

# THE IMPORTANCE OF OSMD IN CZECH LEGAL SYSTEM

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## 1. Introduction

The importance of OSMD within the Czech legal system is significant. The legal possibility of this form of ownership changed the structure of housing market in Czech Republic. Thanks to this legal form of ownership the strong development of housing market had started. The possibility of legal separation of units of the houses allowed to families to participate on the segment of ownership housing.

The paper describes the basic legal characteristics of OSMD in Czech Republic. It presents all the ownership alternatives and compares the advantages and disadvantages of this specific kind of ownership. It shows how the housing market has developed since the early 90s when the OSMD act was accepted by the parliament.

The OSMD ownership determines the possibilities of maintenance of the properties. In the paper the basic legal bodies of OSMD administrative structure there are shown. The rules how to maintenance the real estate properties in accordance of the OSMD act is presented as well.

## 2. The ownership structure of the flats in Czech Republic

The basic statistical data shows the situation concerning of the housing stock. The table 1 below shows how the structure of housing (dwelling) stock in Czech Republic has changed since 1991. The data come from census, which is organized every ten years.

Table Structure of occupied dwellings by type of ownership in CZ

Year	1991	2001	2011
Total dwellings	3 705 681	3 827 678	4 104 635
of which in own family house	1 367 027	1 371 684	1 470 174
of which in own dwellings	31 164	421 654	824 076
of which rented	1 465 231	1 092 950	920 405
of which coop.	697 829	548 812	385 601
of which others	144 430	392 572	504 379

*Source: Final Census Results*

The fourth line shows the rise of own dwellings in Czech economy. While in 1991 there were only 31 164 own dwellings are registered, in 2011 the number of own dwellings reached 824 076. The reason of this rise is acceptance of the new

OSMD act in 1994 as well as rise of financial support to this segment from the governmental bodies.

The attractiveness of this form of ownership was supported by the acceptance of the new hypothecary act. Many of bank institutions started to participate within this developing real estate sector.

One of the most important reasons of the situation shown in 2011 was willingness of cities to privatize its housing stock. The significance of this form of ownership stays in the implemented paragraph of OSMD act, which gives the tenants of flats the special right to buy of their rented flats.

At the present, the rate of this form of ownership represents 20% of all occupied dwellings in Czech Republic.

### **3. The basic legal principals of OSMD ownership**

In the Czech legal system it is set the OSMD is non governmental organization. The profitability is not the priority of the OSMD. The only activity it is allowed to do is: maintenance and reparation of the common parts of house.

The OSMD form of ownership allows to constitute only with connection of houses. This form of ownership is not allows to constitute with connection of land. It is written in the law, the OSMD form of ownership is set in houses with at least five flats, where at least three flats are in ownership of three different owners.

There is compulsory to set the bodies of OSMD, which is assembly of flat owners and committee or authorized owner. All the owners of flats in house are the members of assembly. There is no excuse, no exceptions. On the other side, if anybody sells the flat in house, he or she terminates the membership in OSMD assembly.

The power of flat owner decisions depends on the proprietary share on the common parts of house. The proprietary share is strictly defined as:

$$PS = AF / SUM (FAH)$$

where

PS - proprietary share,

AF - area of flat (s) in m<sup>2</sup> which is in ownership of the owner,

FAH - area of all flats in house in m<sup>2</sup>.

The decisions are accepted in case more than 50% of proprietary shares vote for in OSMD assembly.

The most common decisions of OSMD assembly are taken in such examples like reparation of common parts of house, investments to the house, authorization of OSMD budget, statement of used services, rules for cleaning of house, etc.

### **4. Comparison of ownership**

The significance of OSMD form of ownership is shown from the point of comparison to other kinds of ownership. It is sometimes compare with other forms of ownership like cooperative or joint ownership. All the forms of ownership dispose with its own advantages and disadvantages. Let explain the basic differences between OSMD form of ownership and cooperative form of ownership from the point of Czech economical and legal system:

**Ownership.** The owner of the flat which is in cooperative house is a cooperative. The user of cooperative flat is not an owner. From the point of legal

the user is a tenant who is of course a holder of the share in cooperative. In comparison with the OSMD flat the user is an owner of the flat. The ownership of the flat is registered in real estate cadastre.

**Transfer of ownership.** For the transfer of ownership or usage rights (in case of cooperative), in case of OSMD it is necessary to sign the purchase contract, while in case of cooperative there is necessary to sign the agreement for transfer of cooperative rights, which are joined with usage of cooperative flat.

**Price.** The average market prices are higher in the segment of OSMD. The economical surveys show the OSMD flats are 10% expensive in comparison with the typical cooperative flat.

**Taxation.** There is impose the tax on the OSMD flats. Each owner of the flat must pay tax from real estate property, which is at around 20 EUR per year. The member of cooperative is not ask to pay the tax from property.

**Credit.** It is possible to pledge the OSMD flat to ask credit from the bank. It is not possible to do the same in case of cooperative flat.