European Valuer

ISSUE N°28
DECEMBER 2022

TEGOVA
The European Group
of Valuers' Associations

Launch of European Plant, Machinery & Equipment Valuation Standards, 1st *edition*

TEGOVA *in Ukraine*

GUEST EDITORIAL

The dawn of an uncertain era

– *The Era of Risk?*

While many talk of an era of change, there is the sense of a change of era, one characterised by greater change and risk.

The post-war era ended with the fall of the Berlin Wall, the first Iraq war and China's increasing role in the world economy. Thirty years later, we could again be feeling the birth pangs of a new era. The four successive shocks of the pandemic, juddering supply chains, much increased energy prices now feeding into inflation and Russia's invasion of Ukraine follow the fallow years of low growth and ultra-low or negative interest rates since the financial crisis of 2008. China now seems less focused on the prosperity of its people, more on controlling them. The signs are that it will be an era of restless change, of combined economic change, technological change, demographic change, climate change and political challenge.

Illustrating those changes, the return of interest rates emphasises the place of risk in assessing reward and finding value, as markets discriminate more between safer assets and riskier ones, testing debt, with direct issues for property, business and valuation. That will add to the restlessness of markets, giving the price signals that will shape the new economy. Those markets will see the uses of land change while property sectors will rise, fall, be created and retreat, with value moving between sectors and areas.

With geo-political risks demonstrated by Russia's invasion of Ukraine, advancing climate change brings its own wider risks from social and economic displacement and their political consequences and effects on markets. A grain price spike was a factor in the Arab Spring. The advance of climate change also brings risks more immediately with more extreme and volatile weather to which to mitigate and adapt.

Jeremy Moody

The sharply increased energy prices of the last twelve months, compounded by the consequences of Russia's invasion of Ukraine, have made Europe poorer. They are also accelerating the move to renewable energy. Together with other energy policy decisions, that could dethrone gas as a fuel, displace carbon, mitigate climate change and reverse the price shock. That will take time and, as the scale of decarbonising power should not be underestimated; we will need all possible means of generation. We are expected to double electricity use by 2050, by then drawing it all from non-carbon sources. That power must be generated and distributed to the facilities that will use it; the electricity from solar farms would be taken through upgraded or new cables and new transformers to drive heat pumps for re-engineered buildings. All that will affect properties, businesses and their values.

But even if our mitigation policies are successful, more climate change will happen and we must adapt to it. This summer, much of Europe had its greatest drought since 1540, forests near Paris faced the conditions of Algiers (repeated drought stress damaging many more trees than fire) and England had unprecedented temperatures. Work and life, especially urban, will change where periods at 50oC become a prospect.

It is not only about heat but more volatile extremes; the 2021 flooding of the Ahr valley was a destructive example of the accompanying trend to intense rainfall, while Texas has had snowstorms, the UK had a series of severe winter storms and soil erosion is now a challenge in much of southern Europe. These extremes, also bringing new diseases and pests, challenge agriculture; the French summer mustard shortage was caused by drought in Canada. As the Arctic warms faster, so Britain and Poland have vineyards, more of Russia can grow wheat and maize leaves southern zones. Property values will come to reflect such points when people do.

Responding to risk can bring reward. Especially in the 70 years since the 1953 floods, the Netherlands has shown how to adapt to the risk of flooding and be prosperous. We will now need to apply the fundamental human skill of adaptation across our economies. Property, with its use, development and change, is a key factor in the economy and business will see opportunities in this.

Nowhere is this more starkly shown than as Ukraine progressively liberates its territory from Russian occupation. Significant areas now look as much of Europe did in 1945. Ukraine should be able to match what Europe has done since then and, indeed, with good institutions, build to tomorrow's green standards, not yesterday's Soviet ones.

This takes time and commitment but growth, like interest, can have the magic of compounding. In 1960, South Korea had the same GDP per head as Sierra Leone but, determined to grow, is now in the G20 with a life expectancy of 83 years.

Global spending power has been shifting heavily to the east but the largest pandemic for a century has had results. Supply chains are re-aligning in the world economy. China, testing its weight in the world, now looks to grow old rather than rich; India may rise. Whether for defence or social services, the immediate domestic challenge in the face of this change is to answer Angela Merkel's observation of European countries having 9 per cent of the world's population, 25 per cent of its economy and 50 per cent of its welfare payments. If European countries are to have the heft in the world that will support our values or simply the living standards we desire, we need renewed growth. Effective markets in property and finance are part of the answer.

If we act, the new era will in part be what we make it; the hardest part may be the transition to it. The revival of risk in finance and global conditions will challenge many who have come to take comfort for granted or have not known anything else. The combination of pandemic and Putin show that bad things can happen in the West – we need to be clear sighted and resilient to handle it successfully.

The valuer is the observer of such change, not a maker of markets. Valuation is finding where supply and demand, with all the human behaviours behind them, balance. The professional skills of appraising specific assets in their evolving markets, understanding the relevant risks and reporting effectively are essential to better and informed decision making by businesses and individuals – never more so than in the era just opening.

PLANT, MACHINERY & EQUIPMENT VALUATION

#01 Launch of European Plant, Machinery & Equipment Valuation Standards, *first edition*

EVS-PME 2022 were launched in Athens on 21 October at a conference of the Association of Greek Valuers (AVAG) and TEGOVA.

Extract from the opening address of TEGOVA Chairman Krzysztof Grzesik:

Today is a milestone in a great new professional adventure: the launch of European Plant, Machinery & Equipment Valuation Standards, the realisation of the same ambition as for business valuation: providing the first ever European standards in the field, making TEGOVA a natural home for PME valuers and opening up another exciting new practice horizon for real estate valuers.

And those business and PME professional horizons are brought a lot closer by the fact that we have also completed the development of the corresponding designations of professional excellence:

- Recognised European Business Valuer (REV-BV)
- and Recognised European Plant, Machinery & Equipment Valuer (REV-PME).

The European Plant, Machinery & Equipment Valuation Standards Board, from left to right:
Front row: Konstantinos P. Pallis, Chairman (AVAG)
2nd row: Ana Caldeira Martins (ANAI), Paulo Caldeira Martins (ANAI), Ivars Strautiņš (LIVA)
3rd row: Michael MacBrien (Secretary), Andreas Amountzas (AVAG)
4th row: Marko Popović (NAVS), Ioannis Koutsogiannopoulos (AVAG)

Lisa Hobart (IAAO)

In December, pilot TEGOVA Member Associations will register the first REV-BV and REV-PME valuers, and any full or associate TEGOVA Member Association will be free to apply to become an REV-BV and/or REV-PME-Awarding Member Association as of next year.

My colleagues on the Board of Directors and I would like to commend and congratulate Konstantinos Pallis, Chairman of the European Plant, Machinery & Equipment Valuation Standards Board, and his remarkable team, for the extraordinary depth and breadth of the Standards that we release today.

Two years of standards development work of an intensity that TEGOVA has never witnessed before, right through the pandemic, with zoom meetings running during much of that time at a rate of one per week.

I had the privilege of offering some input on a couple of methodology aspects, and that enabled me to see just how good a team they are, an amazing combination of expert knowledge, experience, and good-natured companionship.

As a token of our respect and gratitude, the Board of Directors at its meeting yesterday decided – effective today – to award the title REV-PME to:

- *Konstantinos Pallis*
- *Andreas Amountzas*
- *Ana Caldeira Martins*
- *Paulo Caldeira Martins*
- *Lisa Hobart*
- *Ioannis Koutsogiannopoulos*
- *Marko Popović*
- *Ivars Strautiņš*


UKRAINE

#02 TEGOVA in Ukraine

Krzysztof Grzesik delivering medical supplies donated by a Polish manufacturer to medics on the Kherson front line

TEGOVA Chairman Krzysztof Grzesik visited Ukraine from 2 to 6 October.

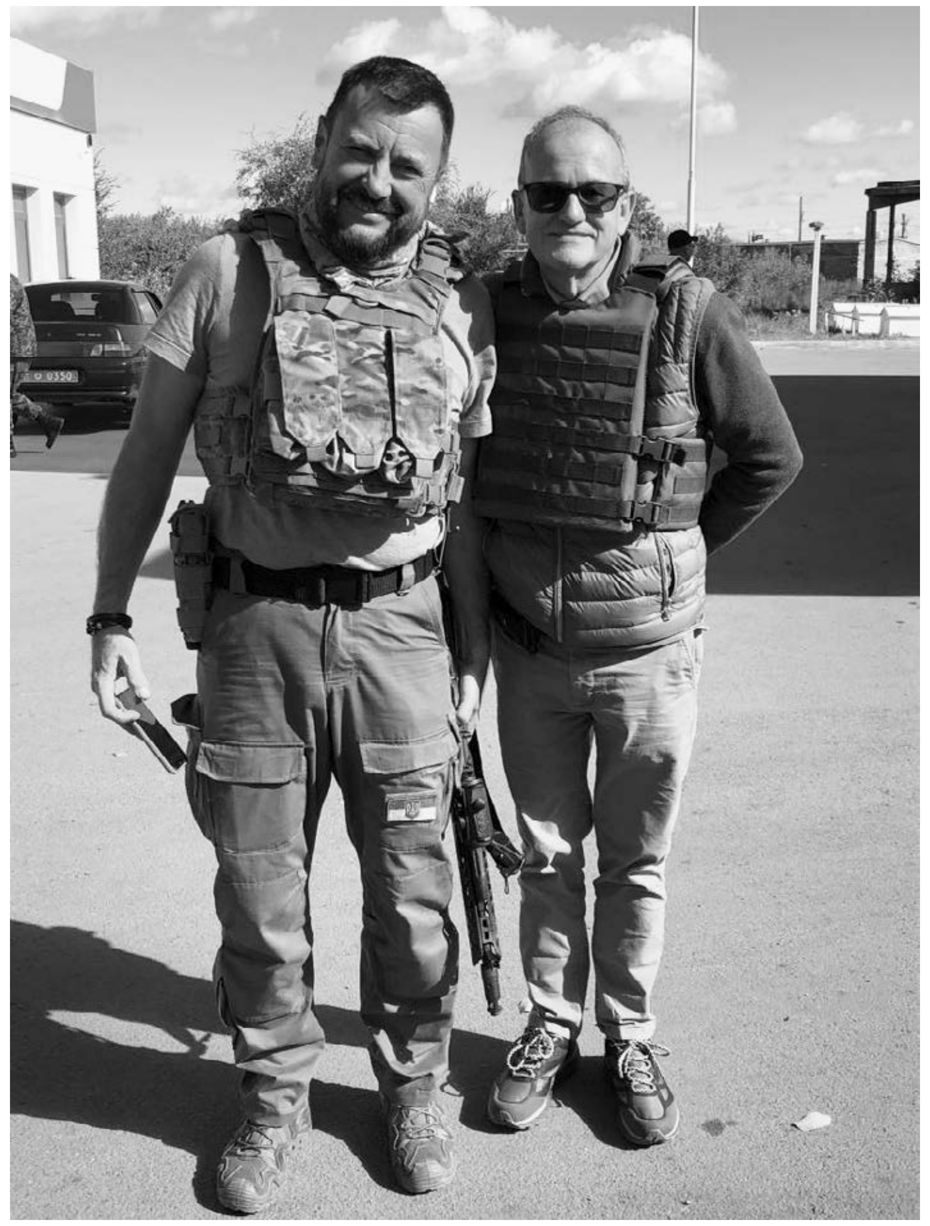
On 3rd and 4th October, he inspected war damage on the Kherson front line and in Kyiv and delivered a Polish manufacturer's donation of medical supplies to a field hospital.

On 5th October, he gave an address on "Ukraine's EU Candidate status – Consequences for real estate and valuation" to TEGOVA's members the Ukrainian Association of Bank Valuation Specialists and the Ukrainian Society of Appraisers and to officials of the State Property Fund of Ukraine.

Later that day, he gave a presentation on European Valuation Standards, including:

- The impact of EU legislation on the use, management, associated costs, development opportunities and value of property
- EU policy areas that affect property markets and professions
- EU legislation's specific provisions for property valuation
- And the manner in which EU property and valuation law permeates EVS, designed in lock-step with EU law and evolving in sync with the progression of EU policy

All photographs taken by Krzysztof Grzesik or his escort on the Kherson front line from 3 to 4 October 2022



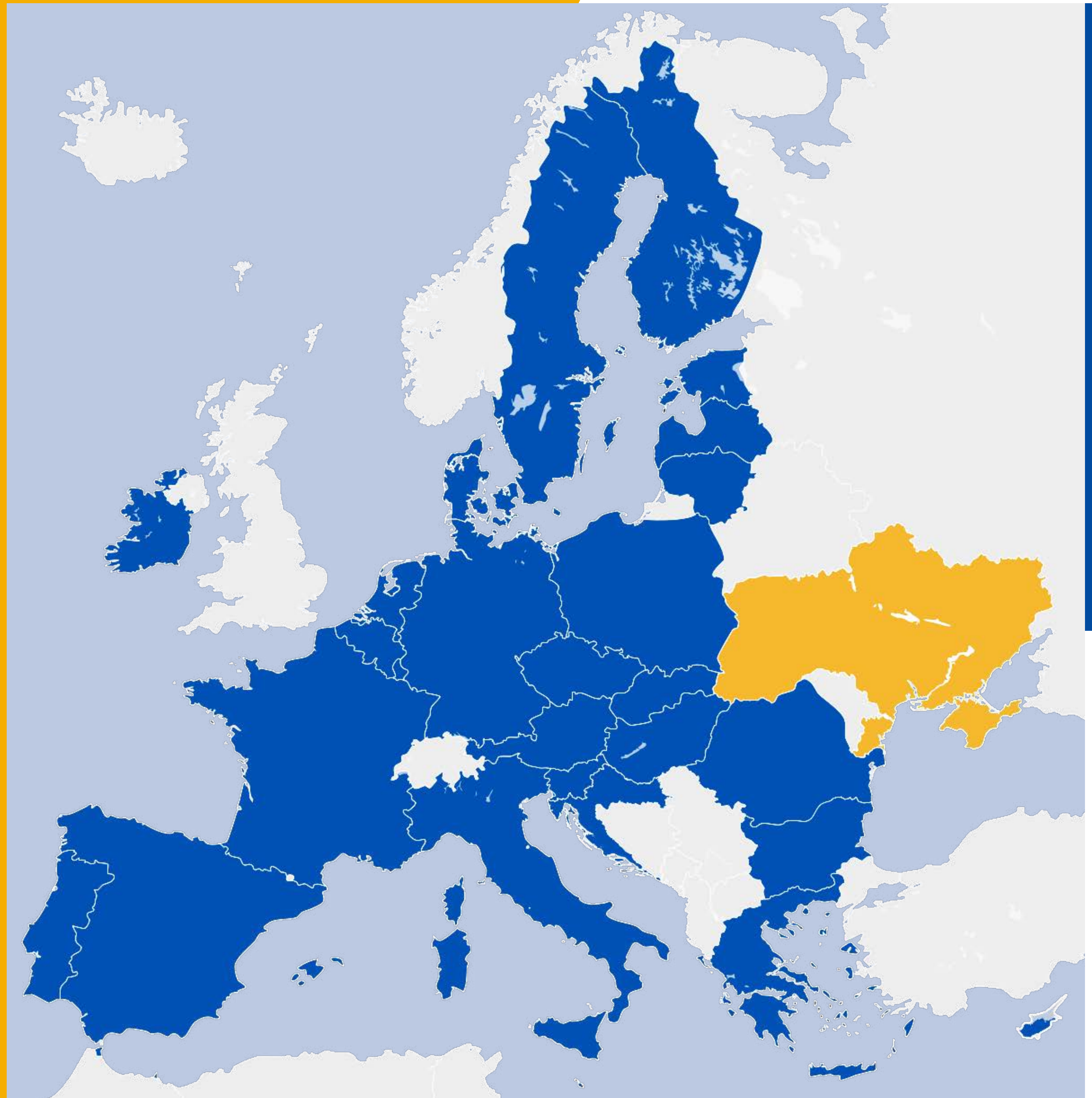
Serhii Frolov and Krzysztof Grzesik

Villagers liberated the day before

Serhii Frolov

From left to right: Oleksii Amfiteatrov, Chairman, Ukrainian Society of Appraisers; Svetlana Bulgakova, Head of Valuation Department, State Property Fund of Ukraine; Krzysztof Grzesik; Rustem Umerov, Chairman, SPFU; Yuliya Byelova, Deputy Director, SPFU; Serhii Frolov, President, Ukrainian Association of Bank Valuation Specialists and combatant

#03 Ukraine's EU Candidate status – Consequences for real estate and valuation



Krzysztof Grzesik's address to the Ukrainian Association of Bank Valuation Specialists, the Ukrainian Society of Appraisers and officials of the State Property Fund of Ukraine

Kyiv, 5 October 2022

The scope of this address goes far beyond Ukraine, important as that is. It is of equal interest to all candidate and aspiring-candidate EU accession countries, concerning the challenges and prospects of EU candidacy in general and for real estate and valuation in particular, and it provides all readers with insights into the nature and power politics of the European Union.

Treaty of European Union

Article 2

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 49

Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union…

I would like to thank the Ukrainian Association of Bank Valuation Specialists and the Ukrainian Society of Appraisers for giving me the opportunity to travel to Kyiv and speak to you today. I consider it the most important engagement of my chairmanship and it is a great honour for me.

I want to assure you of TEGOVA's unswerving support for our Ukrainian members and of our strong will to help in any way we can. TEGOVA is a large organisation: 72 valuers' associations from 38 countries representing 70 000 qualified valuers, so it is significant that the crushing majority of our members agree that TEGOVA has no higher priority and no greater goal than to actively support our Ukrainian members.

We have already begun, first by suspending all of our Russian members sine die, and second by the unanimous decision of TEGOVA's General Assembly in Lisbon on 7 May to assist the Ukraine State Property Fund in developing a methodology for assessing war damage. Serhii Frolov, Iryna Ivanova and Oleksii Kalapusha spoke eloquently in the run-up to that decision, but there was no need; they had the assembly in their hand.

While we're on the subject of the war damage assessment methodology, I salute the remarkable starting shot from Oleksandr Drapikovskyi and Iryna Ivanova with their article "The Concept of Gross Development Value in Property Damage Assessment" in the September issue of European Valuer. It's a major first step in our work.

But this talk is about Ukraine's new EU Candidate status and its consequences for real estate and valuation.

Before anything else, the overriding question: How important is 'EU Candidate status'?

It's decisive, because it means that you will become part of the European Union.

And it is decisive because it puts you in control of the process leading to membership. Allow me to explain.

The whole business of the EU's relations with Europeans outside its borders is confusing, intentionally so. But, to simplify, under the Treaty, any European state that respects EU 'values' can join. It can join alright, but under the EU's conditions.

And the EU basically divides non-EU European states aspiring to join the Union into two categories: those with and those without Candidate status.

The EU is careful to give all those who do not have Candidate status encouragement, and it always offers some kind of relationship, an often-fruitful cooperation which can include research, environmental or health programmes and development aid.

Nonetheless, the EU avoids direct accession negotiation with such countries. Why?

There can be all sorts of covert, unavowed reasons. Look at Ukraine! Until just yesterday, for most EU decision makers, not upsetting the Russians was considered a plenty good reason to not accord Candidate status to Ukraine.

Another taboo reason was Ukrainian GDP. The EU is more and more a transfer Union; the richer states transfer to the poorer ones. It's been like this for a long time for agriculture and regional development funding, but now it has extended to much broader support.

To make it more real by putting a figure on it, in 2021 Poland paid €7.07 billion into the EU budget and got €18.59 billion back. And that's just our regular yearly allowance! There are also special goodies! As soon as the government satisfies the European Commission, European Council and European Parliament that it has restored viable separation of powers between the judiciary and the executive, we'll get €35.4 billion from the Recovery and Resilience Facility! Who says Covid was all bad?

"Russia's armed aggression changed everything. Or rather, not the aggression … the resistance."

Actually, that dispute over separation of powers is a fine illustration of why the EU has to do whatever it takes to ensure the separation of powers in the member states. Without an independent judiciary, courts in Poland would be unable to objectively control the proper application of EU law by the executive and the legislature – including respect for the primacy of EU law over national law when the two conflict – and would be unable to freely submit cases to the European Court, without all of which the entire EU Internal Market would start to unravel.

Anyway, returning to EU funding, you don't need to be a Fields medallist to understand that every single existing EU member state would have to receive far less support to compensate for transfers to Ukraine proportionate to its large population and low GDP.

But there was no need to say so openly, because there were plenty of other reasons to say no to Ukraine, the most important being inadequate democracy, an inefficient state apparatus and the degree of corruption.

Because of all that, in my view, without the war it would have taken many more years for Ukraine to receive Candidate status.

Russia's armed aggression changed everything. Or rather, not the aggression … the resistance. The heroic resistance of the Ukrainian people caused a generalised political and moral epiphany among EU citizens and their governing class. A decisive majority realised that nothing less than immediate EU Candidate status would do. You earned it, you won it, in blood.

So, what is so important about Candidate status? Why is it decisive?

Because it puts your European destiny in your hands. You will decide by your actions how long the negotiations last.

The EU loves process. I almost pronounced that in German: 'Proz-ess'. You will now have to satisfy the European Commission that you have adapted your laws and administrative procedures to many aspects of political, administrative, economic and social activity so that you are capable of living under the pillars of the Union, the Four Freedoms: free movement of people, goods, services and capital.

'Negotiation' is not really the proper term, because the EU cannot 'negotiate' the basic rules that enable those Four Freedoms, otherwise there would be no single market, in particular. That's why, except on the margins where they might give you some extra time to adopt laws that you have particular trouble with, Ukraine must simply adopt about 130 000 pages of legal documents grouped into 35 chapters that form the rules to which all EU member states adhere.

Each chapter represents a policy area, and the degree of complexity of each depends on the scale and depth of European integration in that policy area. For instance, the chapters on 'Public Procurement' (by which every company in Europe will be able to compete for Ukrainian contracts and vice versa), 'Competition Policy' (tremendous EU powers to bust up national, European and even international cartels) or 'Financial Services' (which regulates the entire financial system and markets) will be heavy going, whereas 'Science and Research' or 'Education and Culture' will be easy because the EU has little power over those areas.

But it is not difficult to predict that, for Ukraine – as for so many of us in Eastern Europe – chapters like 'Judiciary and Fundamental Rights', 'Justice, Freedom and Security' or 'Financial Control' will be the subject of laser-sharp Commission scrutiny with no prisoners taken. I explained why earlier with a Polish example: without an independent judiciary and financial control, the whole EU Internal Market and indeed whole European house falls down.

Remember always: the Union (as we call it) is not a country, but it is truly – and legally – a Union of EU citizens, a polity founded on solidarity.

Real estate and valuation

There is no 'Real Estate' chapter as such, but it is very present. It is a key part of free movement of capital because that doesn't just mean that you can take bags of euros from Slovakia to Ukraine (although it does mean that as well); it means the absolute right of all EU citizens to buy and sell land and buildings anywhere in the Union without obstacle. People can get very upset about 'foreigners' buying their land – the Poles, for instance, and they gave us some time for agricultural land and secondary residences – but in the end, it happened, and strangely, the Germans did not buy up half the country.

EU law also regulates every aspect of banking supervision and capital adequacy, including bank real estate collateral and its valuation, the latest iteration being the replacement of market value and mortgage lending value by 'prudently conservative valuation criteria', with no explanation of what that means and a nice challenge for TEGOVA to make practical sense out of that.

And EU banking supervision doesn't stop with the law. The European Central Bank regulates and checks every aspect of the system, and valuation is key. The ECB's Asset Quality Review manual (the AQR) dictates to banks in great detail exactly how they are to value their real estate collateral. I would draw your attention to one segment in particular, reiterated in successive editions of the AQR:

"Real estate should be valued in line with European Standards EVS (Blue Book) and other international standards such as the Royal Institute of Chartered Surveyors (RICS) guidelines, **with EVS taking precedence in the event of any conflict** (for the avoidance of doubt, this should be considered to apply throughout the document)."

That's as good an example as any of the precedence that the European authorities give to European Valuation Standards, designed from beginning to end to be in lock-step with EU law and containing highly didactic guidance to valuers on the relevance of EU law and regulation to every aspect of the real estate economy.

And finally, EU climate law is completely transforming the European building stock by putting it on a forced march to decarbonisation and TEGOVA is scrambling to explain how to value that.

But, returning to Ukraine's accession to the EU, in fact, the process of adopting all that EU law is not that big a deal and the Commission helps from beginning to end with its 'screening' process. It's largely up to you to overcome the national special interests who will fear all this new openness and competition on a market that used to be comfortably reserved for themselves and their friends in government.

Once you overcome that local resistance, the rest is just mechanical transposition of the EU rules into Ukrainian law.

> *"you cannot make EU law work unless you have the political and administrative culture for it."*

More difficult is dealing with the European Commission's obsession – based on long, bitter experience – of ensuring that you not only get the law on the statutes, but that you can actually make it work. The Commission has been fooled too many times, which makes it wary, and you have to overcome that.

And that's the part that will be tough, because you cannot make EU law work unless you have the political and administrative culture for it. That means fulfilling the so-called "Copenhagen criteria" for accession:

- stable institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;
- a functioning market economy and the capacity to cope with competition and market forces in the EU; simple words that flow easily but that cover a tough reality;
- the ability to take on and effectively implement the obligations of membership, including the aims of political, economic and monetary union.

"My single message is that adapting Ukrainian political mores and administrative processes to the EU won't be easy, but it's in your hands."

Of course it will be tough, but in my view, if you really want it to happen, it won't take long, because Ukraine has credentials that no EU candidate ever had, by a long shot.

You-have-earned-your-right-in-blood. This will not be erased, not be forgotten, and will permeate every aspect of the negotiation. The European Commission and its masters the European Council and the European Parliament want to help you, not slow you down.

But what about what I said earlier about the cost of having Ukraine in a transfer-Union where transfers for the Ukraine mean less for others?

Two aspects to that:

Once again, the war has changed everything. It is the European Union that will bear the brunt of the costs of reconstruction so psychologically, Europeans have already factored this in, and they won't care very much under what particular 'common EU policy' or budgetary line the money is allocated.

Simply – but crucially – the Ukrainian government will need to prove that it has the administrative capacity to ensure that the money gets where it is supposed to go and is spent according to plan.

There's another aspect that will make it financially easier for the EU to integrate Ukraine: some elements of the transfer-Union will have to wait and will be phased in over time after you join the Union.

And that is actually good. Immediate benefit from some things would distort the Ukrainian economy and society. For instance, if Ukraine immediately became a full beneficiary of the Common Agricultural Policy, every cardiologist and merchant banker in Kiev would become a farmer.

But don't worry! Some day, your farmers will be as spoilt and cranky as ours!

To recapitulate and conclude:

Your negotiating process will be like no other before it because the European officials you will be negotiating with and their political masters want you to succeed! They really want to help. Even now, they are already issuing press releases lauding Ukraine's progress, for instance, with the numerical transformation, customs and climate action.

Things happen when people really want them to happen, and in the Union, you can feel it even in the street. People watch Ukrainians defending their country every night. They won't forget.

My single message is that adapting Ukrainian political mores and administrative processes to the EU won't be easy, but it's in your hands. Everyone wants you to succeed so it depends entirely on you, on how fast you do what it takes to get there.

And the best thing about the accession negotiation is that it is designed to transform the candidate country during the negotiation, not after. Market analysts and investors will understand this and act accordingly, and Ukraine's renaissance will start as soon as the last aggressor is out of the country.

I would add that Georgia and Moldova should build a shrine to Ukraine, because they will come in on your coattails.

If you have any questions, in particular about valuation aspects of all this, I'm happy to respond as best I can, but in the end, in a way, I guess I didn't really come here to talk about valuation. I came here to explain why EU Candidate status is of enormous, transformational and historic importance, and, above all, I came to voice the support of the entire European valuation community for our Ukrainian brothers and sisters at war.

Slava Ukraini!

Krzysztof Grzesik REV FRICS is Chairman of TEGOVA.

#04 Valuing war damage in Ukraine

"It is better to be a valuer than a soldier"
Serhii Frolov, President, Ukrainian Association of Bank Valuation Specialists and Soldier at TEGOVA's Lisbon Assembly, 7 May 2022

Jeremy Moody

Introduction

Alongside the human cost of deaths, injuries and displacement, war has always brought damage and destruction of livelihoods, businesses, properties, historic buildings, farming, forestry and much else with accompanying environmental damage. After war comes reconstruction, the rebuilding of new lives, societies and economies, and properties. Ukraine has turned to TEGOVA for help with the approach to assessing the practical values for both war damage and reconstruction at the level of individual properties and businesses affected. The European Valuation Standards Board has begun to discuss the issues in liaison with the State Property Fund of Ukraine led by its Deputy Director Yuliya Byelova and TEGOVA members the Ukrainian Association of Bank Valuation Specialists and the Ukrainian Society of Appraisers.

Such individual values are needed for a variety of purposes from understanding the granular detail of what is now faced in Ukraine to potential claims for reparations in international courts, whether claiming from sanctioned funds or the Russian Federation. Indeed we hear from Ukraine that some businesses are already preparing their claims. While those are for losses and potential reparations, the costs of reconstruction join them as part of Ukraine's representations for post-War help.

All photographs except the author's taken by TEGOVA Chairman Krzysztof Grzesik on the Kherson front line and in Kyiv from 3 to 5 October 2022

Five of the points that arise swiftly from that are:

- the urgency of the task, not only for the process to be ready but for affected people and businesses to know what they should be assembling now as contemporary evidence so that they can make their claims effectively
- the importance of the process, starting as it must with valuation and assessment, to be reputable and professional, able to withstand audit and challenge
- that all this has to be done in the circumstances of war with perhaps a fifth of Ukraine currently under occupation, other areas having been fought over with disruption, death and displacement with the accompanying issue of the availability of evidence
- the scale of a country of 44 million people with an area as large as France and Germany combined
- the challenging need of those affected to have "effective justice" requiring a balance to be found between precision and over-long delay.

Legal Background and Some Precedents

The background is clear in international law as it is in most countries' domestic law – what is taken by a state or destroyed illegally should be paid. We have moved on from the opportunities for a victor's settlement (such as saw Russia take reparations from Finland, Hungary, Italy and Romania) to an established basis of international law and practice.

In 1928, the then Permanent Court of International Justice decided the principle of "full compensation" between states in the Chorzow Factory case:

"The essential principal contained in the actual notion of an illegal act... is that reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed." (Germany v Poland [1928] PCIJ Ser A No 17):

That principle has informed later decisions and was adopted by the International Law Commission in its 2001 session.

It particularly informed the UN provisions of a structure for compensation after Iraq's 1990 invasion and occupation of Kuwait with claims made, assessed and then fully paid out of Iraqi oil revenues. That process made the direct comparison with the issues found when valuing for the compulsory acquisition of property by a state. Whether known as compulsory purchase, expropriation or eminent domain, the names and structures in each country may vary but the underlying principles are likely to be common: compensating for what has been lost.

They have then to be applied by Ukrainians in Ukraine's circumstances with the background of Ukrainian law and in after the war.

Ukraine's Actions

Since the invasion, Ukraine has been working on maintaining an overall assessment of the global cost of the damage, giving an evolving headline figure.

Ukraine has begun to establish a framework for its approach for individual properties and businesses which is understood to be:

- for primary dwellings, the state would compensate for damage or provide a building permit in place of destruction, so that the Government takes over the claims, consolidating them for any further action. We understand that 131,000 dwellings have been recorded as destroyed
- businesses and others will not have claim on Ukraine but can prepare claims, making this the area where Ukraine is seeking TEGOVA's assistance on principles
- a digital register for loss had been established and those affected were encouraged to record contemporary evidence and photographs of damage and destruction.

Bombed office building Kyiv

Some Emerging Points of Practice

The losses suffered from Russia's invasion are to be valued as at the date it started. In practice, that means there are, according to the area, two dates:

- 24th February 2022 for this invasion
- 20th February 2014 for the occupation of Crimea and parts of the Donbas.

The principal claimants would be those identified under Ukrainian law as businesses for taxation purposes whatever their actual business structure.

Valuation standards would be essential professional underpinning for the process, so that claims are properly assessed with clear records and reasoning and will withstand audit and challenge. Ultimately, the valuers and the process could be subject to interrogation and hostile cross-examination in an international court. It must also be credible to claimants.

The process undertaken for Kuwait, with the (post-war) Iraqi Government invited to comment, illustrates some of the issues that might be found in achieving "effective justice" credibly in all the difficulties after an invasion and occupation. Ways had to be found to find what was reasonable, with all the inevitable imperfections in the circumstances. It can sometimes be hard enough in peacetime.

Most of the business claims in Kuwait were under these headings:

- real estate
- other tangible property, such as furniture, fixtures, equipment and stock
- loss of profits and earnings
- costs of restarting business after liberation
- loss of business contracts
- loss of income from income producing property

The loss would have to arise from the war; some claims might be too remote from that cause to be valid.

School hit by missile Kyiv Rih

There might, as in Kuwait, be different approaches for different categories and scales of claim. It might help to have an initial triage stage to group and process them, potentially with some use of standard figures.

Especially as time passes and the cost of works and materials increases, so the question of interest will need to be considered.

Some claims might prove to be duplicates in whole or part (possibly made as a precaution or where there were different people involved), some might be over-stated and some might have no merit, perhaps attracted by the chance to claim. Other genuine losses from the war might, nonetheless, have little evidence.

The responsibility lies with the process, with claimants and their valuers, and those administering it.

Valuers would need clear instructions, defining the property or business, and then have to work with the evidence as to loss and value that was available. There may be challenges in some situations in having appropriate market evidence for a valuation. Conflicts of interest would have to be avoided and care taken to be objective so as to avoid later hostile challenges for sympathy.

A key issue for an assessment would be to understand when it should be based on loss of market value and when on the cost of replacement or repair – some claims might have elements of both, as perhaps with the lost value of buildings and the cost of replacing stock. In either case, an assessment of loss needs to account for any "betterment" – any gain in value where old or used items are replaced by new or better ones – that might also happen in some situations.

That would all be greatly helped by publicised explanations from those administering the process as to how a claim should be structured and be supported by evidence.

Looking Ahead

These interim comments, made a long way from the war front, now need to be tested and developed to give useful support to Ukrainian valuers and so to claimants and the Ukrainian Government.

There is also the approach to post-war reconstruction when Ukraine intends to "build back better" to EU Green Deal – Fit for 55 accession standards. That is a different assessment, going beyond compensation for what has been lost, but crucial for seizing the full modernising and energy saving potential of reconstruction. This is a central part of TEGOVA's remit from the Ukrainian authorities, an opportunity arising out of this extraordinarily testing time.

Jeremy Moody Hon REV is Vice Chairman of the European Valuation Standards Board, Chairman of the EVSB Sub-group on War Damage Assessment Methodology and Secretary and Adviser, Central Association of Agricultural Valuers (CAAV) (UK).


REAL
ESTATE
VALUATION

#05

Property valuation in changing markets

Jeremy Moody

The Darkening Financial and Economic Background

Financial crises come round in cycles, partly as people forget the last one and partly as new circumstances create the conditions for the next crisis. These bear on property markets and so on valuation.

Interest rates around the world are returning to more normal levels after the long period of ultra-low and, in some countries, negative interest rates that followed the Financial Crisis. This can be illustrated by comparing the rates for 10 year government bonds at the start of the year with those in mid-October:

- Germany – increased from -0.2% to 2.3%
- the United Kingdom – increased from 1% to 4.2%
- the United States – increased from 1.5% to 3.9%.

Lenders' margins have also widened.

There are risks of rates rising more sharply, bringing challenges to confidence, liquidity and solvency in markets. This follows the successive shocks of the pandemic, disrupted and diversifying supply chains, the complex patterns of economic recovery around the world and now Russia's invasion of Ukraine with its consequences, including the effect on energy prices.

The extraordinary loose money policies of ultra-low interest rates and quantitative easing over the last 15 years have been the background for increased asset prices and more borrowing while under-pricing risk. Over time, people have come to see this as the "new normal" and, with the dangerous phrase that "this time it is different", increased their borrowing - and now their vulnerability.

The rising interest rates now and that are to come drive a re-pricing of risk and so a re-appraisal of values, especially for many secondary and tertiary properties. Even if interest rates are only returning to pre-2008 levels (and those of previous years and centuries), that is still a serious challenge to the half generation who have not known anything different and a challenge to economies priced and funded on the basis of low

“We are at risk of testing the limits of what markets will be willing to fund”

rates. The risks are magnified where there is more borrowing now than when interest rates were last at such levels. A world glut of savings may have helped drive interest rates down but governments are now borrowing even more heavily, seeking “the kindness of strangers” at the price the markets, now more selective, may demand. We are at risk of testing the limits of what markets will be willing to fund, especially as increasing debts meet the discipline of investors.

If that were not enough, we see the early effects on our economies of gas prices increased five and ten-fold over the last one and two years, with some question now of the availability of gas over the winter. That is a relative shift of value away from western countries, making them poorer. It is a direct shock of cost to many businesses and households with consequent expensive government interventions. It creates the potential for recessions and so their impact on property values while external price shocks risk becoming embedded as domestic inflationary pressure.

Effects on Markets

All these changes put new pressures on financial markets. Increased collateral straining liquidity is needed for margins, whether grain traders caught by the loss of supply from Ukraine, the nickel markets, short term hedging by energy generators or those managing bond, pension and property fund liabilities. In the background, while banks might now be more secure, the secondary or shadow lenders that now provide more finance may be more precarious. Analysis such as that by the Banque de France asks if insurers are yet pricing properly for their exposure to climate change risk – and so implicitly as to what might become uninsurable. More broadly, businesses surviving since 2008 only on low borrowing costs may now face a reckoning.

Property markets had themselves been changing before the impact of energy costs on businesses. With rapid technological, social, climate and regulatory change, the restrictions of the pandemic accelerated existing trends from physical retail to the internet and so the new prominence of warehousing as a property class. Retail also saw locational

shifts, including in some areas from city centres to suburbs and outskirts. That has now been matched by a shift for many from working in the office to working at home with the new balance still to be found in that. While the practical effects may vary between national and local markets and sectors, there are some signs that employers are focusing on quality offices for the space they need, perhaps shedding other space, often less energy efficient. With additional issues over staffing, hospitality and leisure have particular problems. For construction, supply pressures have doubled the costs of timber and steel while energy has increased the cost of bricks and cement.

We already see the effects of advancing climate change in such matters as the location and operation of vineyards but we may see further consequences should markets come to take greater account of the requirements for buildings regarding energy efficiency and comfort during the transition to net zero or the potential for properties to be flooded.

Valuation

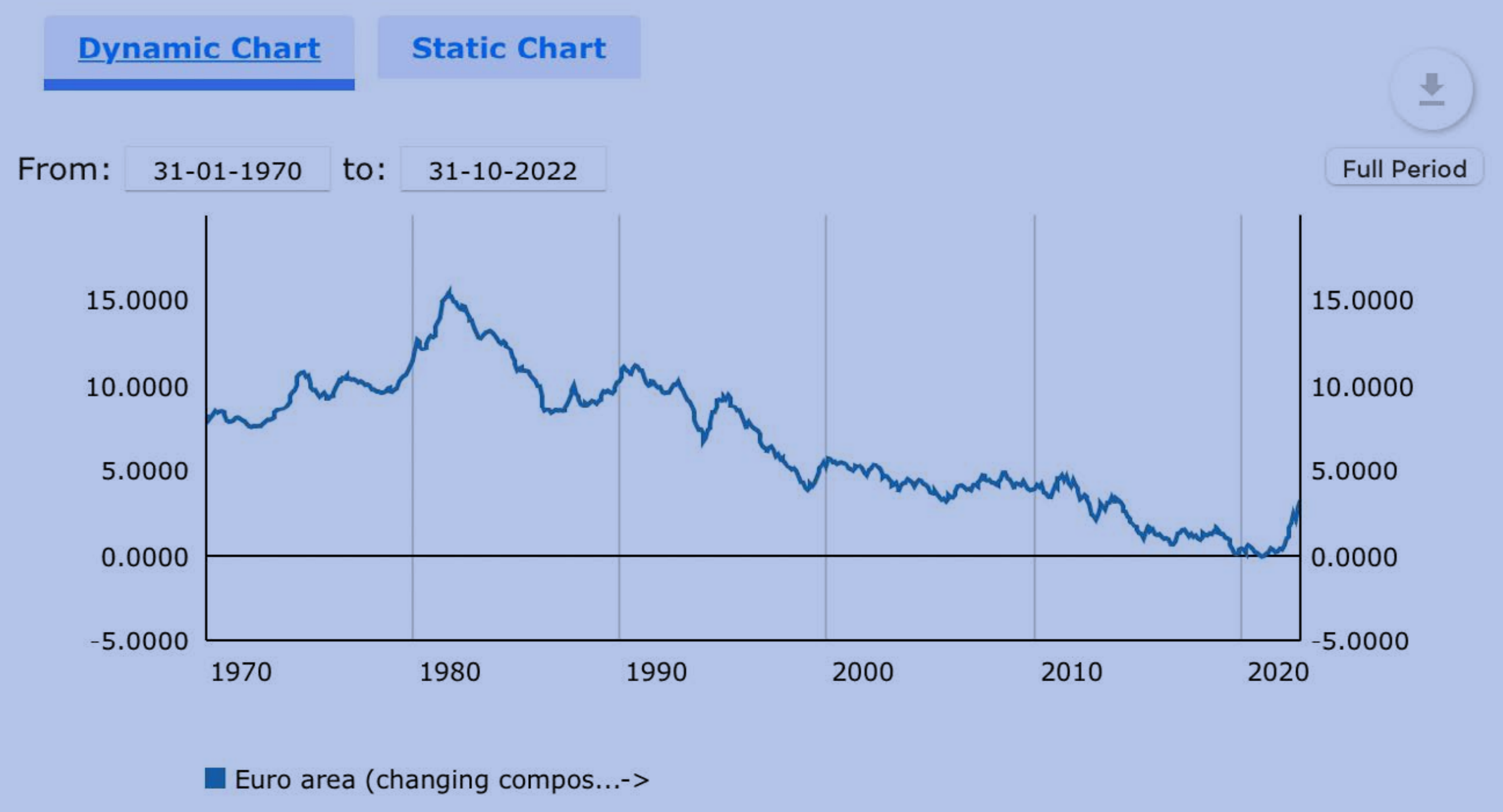
Amid all this, the valuer is asked to find and report on the values of individual properties for clients to be able to take informed and effective business or personal decisions. However, we have been in difficult times before and can learn from them to support a professional approach.

The Financial Crisis was the shock for property values that the name suggests. In 2018, discomfort in the retail market posed particular problems that were more directly reflected in the stock market valuations of commercial landlords. A common theme of such markets is the loss of the transactional evidence that is the feedstock of market valuations, whether for comparables or in finding yields. Further, some of the remaining transactions may be, in effect, forced sales by funds needing liquidity to meet financial obligations, especially where investors are withdrawing their money.

That presents the particular difficulty of reporting on realistic values without a substantial framework of evidence to give the robust support for a figure that a client might not welcome being told. In 2018, the valuations of property companies by stock markets in allocating funds responded better to the falling value of retail property investments than did many valuations in those challenging circumstances.

Yet after the event, there is typically a retrospective process in which regulators, lenders and those who have lost money pick over the pieces and look for people, including valuers, to blame, especially where any conflict of interest, improper pressure or poor practice can be shown. Experience of this after 2008 and in 2018 is a precautionary warning before this cycle repeats itself, perhaps again most sharply for some commercial property sectors. Preventing this prospect is a challenge confronting individual valuers and their firms as they report on a market, not try to create or defend one.

“A common theme… is the loss of the transactional evidence that is the feedstock of market valuations, whether for comparables or in finding yields”



Source: European Central Bank

It is in such times of pressure that there is the greatest need for clear definitions of responsibility. For what service and for what risks is the valuer accepting responsibility and liability? What responsibility and risk lies properly with the client or other professionals involved? Recording the valuer's instructions in the terms of engagement crystallises the task and the liability that has been accepted.

Similarly, do those terms of engagement cover all appropriate exclusions of risk, such as for any currently unrevealed environmental value in a property, as might anyway be done for asbestos or other contamination?

Then keeping a good and detailed file with evidence and methodology, also recording market sentiment and other factors, will not only help at the time but be an aid and a defence in any future argument.

That shows the importance of valuers and clients having open conversation, developing a shared and evolving understanding of the issues. That should be sensitive to the variety of properties and purposes for which a valuation might be required and the potential ways of finding the value. In formal terms, this is where the commentary in the valuation can be an important aid to the client and a protection for the valuer, reviewing the relevant factors for valuation uncertainty and market risk in the particular context of the relevant market. The Basel Committee's Supervisory Guidance on Assessing Banks Financial Instrument Fair Value Practice urged in November 2008:

"the articulation and communication of valuation uncertainty both within a bank and external stakeholders".

This might often be qualitative description rather than a quantitative assessment with its illusion of accuracy. Property risk advice could even be a particular area of practice.

"It is in such times of pressure that there is the greatest need for clear definitions of responsibility. For what service and for what risks is the valuer accepting responsibility and liability?"

"In some cases, as for development properties, applying sensitivity analysis to key variables can help in forming a view."

That is helped by having a perspective on the market movements we see, accepting that the recent period has been unusual. There will be different problems to tackle and explain, as where:

- markets are thin with little evidence, so requiring more extended adjustment from the few comparables to sustain an answer and so more dependent on the final sense check
- markets are volatile, whether moving fast or just unstable, perhaps now compounded by increased inflation and economic dislocation making previous transaction less relevant, placing a premium on very contemporary evidence and, again, the sense check.
- markets are non-existent but properties still have a value to their holders. Such markets are likely to be individual in their nature, perhaps from brief periods when transactions are suspended to more fundamental disruption of economic activity. Previous values where still judged to be relevant (the prices at which failed transactions did not happen can often be informative) as well as a knowledge of factors and sentiments affecting potential buyers and sellers are likely to assist.

In some cases, as for development properties, applying sensitivity analysis to key variables can help in forming a view.

Great care should be taken in using valuation models. Not only are they only as good as their assumptions but changed circumstances may mean that those assumptions might now be less appropriate. The sensitivity of values to ultra-low yields may become more problematic still when emerging from those low rates.

The value reported will be the value on the day. It will not necessarily be appropriate at any other time, especially in fast changing circumstances. Where a value is needed at a later date, that could be expected to be a new valuation.

Professional behaviour is critical. After the Financial Crisis, the Central Bank of Ireland reviewed its experience in Valuation Processes in the Banking Crisis – Lessons Learned – Guiding the Future. While that 2012 paper was withdrawn in 2019, the Bank continued to affirm its seven lessons for valuation including the need for clear instructions to the valuer and the necessity of avoiding conflicts of interest as part of adhering to proper valuation processes and recommended full valuations in accordance with valuation standards.

We are in a time of global change. All involved in property markets may have been caught by surprise in 2007/8 coming after the stability of the NICE (non-inflationary, constant expansion) period when all could borrow cheaply. We are now forewarned by experience then and since that we are valuing in a more turbulent and changing world. With property an essential part of the economy, the valuer's skills will be needed more than ever for purposes from financing to compensation for compulsory purchase for infrastructure.

This is our challenge.

"Great care should be taken in using valuation models"

Jeremy Moody Hon REV is Vice Chairman of the European Valuation Standards Board, Chairman of the EVSB Sub-group on War Damage Assessment Methodology and Secretary and Adviser, Central Association of Agricultural Valuers (CAAV) (UK).

#06

Assessing transition risks to enable action on decarbonisation

Lisette van Doorn

In the race to combat climate change, the built environment has a key role to play. In Europe, our buildings contribute almost 40% of carbon emissions and in cities that can be as high as 70%. This is an issue that becomes even greater, when you realise that 80% of buildings standing today will still be there in 2050.

While almost everybody in the industry acknowledges the need to decarbonise the built environment in Europe and achieve the targets set in the Paris agreement, the fact that the required investment is not taken into account in property valuations is holding us back.

Without an evidence base to demonstrate the impact of transition risk and enable valuers to factor it into valuations, combined with the current lack of regulation driving change means current building values are too high, resulting in a carbon bubble.

If transition risk costs are not factored in now by owners, then the industry could face a major crisis on achieving decarbonisation if the bubble bursts due to a change in regulation or an economic shock, causing values to fall quickly. And this may happen rather sooner than later, given EU regulation potentially coming up next year and the current energy crisis, which may significantly impact rent affordability by tenants.

While all buildings have transition risks, we know that some leading market players have started to consider the costs of decarbonisation and started to act on it. However, we need to bring the wider industry on board, and spread the knowledge to speed up the process and prevent the bubble from bursting. We need to get the whole industry moving faster by building a strong case for a collaborative approach to transforming existing stock.

"If we don't act on real estate valuations, our industry's significant contribution to climate change will continue and we will exacerbate social inequality."

We also think that the current approach by owners means that decarbonisation activity is focused on higher-value assets, predominantly in higher-value locations, e.g. prime offices in central business districts and high-end residential, where the cost-to-value ratio of retrofitting is lower. Without collaboration and transparency on transition risks, there is the danger of a two-tier market with a strong concentration of retrofitting activity in locations and of assets with higher values, while lower-value assets and locations are at threat of decline.

If we don't act on real estate valuations, our industry's significant contribution to climate change will continue and we will exacerbate social inequality. Our combined goal should be the long-term preservation of values across all our buildings, keeping all of our cities and neighbourhoods investible and liquid.

To support a more collaborative approach, we have published the Transition Risk Assessment Consultation Guidelines as part of ULI's C Change programme, which aims to scale up and speed up decarbonisation in Europe. These guidelines set out a standardised method for assessing the costs of decarbonising buildings and disclosing between owners, investors, potential buyers and valuers the main transition risks and impact on values.

Our vision is for standardised disclosure of transition risks to aid in asset price negotiations and reporting to investors to make the risk visible and stimulate adequate action. The proposed guidance identifies nine transition risks of material impact to real estate assets that can be financially modelled, standardised and communicated. Those risks include the cost of decarbonisation, internal resourcing, energy costs, the carbon price, and embodied carbon, as well as the impact of decarbonisation on depreciation, changes in rental income and exit value.

The consultation also includes three standard templates for disclosure and reporting – a manager disclosure sheet, a valuation service provider disclosure sheet and an investor reporting sheet.

With the industry sharing information on transition risks, it will be able to build up an evidence base to support valuers to understand the impact on building values and demonstrate some of the benefits to net income that decarbonisation can offer.

The consultation guidelines benefit all owners and managers. If everyone is better educated on these risks, we can close the knowledge gap and better achieve the broader goals of decarbonisation.

The draft consultation guidelines were prepared with the support of the founding partners of the ULI C Change programme, Allianz Real Estate, Arup, Catella, Hines, Immobel, Redevco and Schroders Capital, together with technical support from ULI Europe's membership including more than 50 one-to-one interviews and a series of consultation workshops with around 100 experts.

We will now begin a period of consultation over the coming months and will be engaging with the industry individually, across companies and in specialist groups. You can download the guidelines and find out more about the programme at the ULI C Change webpage.

This is a consultation version, as is the extract below. Commentary is very welcome and should be addressed to andrea.carpenter@uli.org

Extract from the *ULI C Change Transition Risk Assessment Guidelines for Consultation* –*9. Standardised disclosure templates (pp.37-38)*

9.2 Transition risk assessment – valuation service provider disclosure sheet

The proposed Transition risk assessment – valuation service provider disclosure sheet is proposed to be completed after the transaction of a property at an agreed price that has been informed by a transition risk assessment. This proposed data disclosure will be disclosed to the valuation service provider industry using a secure method to be decided in 2023.

It is proposed that the critical information to be shared with the valuation service provider industry is in the top half of the chart and the additional desirable information is in the second half. This prioritisation is expected to be finalised during consultation.

"With the industry sharing information on transition risks, it will be able to build up an evidence base to support valuers to understand the impact on building values"

Data point required	Standard data	Description of risk impact on value	Underlying assump-tions/ data sources	Requirements for 1.50C compliant
Property name/identifier	Y			
Property address	Y			
Property type	Y			
Floorspace	Y			
Property stranding date			Y	Y
Adjustment to market value assessment made by third party VSP assessment as a direct result of the transition risk assessment	Y	Y	Y	
Final negotiated price, including reasoning for any deviation from adjusted market value	Y	Y	Y	
Expected impact on exit yield		Y	Y	Y
Top 3 risks impacting exit yield			Y	
Risk Premium (transition risk specific)	Y		Y	
Inflation rate	Y		Y	
Top 3 risks impacting inflation rate			Y	
Energy use per energy type in kWh (last reporting year)	Y		Y	Y
Additional data points				
Energy cost per energy type in kWh (last reporting year)	Y		Y	
Total emissions tonnes/ kg CO2e: operational (last reporting year), embodied future (life stages EN15978 A3-5, B3-4, C-14 as appropriate to asset), embodied historic A1-5 estimation.	Y	Y	Y	Y
Cost of decarbonisation through to 2050 compliance		Y	Y	Y
Carbon price	Y	Y	Y	
Depreciation		Y	Y	Y
Rental income change		Y	Y	
Expected tenant voids (as a result of decarbonisation and relet if not renewal)		Y	Y	Y
Embodied carbon – historic	Y	Y	Y	
Embodied carbon – future		Y	Y	Y

Lisette van Doorn is the CEO of ULI Europe.

EU REAL ESTATE AND VALUATION REGULATION

Michael MacBrien

The European Council / Council of the EU by night

#07 Energy Performance of Buildings Directive negotiations in the Council of Ministers: A not so final agreement

The end game in Council is all about the Directive's minimum energy performance standards (MEPSs) obliging owners to renovate whether they want to or not. The rest is small beer in comparison.

The September issue of European Valuer reported that Council actually increased the renovation obligation as compared to the Commission Proposal:

- For non-residential, by providing for the renovation of 25% of buildings by 2034
- For residential, by laying down:
  - that the entire apartment building stock (not just the worst-performing 15% in the Commission Proposal) has to reach on average energy performance certificate (EPC) 'D' class by 2033 and 'B' class by 2040
  - and that all single-family houses must be renovated to 'D' class within five years of their sale, rental, donation or conversion to residential

“some governments now fear that, in an EU in which EPC ratings are not harmonised, other governments might cheat”

However, precisely because of the high political risk involved in carrying this out, some governments now fear that, in an EU in which EPC ratings are not harmonised (‘D’ or ‘B’ do not necessarily mean the same thing in Ireland and Slovenia), other governments might cheat, especially as some forces in Council have succeeded in eliminating:

- The obligation for EPCs to have an even bandwidth distribution between the alphabetical classes (‘A’, ‘B’, etc.)
- The obligation to have a linear national renovation trajectory

By combining an uneven EPC class bandwidth distribution with a non-linear renovation trajectory, a government can, for instance, make the national EPC class ‘D’ less tough and thereby delay pain and political risk that other governments are facing up to.

That led France Germany, Luxembourg and the Netherlands to call for replacement of the EPC by other, more equal and verifiable parameters.

On 25 October, Council reached ‘Political Agreement’ among the 27 on a final text for negotiation with the European Parliament that partially accommodates the dissenters’ concerns, but clearly not enough, because although the dissenting four now joined by Belgium and Ireland (‘The Six’) decided not to block approval of the text so as not to waste time, they are now counting on Parliament to demand more watertight and verifiable provisions.

Specifically:

- For non-residential they want less exemptions.
- For residential they want more objective and verifiable renovation parameters and reinstatement of linear national renovation trajectories.

Everything now depends on Parliament’s amendments, and The Six are doubtless working closely with Rapporteur Ciarán Cuffe and the Shadow Rapporteurs, which is probably why Parliament’s amendments have been delayed until December.

Meanwhile, on 25 October Energy Commissioner Kadri Simson weighed in declaring that the Council text is not acceptable in its current state.

#08

The Council of Ministers agrees its ‘General Approach’ to revision of the Capital Requirements Regulation

“The European Commission tried to give banks freedom to use stand-alone AVMs for anything they want, even valuation at origination.”

Council's ‘General Approach’ agreed on 8 November is the text that the 27 governments will take into ‘Trilogue’, the negotiation ironing out differences between Council's and Parliament's amendments to the Commission Proposal that will end with a final revised Regulation.

Parliament will settle on its position in December and the Trilogue will start in the new year.

Pour mémoire, the valuation profession's concerns with this 519-article law are largely limited to parts of two articles, be it in the existing Regulation or in the revision: Articles 208(3) and 229(1).

Rat der
Europäischen Union

Brüssel, den 31. Oktober 2022
(OR. en)

13772/22

Interinstitutionelles Dossier:
2021/0342 (COD)

EF 307
ECOFIN 1054
CODEC 1559

VERMERK

Absender:	Generalsekretariat des Rates
Empfänger:	Ausschuss der Ständigen Vertreter/Rat
Betr.:	Umsetzung von Basel III – Vorschlag für eine Verordnung des Europäischen Parlaments und des Rates zur Änderung der Verordnung (EU) Nr. 575/2013 im Hinblick auf Vorschriften für das Kreditrisiko, das Risiko einer Anpassung der Kreditbewertung, das operationelle Risiko, das Marktrisiko und die Eigenmitteluntergrenze (Output-Floor) – Allgemeine Ausrichtung

13772/22 jb/am/CF/JB/dp 1
ECOFIN.1.B **DE**

In the logo (created by Hoet & Hoet, the designers of the Blue Books and European Valuer), the object behind the flag is "The Egg" in the Council building on page 30.

Article 208(3), last sentence regulates the use of AVMs:

"Institutions may use statistical methods to monitor the value of the property and to identify property that needs revaluation." (the current text of the Regulation)

That means 'use of the AVM with no valuer involvement'. A contrario, any other scenario such as valuation at origination has to involve a valuer. The exact responsibilities of man and machine are not laid out in the Regulation. That was very partially and unsatisfactorily dealt with by the European Banking Authority (EBA) in its 2020 Guidelines on loan origination and monitoring (see EVS 2020).

In its Proposal for a revision of the Regulation, the European Commission tried to change this by giving banks freedom to use stand-alone AVMs for anything they want, even valuation at origination. But the September issue of European Valuer reported that the ECB came to the valuers' rescue, Parliament's Rapporteur followed suite, and EV heard on the grapevine that Council would do the same despite the Dutch government's support for the Commission Proposal.

Now we have confirmation. Everything points to Parliament doing the same.

Article 229(1) regulates valuation principles for banks' immovable property collateral.

The December 2021 issue of European Valuer reported on the Commission Proposal's sea change introducing a new concept of 'prudently conservative valuation criteria'.

This is now confirmed for Council inasmuch as it has changed nothing in the Commission's Proposal apart from adding that the value appraised using prudently conservative valuation criteria "shall be documented in a transparent and clear manner", but Council has added a whole new section on valuation review.

In the CRR, that doesn't mean a valuer reviewing another valuation as in EVS. It derives from the aforementioned Article 208(3):

> 3. The following requirements on monitoring of property values and on property valuation shall be met:
>
> (a) institutions monitor the value of the property on a frequent basis and at a minimum once every year for commercial immovable property and once every three years for residential real estate. Institutions carry out more frequent monitoring where the market is subject to significant changes in conditions;
>
> (b) the property valuation is **reviewed** when information available to institutions indicates that the value of the property may have declined materially relative to general market prices and that review is carried out by a valuer who possesses the necessary qualifications, ability and experience to execute a valuation and who is independent from the credit decision process. For loans exceeding EUR 3 million or 5 % of the own funds of an institution, the property valuation shall be reviewed by such valuer at least every three years.
>
> Institutions may use statistical methods to monitor the value of the property and to identify property that needs revaluation.

Our semantics-based understanding at this point is that 'review' is more than 'monitoring' (which can be done by a stand-alone AVM whereas a review can't) and less than 'revaluation' (which must mean a new valuation by a valuer, doubtless with an AVM as a "supporting tool" *à la* EBA). It would seem that in both the case of 'monitoring' and in that of 'review', despite the use of the singular, it's still in the context of a portfolio and doubtless means that in a 'review', a valuer has to get involved in some way, at the very least checking the AVM outputs.

It is in that context that we should consider Council's Article 229 (1) **(d)** on valuation review and its added instructions for EBA.

> (d) Where the property valuation is reviewed, the value of the property shall not exceed the average value measured for that property, or for a comparable property, as defined in Article 4(1)(74a) (1) over the last six years or the value at origination, whichever is higher. For the purpose of calculating the average value, institutions shall take the average across property values observed at equal intervals in time and the reference period shall include at least three data points. For the purpose of calculating the average value, institutions may use results of the monitoring of property values in accordance with Article 208 (3). The value of the property can exceed that average value or the value at origination, as applicable, in case of modifications made to the property that unequivocally increase its value, such as improvements of the energy efficiency (2). The property value shall not be reviewed upward if institutions do not have sufficient data to calculate the average value except if the value increase is based on modifications that unequivocally increase its value. The value of the collateral shall take account of any prior claims on the immovable property and reflect, where applicable, the results of the monitoring required under Article 208(3).';
>
> … the following paragraph 4 is added:
>
> '4. EBA shall develop draft regulatory technical standards to specify the criteria and factors to be considered for the assessment of the term "comparable property", as referred to in paragraph 1 point (d). EBA shall submit those draft regulatory technical standards to the Commission by 31 December 2026. Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.';

General remark: The whole economy of the text – especially the "average value measured for that property or for a comparable property" and resort to the "results of the monitoring of property values" – consolidates the impression of valuers simply adding their *je ne sais quoi* to an AVM output.

(1) Article 4(1)(74a) merely states " 'property value' means the value of a residential property or commercial immovable property determined in accordance with Article 229(1);' " which is the cat chasing its tail.

(2) The height of fashion, for sure, but further proof of continued use of automation. Nobody's going to start inspecting for energy renovation or even checking often non-existent building logs of works undertaken. It must be based on the AVM's capturing of any improved energy performance certificate rating, but that's seriously limiting, given that EPCs are not yet all that widespread.

#09

Proposal for a Regulation on data collection and sharing relating to short-term accommodation rental services

This concerns a lot of real estate: one quarter of EU tourist accommodation, 200 million nights in the first half of 2022.

The Proposal was tabled on 7 November. There are three Internal Market goals:

- To facilitate data requests by public authorities concerning platforms operating across borders
- To achieve a comparable level of transparency between short-term rentals and hotels
- To facilitate the combat against illegal listings and the development of policies to identify, quantify and limit short-term rentals in areas where they have become an economic and social problem

The Regulation does not require member states to put in place registration procedures for hosts (natural or legal persons providing the accommodation). But if they *do* have procedures:

- There is a harmonised online procedure for registration of hosts and properties including information to be provided by hosts. Competent authorities must have the power to verify host declarations, demand rectification of incomplete or incorrect information and when a host fails to rectify, they must have the power to order platforms to remove or disable access to the listing without delay.
- There is a unique identification number issued to identify hosts and properties and hosts are obliged to use their identification number and display it online.
- Online platforms must facilitate display of identification numbers, randomly check host declarations concerning the existence or not of a registration procedure and inform the competent authorities of these random checks without delay.
- Online platforms are obliged to share data monthly in an automated way via a single digital entry point facilitating the random checks by the platforms. A 'Single Digital Entry Points Coordination Group' made up of national coordinators and chaired by the European Commission will assist the Commission in developing a common approach to message format for the transmission of activity data and registration numbers and a common structure of the registration numbers.

Member states must lay down rules on effective, proportionate and dissuasive **penalties** for platforms that fail to report their random checks for incorrect host declarations or invalid registration numbers or that fail to share monthly data.

The Regulation does not affect member states' competence relating to hosts' health and safety requirements, minimum quality standards or quantitative restrictions on hosts (as long as there's a public interest objective; that requirement serves to stop a member state from favouring national hosts over European owners of national short-term rental property).

Not included in the scope of the Regulation:

- Webpages connecting hosts with guests without any further role in the conclusion of direct transactions
- Online platforms intermediating the exchange of dwellings without payment

The Council of Ministers and the European Parliament will now separately amend the Proposal before consolidating their amendments in a negotiation that will produce the final text of the Regulation.

"The goal is to help combat illegal listings and limit short-term rentals in problem areas"

#10

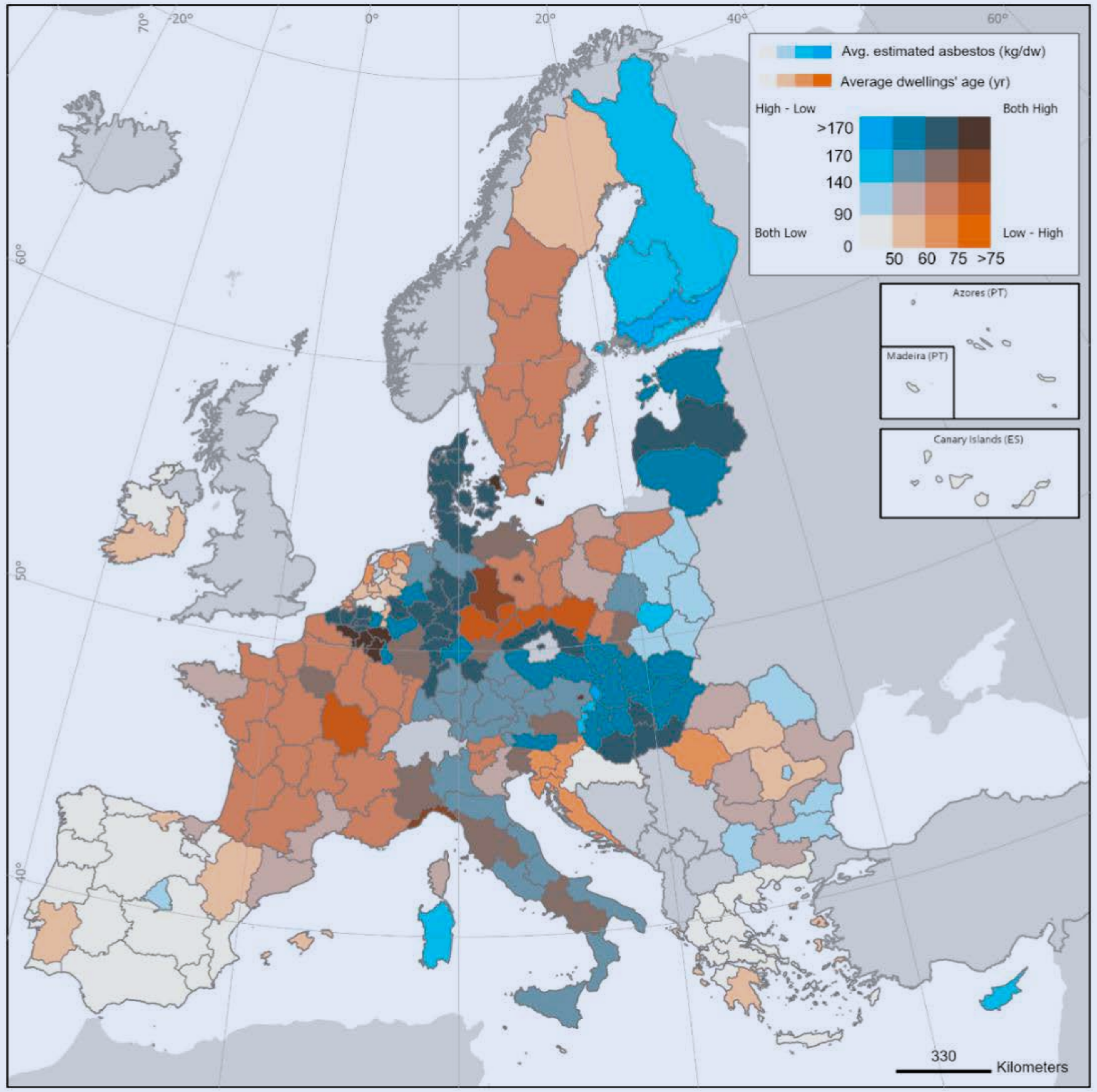
European Commission legislative proposal on mandatory screening and registration of asbestos in buildings

There has been EU legal protection of workers from exposure to asbestos since 1983 and an EU ban on construction with asbestos since 2005, but the problem doesn't stop there. Not just workers, but also inhabitants and even neighbours can be at risk when friable asbestos-containing materials are disturbed.

That's why Flanders has legislated to have asbestos-free buildings and infrastructure by 2040, France and Poland have legislated asbestos identification and Poland, removal.

The European Green Deal exacerbates the problem with legislation radically increasing the rate of renovation and in particular with immediate solar installation obligations that require works on the roof that are especially asbestos-sensitive.

That's why last year the European Parliament adopted a Resolution calling on the Commission to present a European strategy for the removal of all asbestos including mandatory screening.



Source: JRC

The Commission is still at the conception and consultation stage, but it looks likely that in the first half of 2023 it will add to the existing EU legal obligation to assess the presence of asbestos before works commence by:

- tabling a proposal for a Directive on the screening and registration of asbestos in buildings upon sale or rental or some other pivotal point in the building life-cycle and requiring member states to set up national strategies for asbestos removal
- proposing some kind of regulatory approach for an EU model for digital building logbooks either just for asbestos or including it with broader information.

Impact on valuation practice

So far, asbestos in valuation is largely limited to liability disclaimers. Not knowing whether and to what extent asbestos is present, and being unable and unqualified to inspect, the valuer can't be held responsible.

If there's a logbook setting all this out, the presence of asbestos may have to at least be noted in the valuation report, and problematic cases may impact market value.

PODCASTS

- TEGOVA's assistance to the State Property Fund of Ukraine in developing a methodology for assessing war damage – Lessons learned from the TEGOVA Chairman's onsite war zone inspection and meetings with valuers and government

  EV interviews Krzysztof Grzesik

- Valuers need guidance on working with AVMs and European Valuation Standards will provide it

  EV interviews Rolph Limpens

To contribute an article or to send a letter to the editor commenting on one, contact info@TEGOVA.org

TEGOVA

Editor: Michael MacBrien
www.TEGOVA.org