do and at a minimum what problems should be able to address to.*

9. **Problem/Issue** – Because of the income inequalities among the households in a building some owners may have the necessary financial resources, others - may not. The public funding scheme described in most laws or operating in practice do not appear to be complex enough to provide the necessary funding in all cases where it is needed.

Recommendation: There needs to be some form of public funding or a publicly-guaranteed scheme to support to the low-income owners.

10. **Problem/Issue** – Poor financial conditions of the condominium.

Recommendation: a) Development of mechanisms creating incentives and possibilities for condominiums to improve their financial situation, like creating (in the countries where it does not exist) possibilities for condominiums to make some additional revenues (percent) from collected fees for utilities on contractual basis with services providing companies, or improve that system in the countries where it already started to operate. b) Phase out the politically popular approach of regulating the rates for MAB building maintenance fees (i.e. setting maximum maintenance rate over 1 m²) to bring maintenance and repair funds to adequately cover the true cost of maintenance, while targeting the low-income families with housing subsidies to help improve the affordability of housing maintenance services.

11. **Problem/Issue** – Lack of effective enforcement tools for maintenance fee collection.

Recommendation: Development and improvement of the enforcement mechanisms for fee collection in a way that the regular payer is not affected by the non-payer's behaviour, while making the enforcement procedure non-burdensome for the condominium administration. Those improvements can include solutions such as implementation of simplified court procedures, right to enforce collection services without court involvement, lien on assets allowing non-payer's apartment auctioning. The experience indicates that a few illustrative trials to hold non-payers accountable may be very effective for enforcement of maintenance fee collection. Other measures could include enabling of non-cash contributions (i.e. in labour, materials, etc.).

12. **Problem/Issue** – Poor creditworthiness of the condominiums due to low-level fee collection, poor capacities, and in some cases and improper legislation regarding the non-consideration of the common areas as condominiums' assets.

Recommendation: Improve the legal environment through a) exercising requirements for non-cash operations and proper book-keeping of condominiums, b) legalizing the condominiums common premises as cadastre-incorporated asset, c) define legal requirement for accepting borrowing decision within feasible majority (e.g. eliminate the 100% pro voting requirement when many apartments are effectively absentee); d) develop customized lending instruments which provide the banks with additional securities (e.g. trilateral loan agreements, personal guarantees from homeowners, individual contracts with each household etc. to minimize the risk of non-payment). And an overarching need for higher credit-worthiness is enhanced institutional capacity of condominiums to perform and change public perception about their continued failure

to come up to their members' expectations. Many bankers live in condominium-administered buildings and unless they personally experience a condominium can be a success, the public opinion will act against their creditworthiness.

It has been duly document that Armenia, as well as a few other countries of the region, still have weak capacity for building management and repair, project development, financial planning and management, fund-raising, human resources management, accounting, reporting and customer relations.

It is recommended to continue improving the legislation and regulatory frameworks with including more details on the efficient management and operation of the properties, and giving the assemblies possibilities to try different alternatives of the managements and choose the most efficient one for its particular option. Furthermore, it is still actual to continue strengthening the capacity of condominiums to carry out budget planning, financial management, accounting, project development and fund-raising. The condominiums should be capable of sound management and financial stability, which can be accredited by independent institutions to assure banks of the condominium creditworthiness. It is also worth mentioning that the legal framework should make the condominiums more attractive as partners to donor initiatives and grant schemes.

A common pitfall to be avoided in new or amended condominium legislation is the lack of clear detail specifying the roles and responsibilities of members, and potential solutions in common problematic situations, as well as strong political will to enforce the passed legislation to full extent. The reform strongly depends on technical assistance, capacity building, public outreach and development of tailor-made financing schemes, which all require dedicated action and strong national and local government support for the effective maintenance and management of the multi-apartment buildings.

Annex I: Comparison of Common Use Property Management: Homeowner Associations versus Condominium Associations³

	Homeowner Association	Condominium Association
1. Form of organization	NGO (not for profit)	Legal entity, similar to a LLC, owned by all homeowners
2. Common area ownership	Property is divided to each homeowner	Property is undivided – owned by the condo association
3. Management	Self-managed by members, a board of directors is elected and makes day-to-day decisions	Almost always operated by a private management group
4. Change of management	Annual elections of all board members and management team	Long-term contract with a private firm. Contract renewal is most common practice but homeowners can select a new contractor through a tendering process.
5. Contracts	None. A set of rules is reviewed and signed by each member	A condominium contract is signed by each homeowner
6. Employees and sub-contractors	The members often volunteer for projects and for completing the administrative work of the HoA. Specialty work is normally sub-contracted.	The private management company provides all services but may wish to sub-contract some of the work.
7. Monthly payments	Each member pays a monthly fee to the association	Monthly invoices are provided to each homeowner for contract payments
8. Delinquent payments	The HoA has the right to charge interest on late payments and to take the person to court for delinquent payments.	The condo association has the right to charge interest on late payments, can take the person to court and if the payments get too big, can attach a lien on the

³ *Comparison of Common Use Property Management - Homeowner Associations versus Condominium Associations*, Jake Delphia, 2009

		property.
9. Services	Normally deals with the maintenance and upkeep of the property but can include other services as agreed by the members	Typically include several communal services – water, garbage removal, cleaning, heat, hot water, security, maintenance and repair of common facilities such as the roof of an apartment building.
10. Use of common property	Members can ask for use or purchasing of common property, but all purchases must be publicized, then reviewed in a public hearing and then approved by the Board of Directors	Common property is owned by the condominium association and any benefit from using the common area (such as adding a new floor) is the benefit of the condominium and therefore to the benefit of homeowners.
11. Violations of legislation	Any violation of legislation, such as properly maintaining all structures and keeping them safe for public use, is the responsibility/liability of the members.	Any violation of legislation is the responsibility/liability of the condominium association. Violations are normally assessed against the private contracting firm because it is their contractual responsibility to properly the property.
12. Taxes	Each homeowner pays property tax based on the value of their home and their share of common property	The condominium pays the taxes on the undivided common area and includes the cost of property taxes within the contract payments to each homeowner
13. Financing	Financing is not a function of the homeowner association because it has not assets/collateral for financing	Financing can be obtained by the condominium association using the common property and the contracts with the homeowners are collateral