

Land Acquisition for Infrastructure in the Nordic Countries

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Key words: land acquisition, roads, railways, electric power transmission lines

SUMMARY

This paper describes the processes that are used for acquisition of land for public roads, railways and electric power transmission lines in the Nordic countries – Denmark, Finland, Iceland, Norway and Sweden.¹ In *Denmark*, expropriation is almost always carried out for acquiring land for public roads and railways in about 90 % of cases. Compulsory acquisition of the land is implemented through a cadastral expropriation procedure which is handled by a special Expropriation Commission. In the case of electric power transmission lines, agreement is reached regarding in about 90 % of cases. In *Finland*, cadastral procedures play a very important roll for acquiring land for roads, railways and major electric power transmission lines. Agreement is very seldom reached prior to the cadastral procedure; nor is it common to reach agreement within the framework of the cadastral procedure. In *Iceland*, land acquisition is normally settled through agreements. In those cases where agreement cannot be reached, decisions are taken by an Expropriation Commission. This procedure is necessary in approximately 10 % of cases related to roads and in 25 % of cases related to electric power transmission lines. In *Norway*, the level of voluntary agreement is even higher than in Iceland; in approximately 90-95 % of cases concerning acquisition the parties reach agreement. This applies to roads, railways and electric power transmission lines. Should it prove impossible to reach agreement, expropriation is exercised to gain access to the land. In *Sweden*, there are special laws for roads, railway lines and electric power transmission lines, which make it legally possible to acquire the necessary land. Cadastral procedures play a very important roll for acquiring land for railways and major electric power transmission lines. It is common that agreement is reached prior to or within the framework of the cadastral procedure.

I *Danmark* tillämpas expropriation när det gäller markåtkomst för allmänna vägar och järnvägar. Marken förvärvas tvångsvis genom expropriationsförrättning, som sköts av en särskild kommission. För kraftledningar kommer man som regel överens om markåtkomsten. I *Finland* används förrättningsinstitutet för att både komma åt marken för såväl vägar, järnvägar som större kraftledningar. Överenskommelser före eller under förrättningen är mycket ovanligt i dessa situationer. I *Island* löser man som regel markåtkomstfrågorna genom överenskommelse. I övriga fall avgörs frågorna av expropriationskommissionen. I *Norge* är

¹ The paper is based on the results of a joint Nordic project, which has been published in Lantmäteriet's report 2007:13: Norell, L: Markåtkomst och ersättning för vägar, järnvägar och kraftledningar i Norden (Land acquisition and compensation for roads, railways and electric power transmission lines in the Nordic countries).

graden av överenskommelse ännu högre än i Island. Parterna träffar avtal om markåtkomst i ca 90-95 % av fallen. Det gäller för såväl vägar, järnvägar som kraftledningar. I *Sverige* finns speciallagar för vägar och kraftledningar som ger rätt att ta i anspråk marken. När det gäller järnvägar och kraftledningar tillämpas ofta lantmäteriförrättning.

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1. ROADS AND RAILWAYS

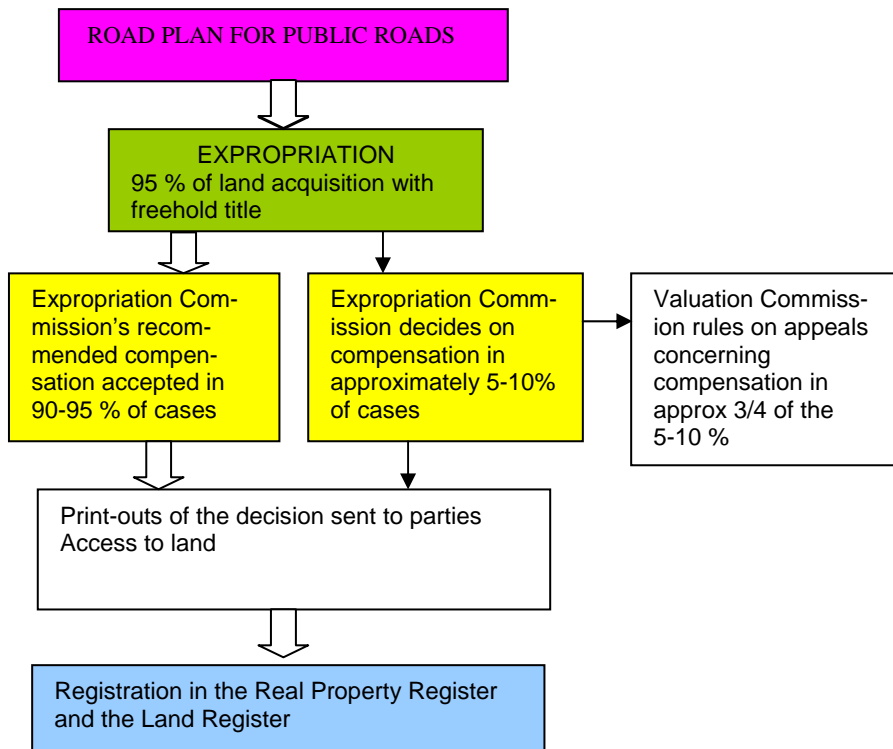
The processes – from initiation to registration – for public roads and railways are, in principle, identical in the Nordic countries with the exception of Sweden, where two quite different types of process are applied. The processes for roads that are described below for Denmark, Finland and Norway also generally apply for railways (Iceland has no railways). In Sweden a distinction is made between roads and railways.

1.1 Denmark

The processes differ to some extent depending on whether the central or local government has responsibility for the construction of a road (or railway). In both cases, a road plan must be prepared. For public roads this is done by the Danish Road Administration and for local government roads by the municipal executive board. A detailed development plan is prepared for railways. The affected land owners have the right to comment on the plans.

The land is acquired with freehold title. This is mainly done – in approximately 95 % of cases – through cadastral expropriation procedures. In the case of public roads, expropriation is carried out by the government Expropriation Commission (see the figure below). The same process applies for railways. The commission has six members: a chairman, two central government representatives, two local government representatives and a private chartered land surveyor. The municipal executive board handles expropriation issues for local government roads. In 90-95 % of cases, land owners accept the compensation recommended by the Expropriation Commission when the cadastral procedure is carried out. In the remaining cases, the commission decides on the level of compensation.

Appeals against decision made by the Expropriation Commission can be made to the Valuation Commission. This is done in approximately 75 % of cases decided by the Expropriation Commission. Roads are registered in the Real Property Register and the Land Register.



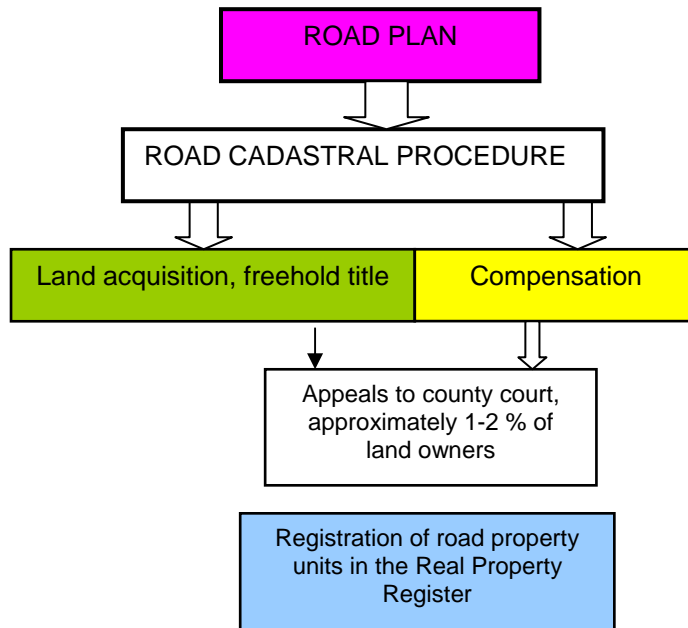
1.2 Finland

The Finnish Road Administration prepares an initial, general plan, which shows possible alternative locations and alignments. Thereafter, a road plan is produced for the final alignment of the road showing the limits of the road corridor. The plan also shows how the involved properties will be affected and the need for re-alignment or construction of new private roads etc. During the process, land owners have the possibility to comment on the plan, and to appeal against the decision to prepare a detail plan, in a court of law. A similar planning process is carried out for railways.

Land for public roads and railways is acquired with freehold title through special road and railway cadastral procedures. These procedures are carried out by the government survey agencies, which comprise a chartered cadastral surveyor and two trustees. Compensation to the land owners is determined within the framework of the cadastral procedure. Land can be exchanged within the same process to minimise detrimental affects on farm and forest properties.

Approximately 1-2 % of the affected land owners appeal against the results of cadastral procedures to the county court. The majority of the appeals concern dissatisfaction with the level of compensation. The next instance to which an appeal can be made is the Supreme Court which can, in some cases, approve further review.

Road and railway property units are registered in the Real Property Register.



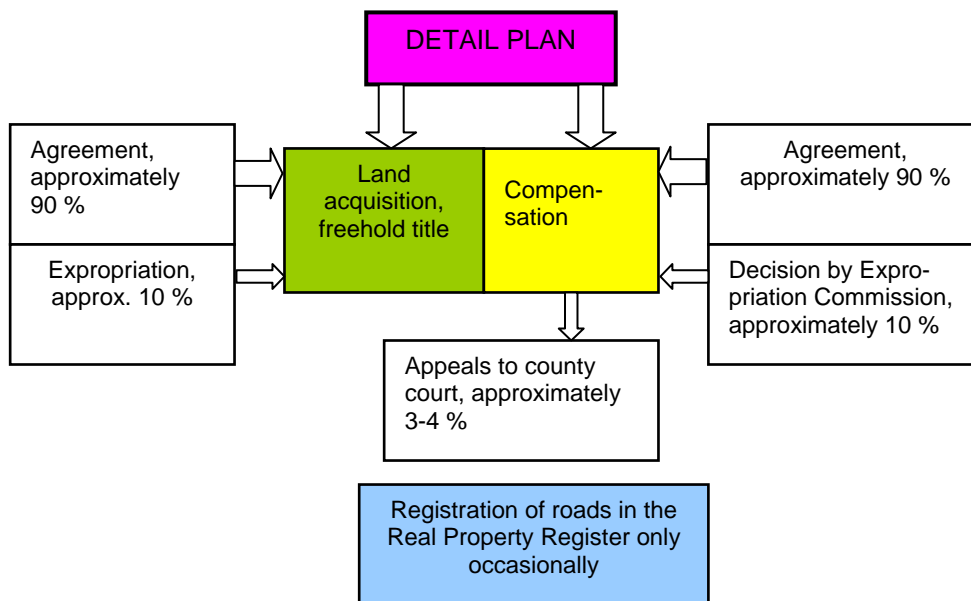
1.3 Iceland

The Icelandic Road Administration is responsible for the initial planning of the road infrastructure based on an overview plan. Municipalities that are affected by the plan decide, thereafter, on the location and alignment of the roads in their detail planning. During the planning process land owners are given an opportunity to comment on the plan and also to appeal against decisions taken as a consequence of it, and with which they disagree, to the county administrative board.

Land is acquired with freehold title. Agreements regulating the acquisition of land and compensation can normally be reached with around 90 % of involved land owners. In the remaining cases, expropriation is carried out through the Expropriation Commission. The commission is made up of a judge, who is chairman, and two other members.

In approximately one third of cases involving expropriation, which is equivalent to 3-4 % of the number of affected land owners, an appeal against the cadastral procedure is made to the county court. The next instance is the Supreme Court.

Road property units are seldom registered in the Real Property Register although the Road Administration has its own register of roads.



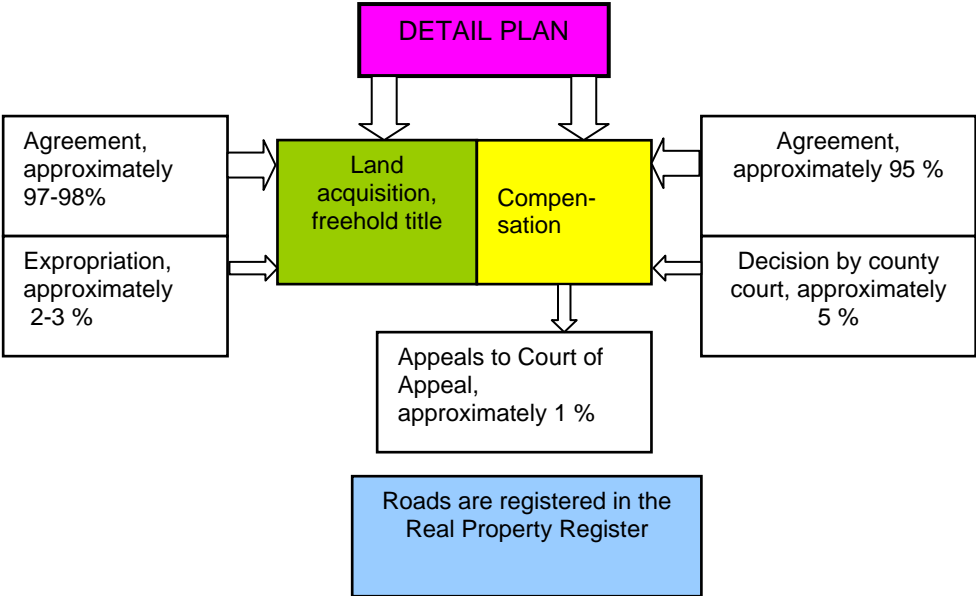
1.4 Norway

Alternative locations and alignments for roads are first evaluated with the help of a municipal overview plan. The final location and alignment of roads (railways) is determined in a detail plan. The involved municipalities are responsible for preparing the detail plan, although the Norwegian Road Administration can also, in some cases, be responsible for both the preparation and approval of the plan. During the planning process, land owners have the possibility to comment on the detail plan and appeal against its implications to the county administrative board.

Land for a road (railway) is acquired with freehold title. In most cases – 95 % – an agreement is reached with the land owner regarding both acquisition and compensation. In around half of the remaining cases, agreement is reached on acquisition of the land but not on the level of compensation, which is then determined in a separate process through the county court. In the remaining, approximately 2-3 % of cases, the land is expropriated and a level of compensation set.

Of the order of 20-25 % of the judgements concerning compensation that are delivered by the county courts – equivalent to approximately 1 % of the total number of involved land owners – are appealed against to the Court of Appeal. The Supreme Court can give permission for further review of precedential cases.

Road cadastral procedures are registered in a special register, but are not entered as property units in their own right in the Land Register. Railway property units, on the other hand, are entered in the Land Register as property units in their own right.



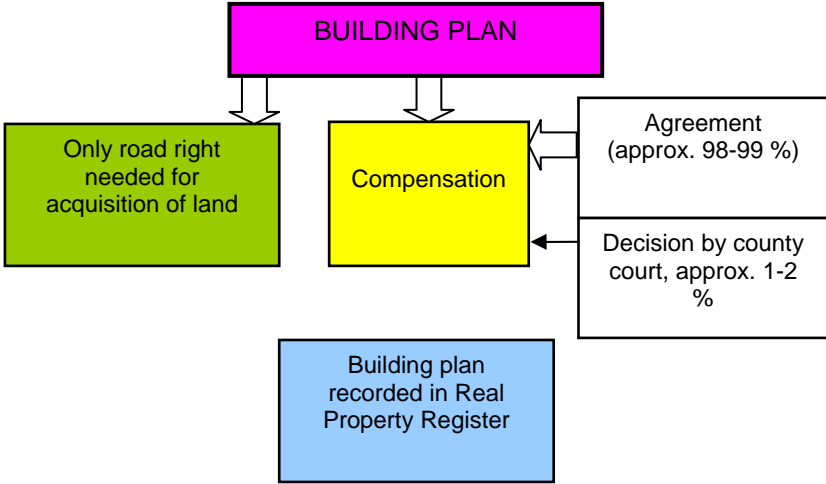
1.5 Sweden

Roads

The Swedish Road Administration has responsibility for both planning and acquisition of land for public roads. Alternative locations and alignment of roads and the environmental impact of them are the subject of a road investigation. Thereafter, the Road Administration prepares and approves a building plan. Land owners can appeal to the government against decisions taken by the Road Administration concerning approval of an implementation plan. When a building plan has gained legal force, the land can immediately be taken over for road construction. There is, thus, no need for other decisions, such as expropriation, in addition to the building plan to acquire the land.

The land is acquired with a special right – a road right – and not with freehold title. A road right is a right of use that is not limited in time. The Road Administration reaches agreement regarding the level of compensation for acquired land with approximately 98-99 % of land owners. In the remaining cases, levels of compensation are determined in a court of law. The first instance is the county court and the next the Court of Appeal. The Supreme Court can give permission for further review of precedential cases.

Building plans are recorded in the Real Property Register.



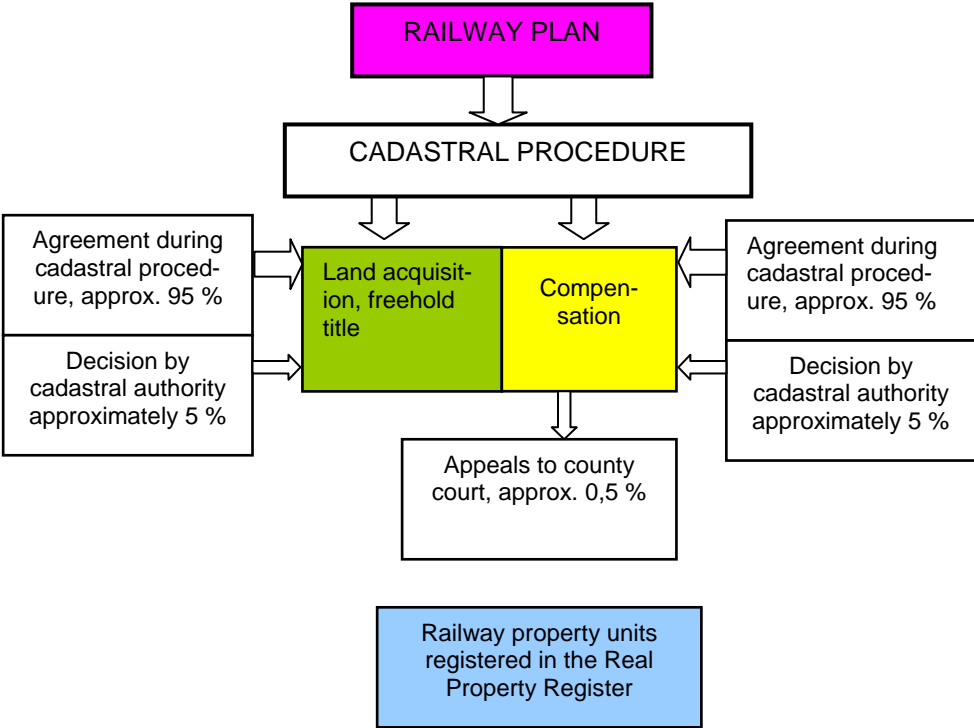
Railways

The Swedish Rail Administration has responsibility for planning and building railways in Sweden. The location and alignment of tracks and the consequences of different alternatives on, for example, the environment are studied with the help of an overview plan. When an alignment design has been approved, a railway plan is prepared and shows, amongst other things, the land which will be used. Affected land owners can appeal against the plan proposals to the government.

The railway plan makes it possible to acquire land with freehold title, either through a cadastral procedure or through compulsory purchase via a court of law. The general procedure is that the land is acquired by reallocation through a cadastral procedure. Normally – in approximately 95 % of cases involving railway construction – the Rail Administration reaches an agreement with the land owners regarding both acquisition and compensation within the framework of the cadastral procedure. In these cases, the cadastral authority, which is normally represented by a chartered land surveyor, acts in accordance with the agreement reached by the parties. If the parties are unable to reach an agreement, the cadastral authority takes a decision after carrying out its own investigation.

Appeals are lodged with the county court against approximately 10 % of the decisions involving compensation where the cadastral authority has taken a decision following its own investigation – equivalent to approximately 0.5 % of all decisions concerning compensation. The next instance is the Court of Appeal. The Supreme Court can give permission for further review of precedential cases.

Railway property units are registered in the Real Property Register.



2 ELECTRIC POWER TRANSMISSION LINES

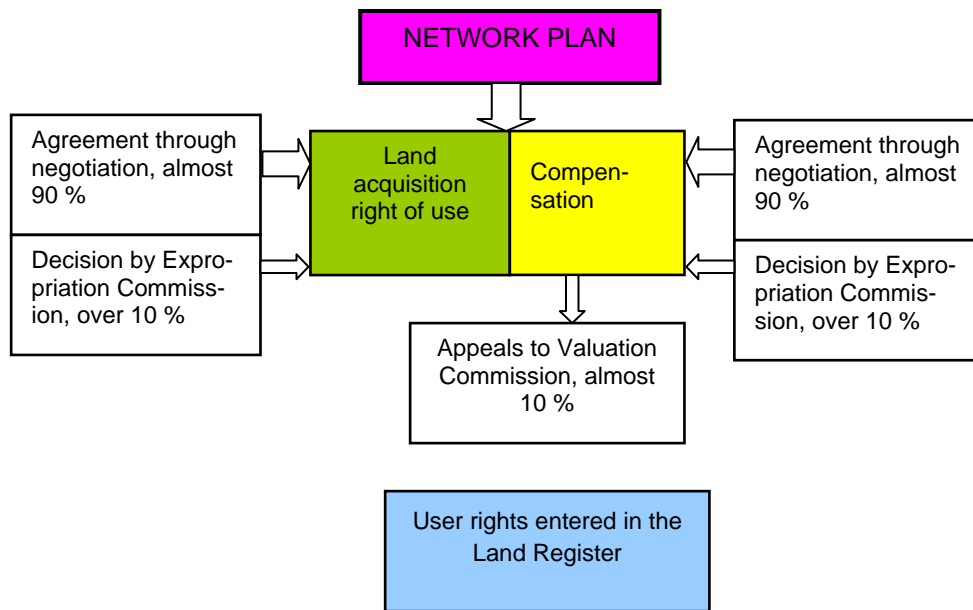
This section describes the processes for planning and acquisition of land for electric power transmission lines, particularly the main lines in the national grid. For more information about appeals to a higher instance than the county court, refer to the section concerning roads and railways.

2.1 Denmark

A state-owned company, Energinet.dk, has responsibility for the overview planning and construction of the electric power transmission network. Energinet.dk owns and maintains the main power transmission lines in Denmark.

In most cases – approximately 90 % – Energinet.dk reaches agreement with landowners concerning acquisition of land in the form of user rights without a time limit and for compensation. In other cases, it is the Expropriation Commission that takes decisions regarding acquisition and compensation. Landowners often appeal against decisions concerning compensation to the Valuation Commission.

User rights are entered in the Land Register.



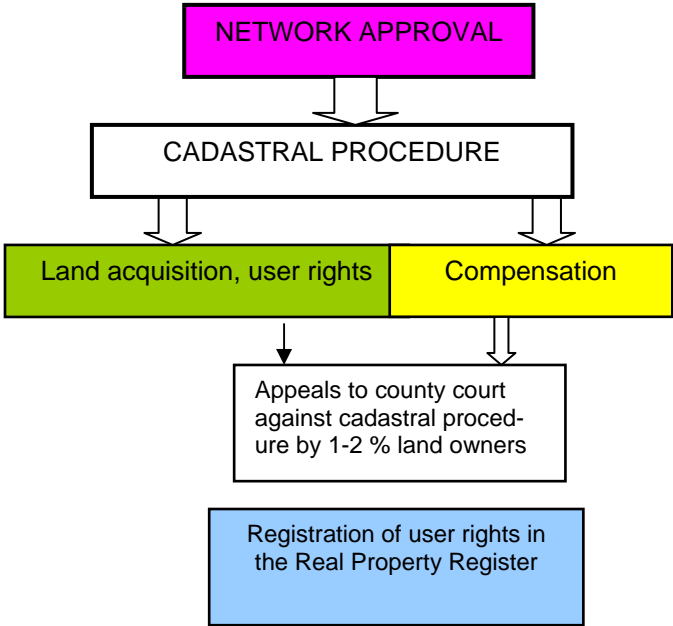
2.2 Finland

Special approval must be obtained to build an electric power transmission line. For major power transmission lines a detailed investigation concerning the location and alignment must be carried out before approval can be given. The investigation must include an evaluation of the impact on the environment. The major power transmission lines are owned by the state-owned company Fingrid Oyj.

The land for major power transmission lines is acquired with user rights through a cadastral procedure, which is carried out by the Finnish Land Survey. During the cadastral procedure a decision is also taken concerning compensation to the landowners. No voluntary agreements concerning either acquisition or compensation are reached prior to the cadastral procedure. It is, therefore, in effect, a decision taken solely by the cadastral authority.

Approximately 1-2 % of the involved land owners appeal against the results of a cadastral procedure to the county court.

User rights are registered in the Real Property Register.



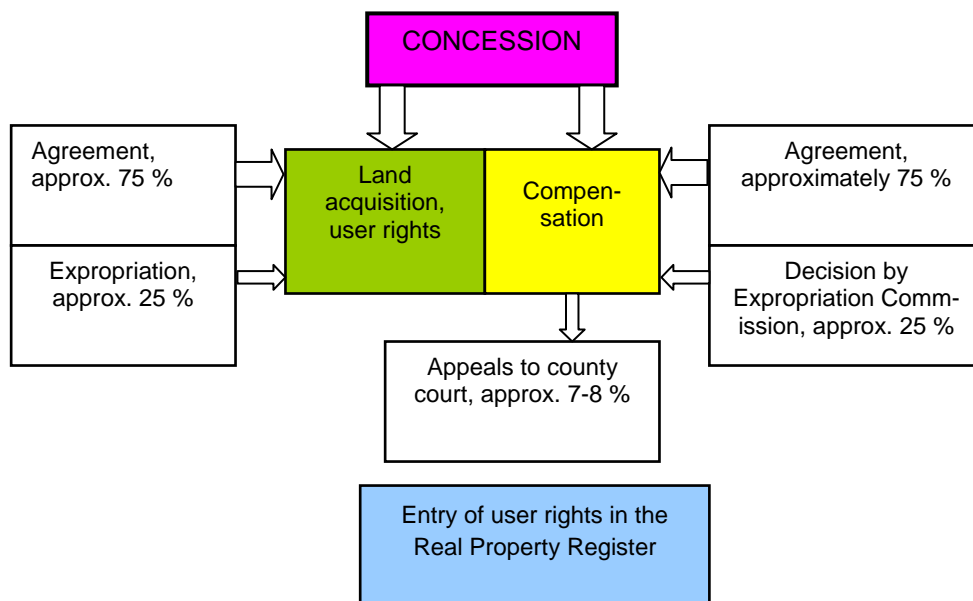
2.3 Iceland

A state-owned company, Landsnet A/S, is responsible for the planning and building of the electric power transmission network in Iceland. A government concession must be obtained before a power transmission line can be built.

The land is acquired with user rights without a time limit. Agreements concerning land acquisition and compensation are reached with approximately 75 % of the involved land owners. In other cases, expropriation is carried out through the Expropriation Commission.

In approximately one third of the cases in which expropriation is carried out – equivalent to 7-8 % of the involved land owners – appeals against the cadastral procedure are made to the county court.

User rights are registered in the Real Property Register.



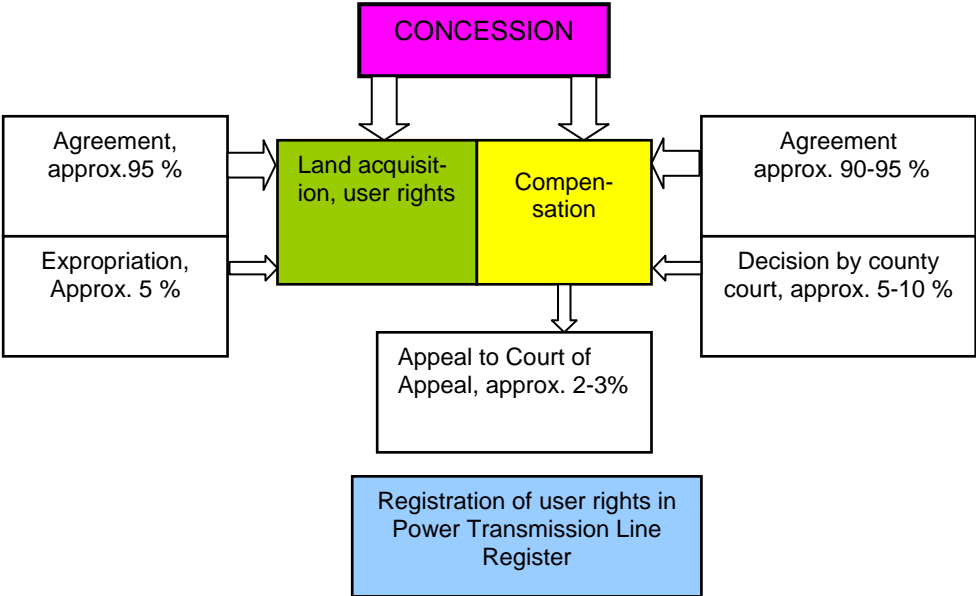
2.4 Norway

The major part of the Norwegian electric power transmission network, which comprises the main transmission lines, is owned by the state-owned company Statnett. Concessions, which are granted by the government, must be obtained before a transmission line can be built. In the concession process, the location and alignment of the lines is decided on and an investigation of the impact on the environment is carried out.

Land is acquired with user rights without a time limit. In most cases – approximately 90-95% – an agreement is reached with the involved land owners regarding both acquisition and compensation. In some cases, agreement is reached with the landowners concerning access to the land but not compensation. In such cases, a decision is taken by the county court. In approximately 5% of cases expropriation is carried out to obtain access to the land and to resolve the issue of compensation.

Approximately 20-25 % of the judgment delivered by the county court concerning compensation – approximately 2-3 % of all involved land owners – are appealed against in the Court of Appeal.

User rights are registered in the Power Transmission Line Register.



2.5 Sweden

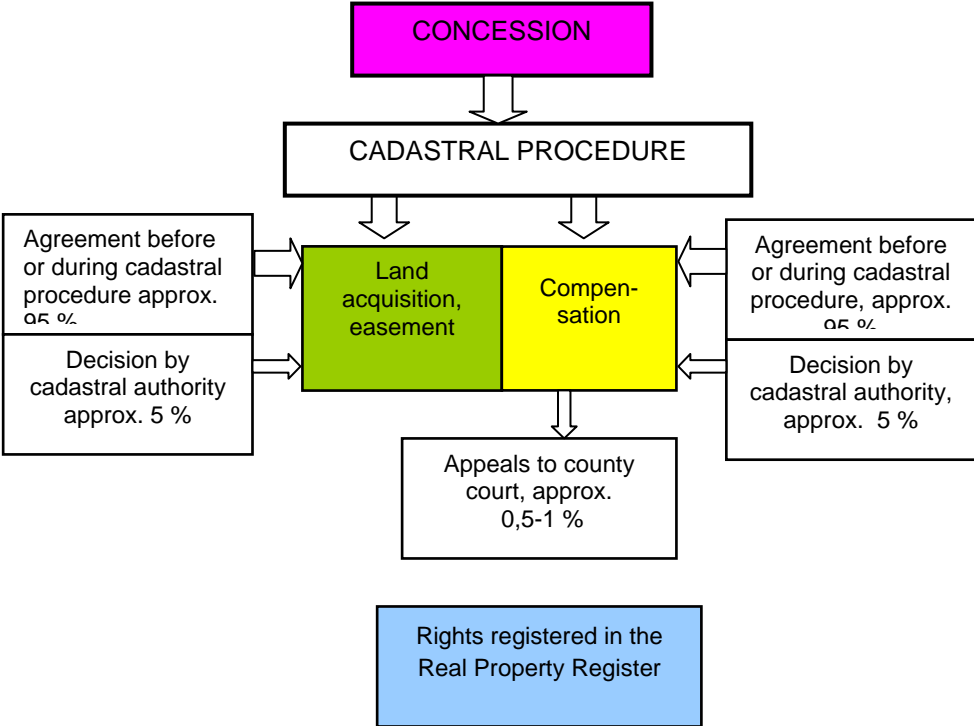
The main power transmission lines in Sweden are owned by the state-owned company, Svenska Kraftnät. Concessions are required before a power transmission line can be built. Concessions are granted by a special government agency. Decisions concerning concessions for main power transmission lines are preceded by a detailed investigation, which includes a study of the environmental impact.

Land acquisition and compensation issues concerning main transmission lines can normally be resolved through a cadastral procedure. There is special legislation, the Utility Easement Act, which makes it possible to gain access to land with special rights similar to an easement by compulsory acquisition. But, nevertheless, a voluntary easement agreement can normally be reached so that a decision can be taken within the framework of the cadastral procedure. In approximately 95 % of cases the parties can reach agreement on compensation. If agreement cannot be reached, either before or after the cadastral procedure, the cadastral authority can take a decision after carrying out its own investigation.

Approximately 5 % of all decisions concerning compensation are based on an investigation carried out by the cadastral authority. Appeals are lodged with the county court concerning around 10-20 % of them. This is equivalent to 0.5-1 % of all involved land owners.

Utility easements are registered in the Real Property Register.

The figure below illustrates a cadastral procedure for creating a utility easement.



3 CONCLUDING COMMENTS

Which system is best, the most efficient or most legally secure has not been discussed as, clearly, such comparisons are not possible in a short paper like this. And such comparisons are perhaps not particularly meaningful: every system has its advantages and disadvantages.

Nevertheless, it is quite remarkable that such different systems have been developed in countries that are so close to each other geographically, in size and culturally. This indicates perhaps that it makes no great difference which system is used when it comes to land acquisition for infrastructural purposes.

In my opinion, it is also important to emphasise that systems which, in theory, appears to be based on a significant element of compulsion are not necessarily so in reality. This is, for example, clearly the case with the Swedish model for road rights in which access to land is always gained by compulsory acquisition whereas issues related to compensation are almost always resolved through agreements.

REFERENCES

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BIOGRAPHICAL NOTES

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