



Verband deutscher  
Hypothekendarsteller  
Association of German Mortgage Banks

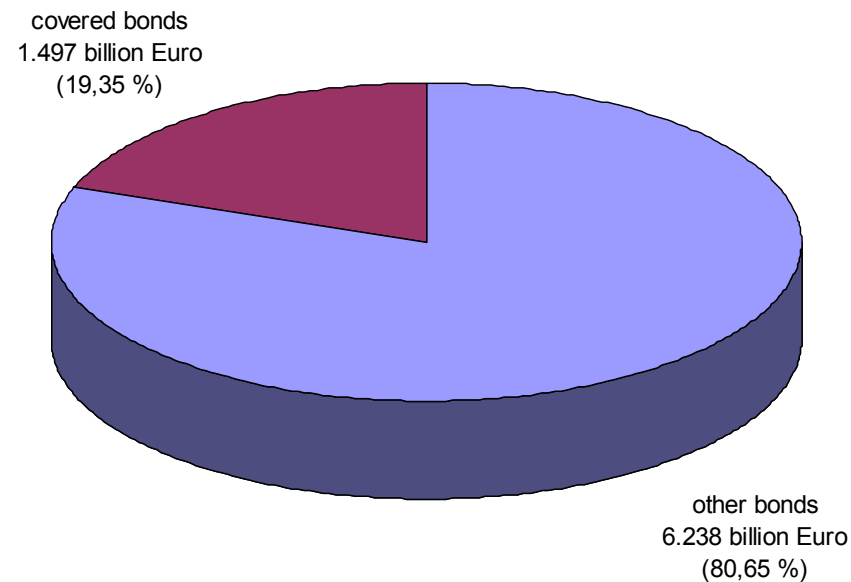
## **7th Central European Covered Bond Conference**

**13th / 14th October 2003 in Berlin**

# **Development of Legislation on Covered Bonds in Europe**

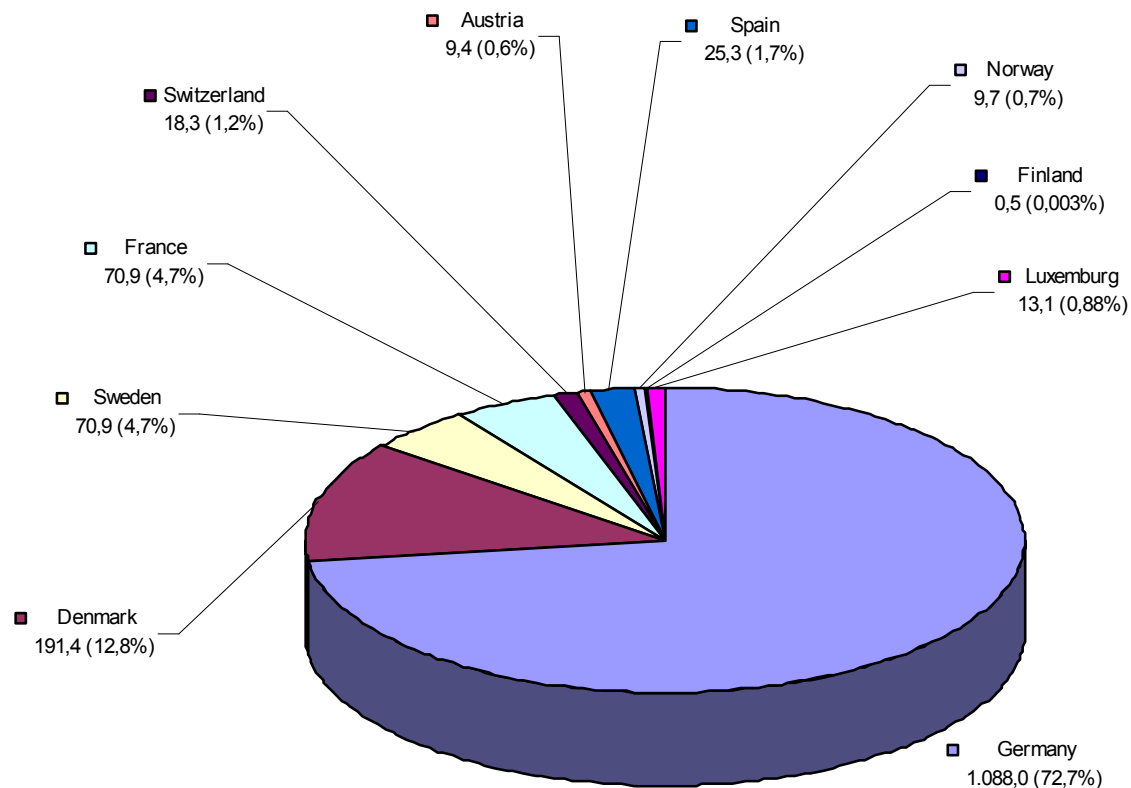
Dr. Otmar Stöcker  
Association of  
German Mortgage Banks

## The European Bond Market: 7.735,7 billion Euro (end of 2002, EU-accession countries not included)



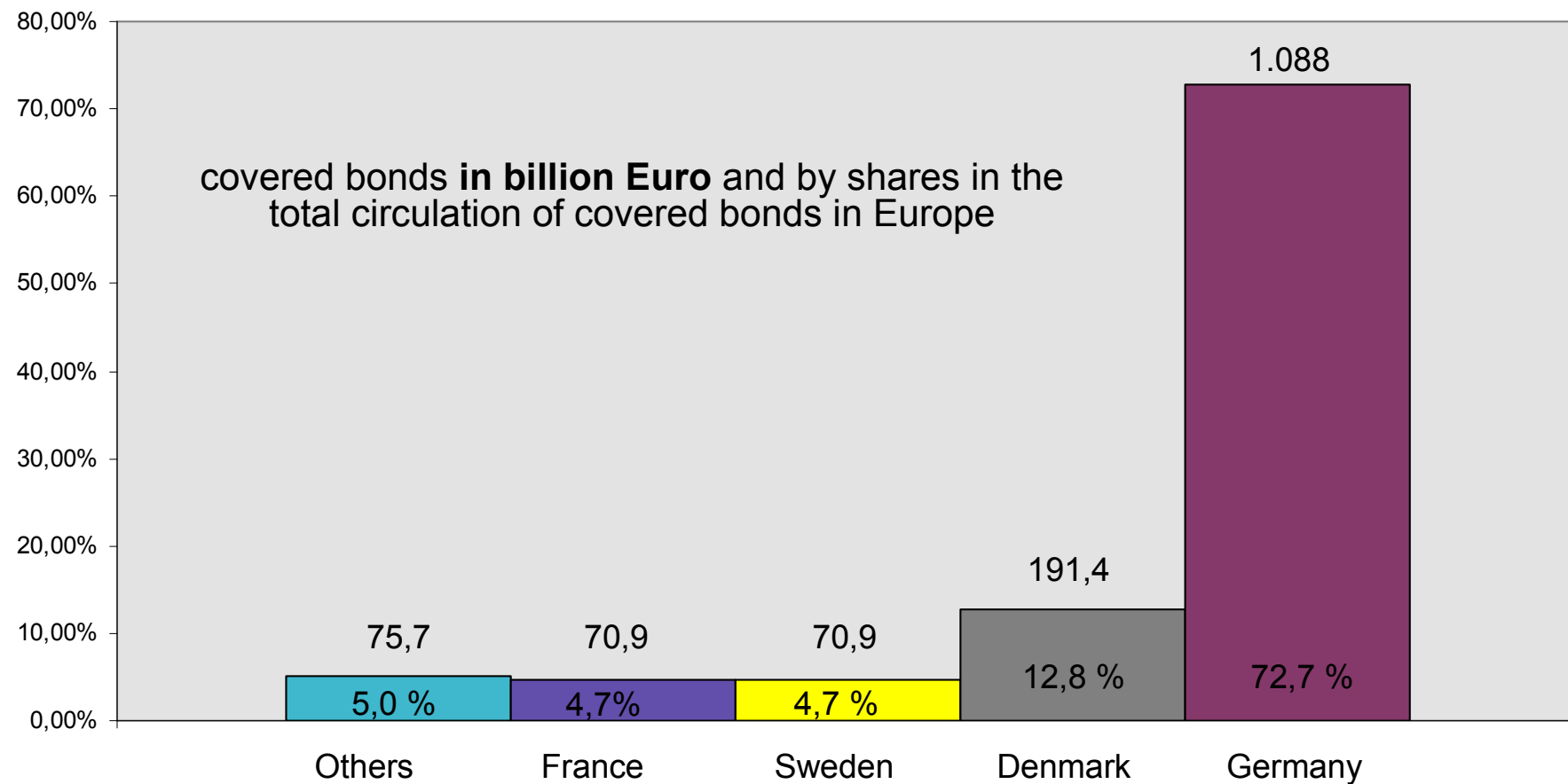
**(bond market – total of all covered bonds, government bonds included,  
only Euro-denominated bonds)**

## Market Share of the European Covered Bond Countries in the European Covered Bond Market (12/2002, in billion €, EU-accession countries not included): 1.497 bill. €



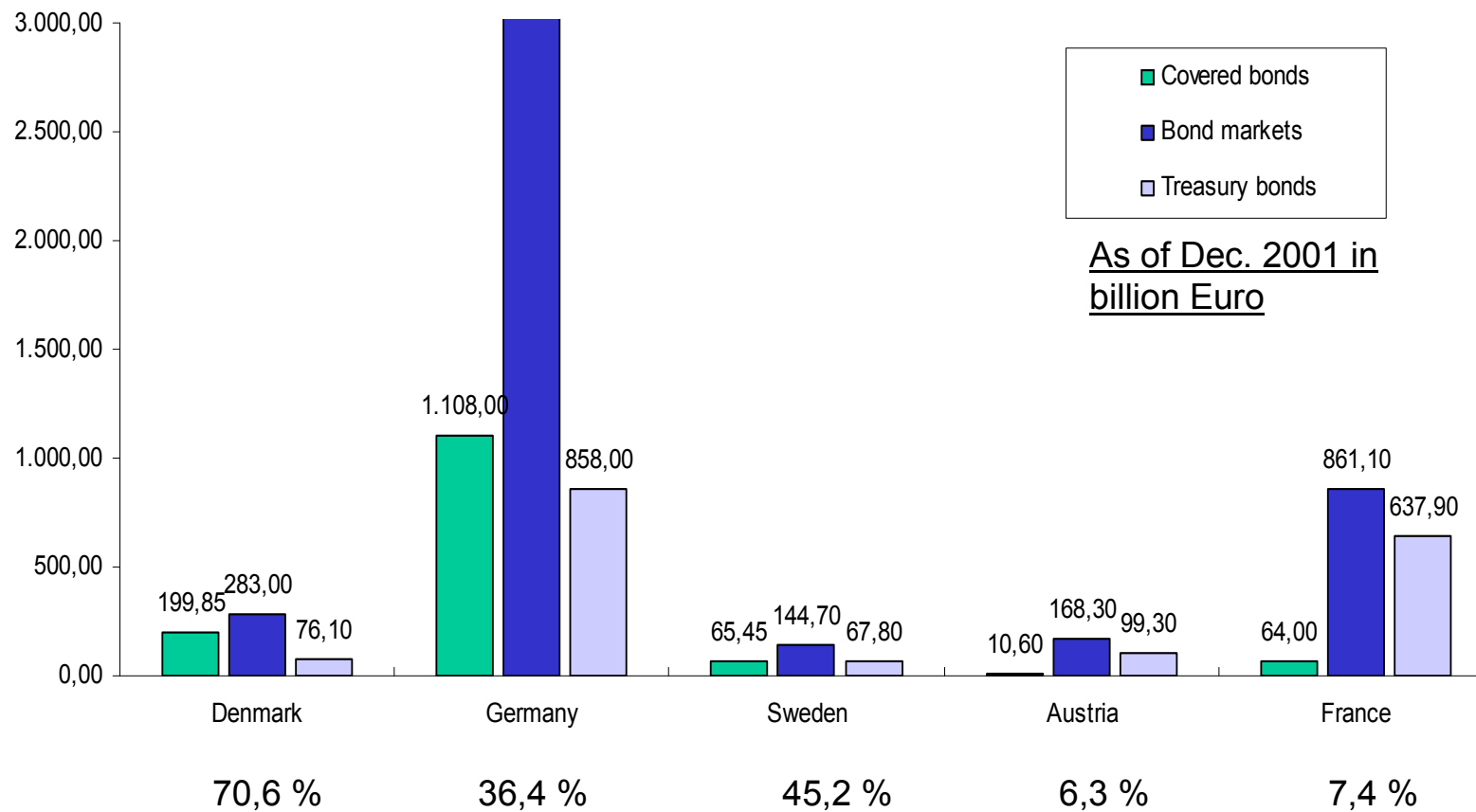


## The most important covered bond-countries in Europe (end of 2002, EU-accession countries not included)

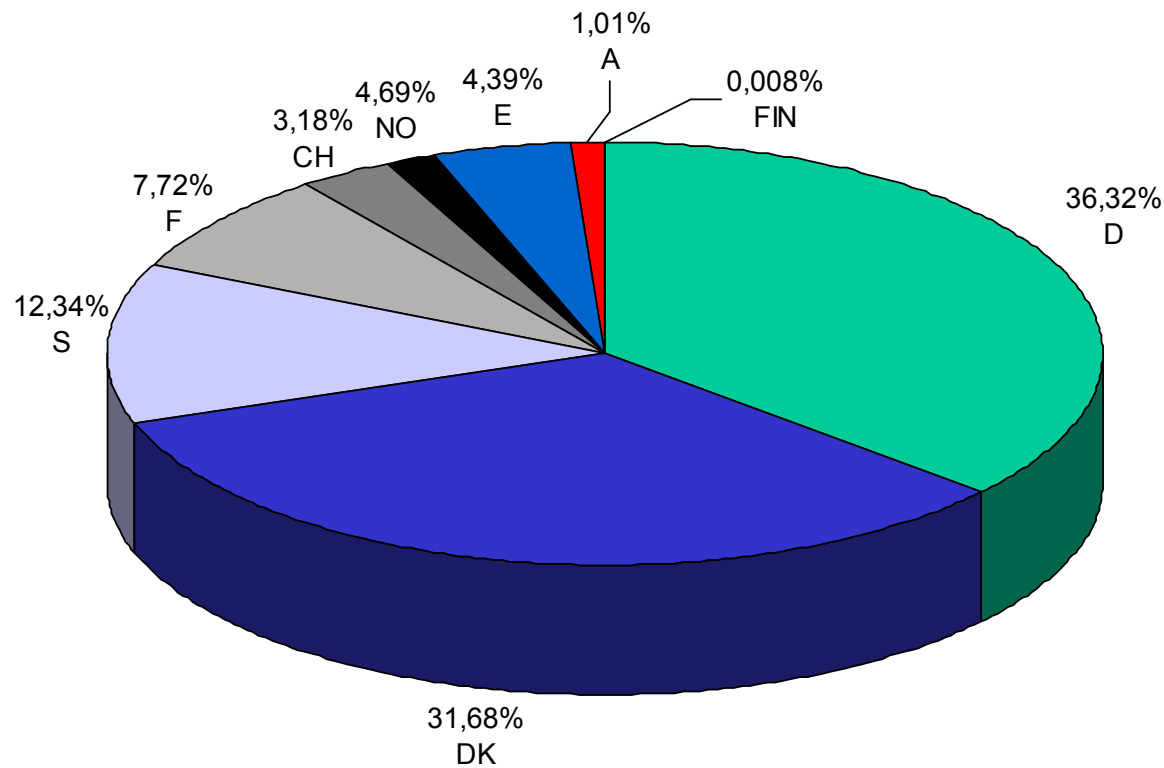




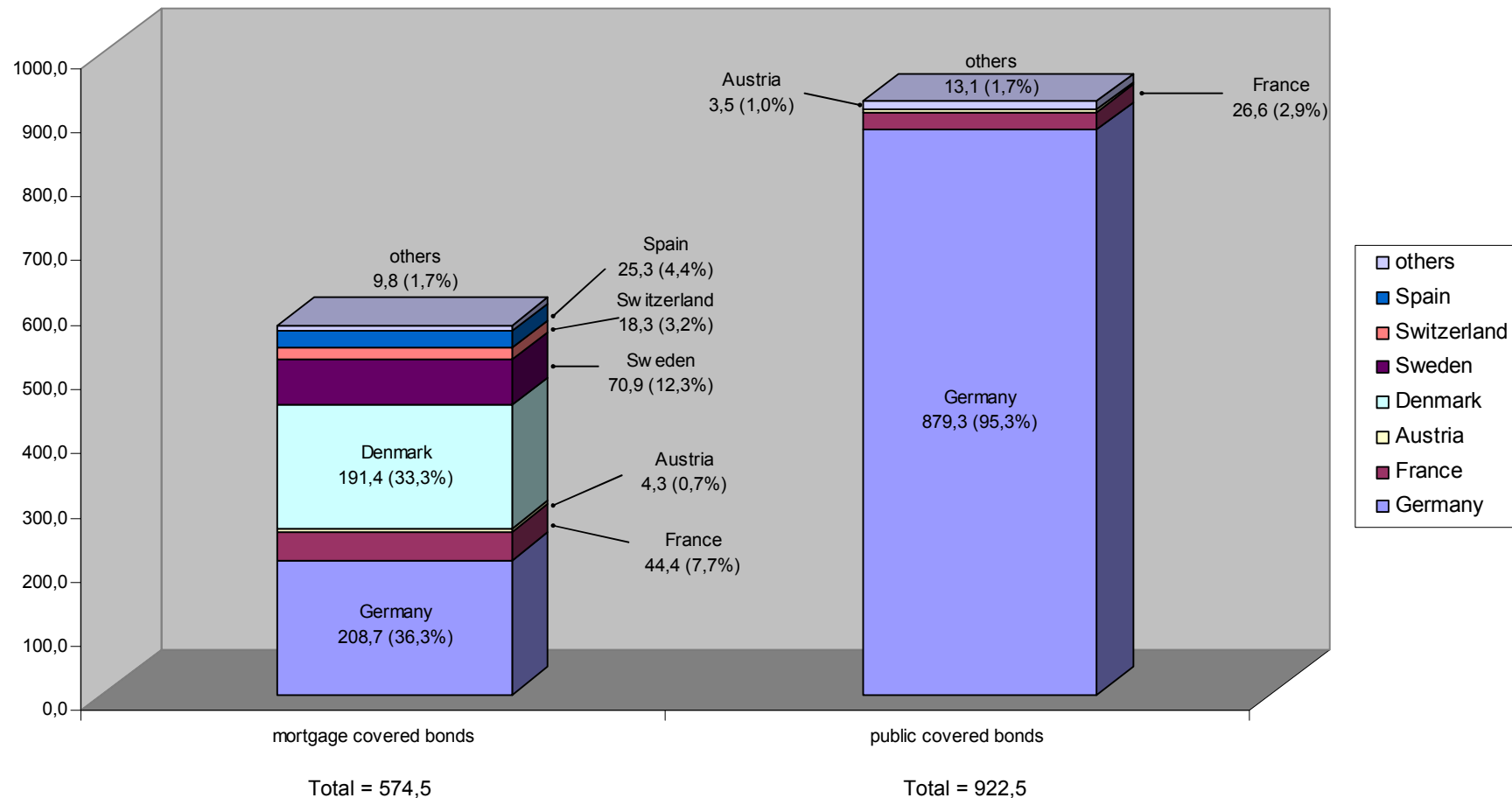
## Market shares of covered bonds in the national capital markets (bond markets) and compared with treasury bonds



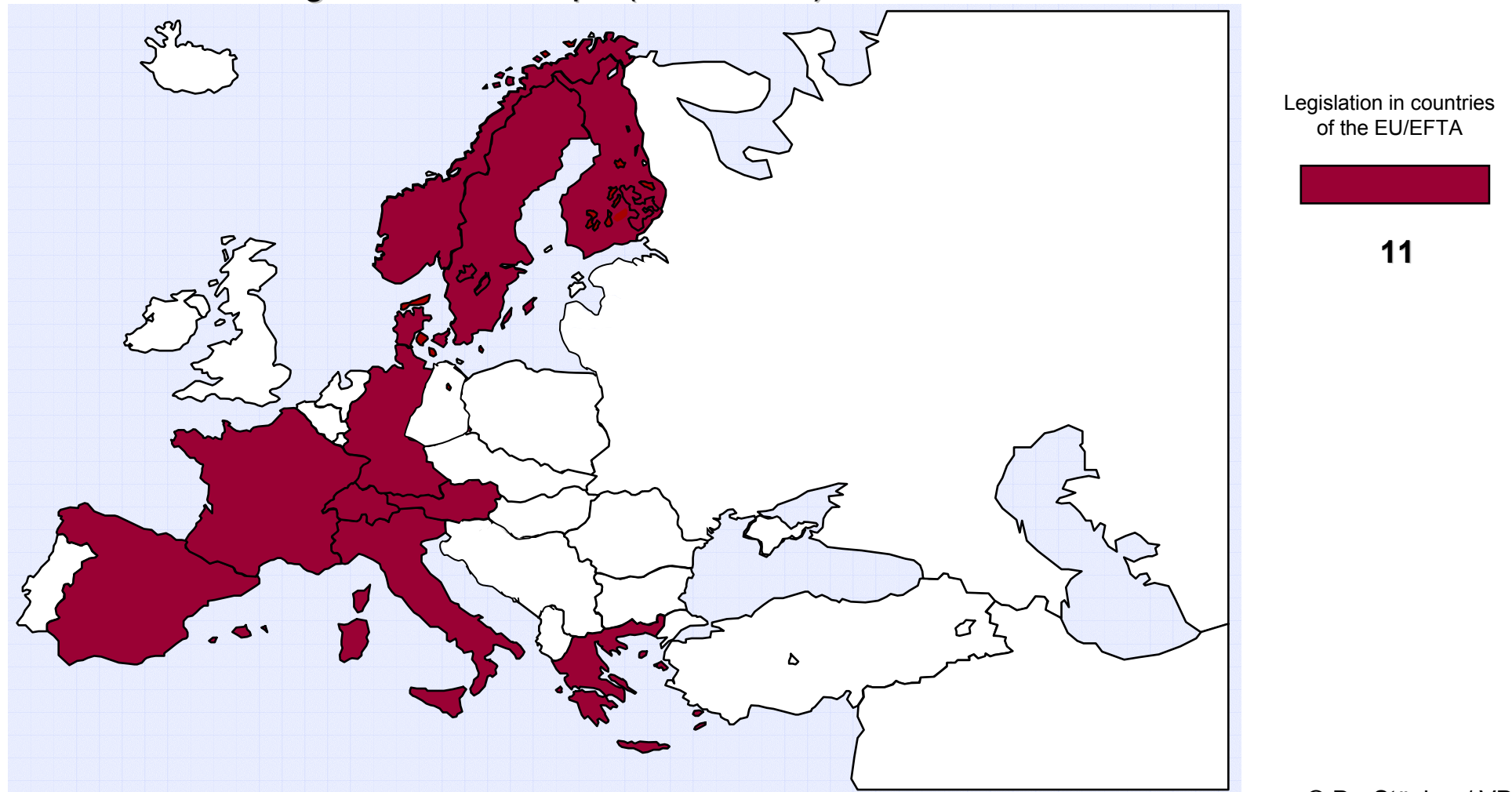
## Market Shares in Respect of **Mortgage** Covered Bonds in Europe (end 2002, EU-accession countries not included)



## Public Covered Bonds and Mortgage Covered Bonds in Europe (end of 2002, in Mio. EUR, EU-accession countries not included)

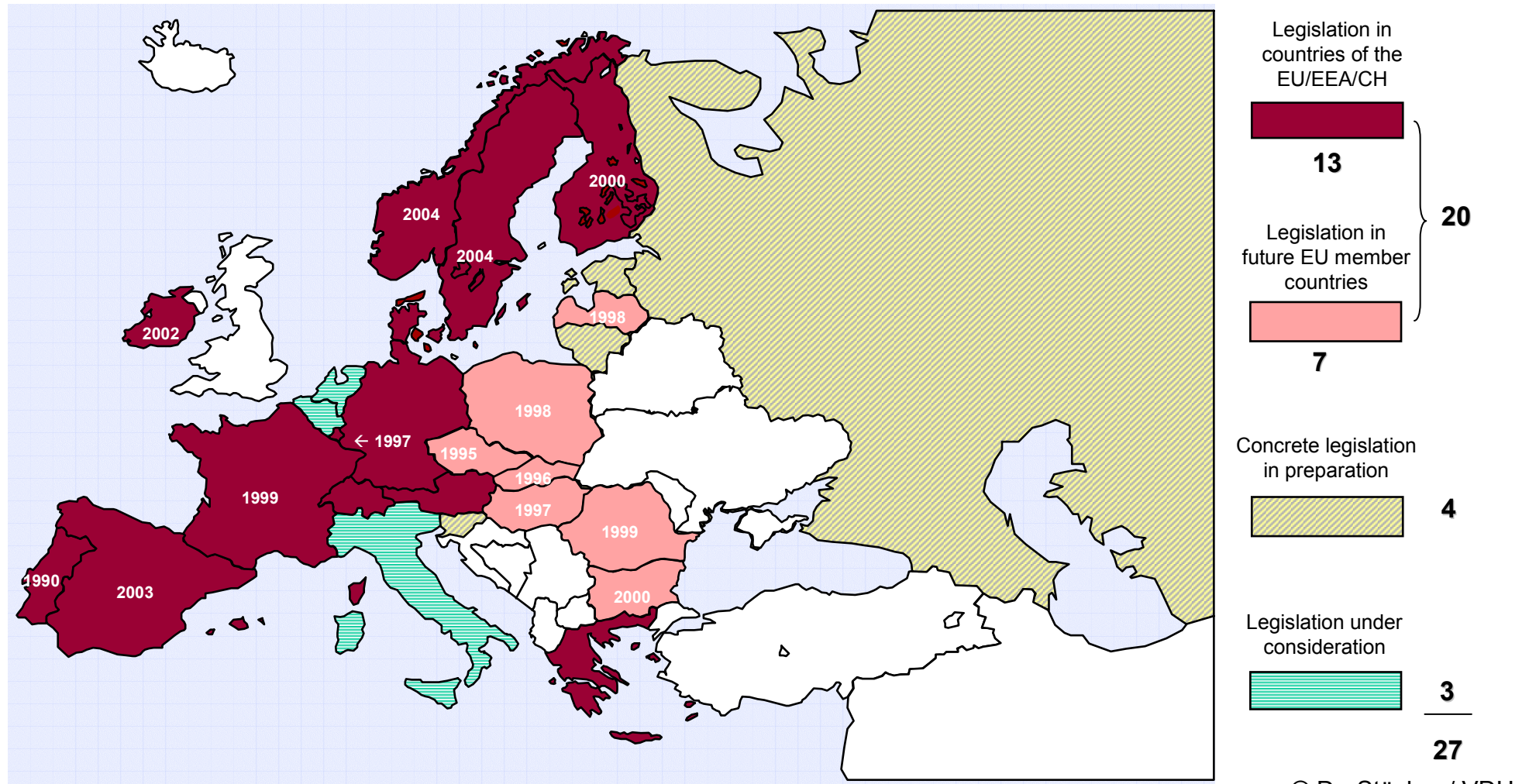


## Geographical Overview Covered Bond Legislation in Europe (as of 1989)

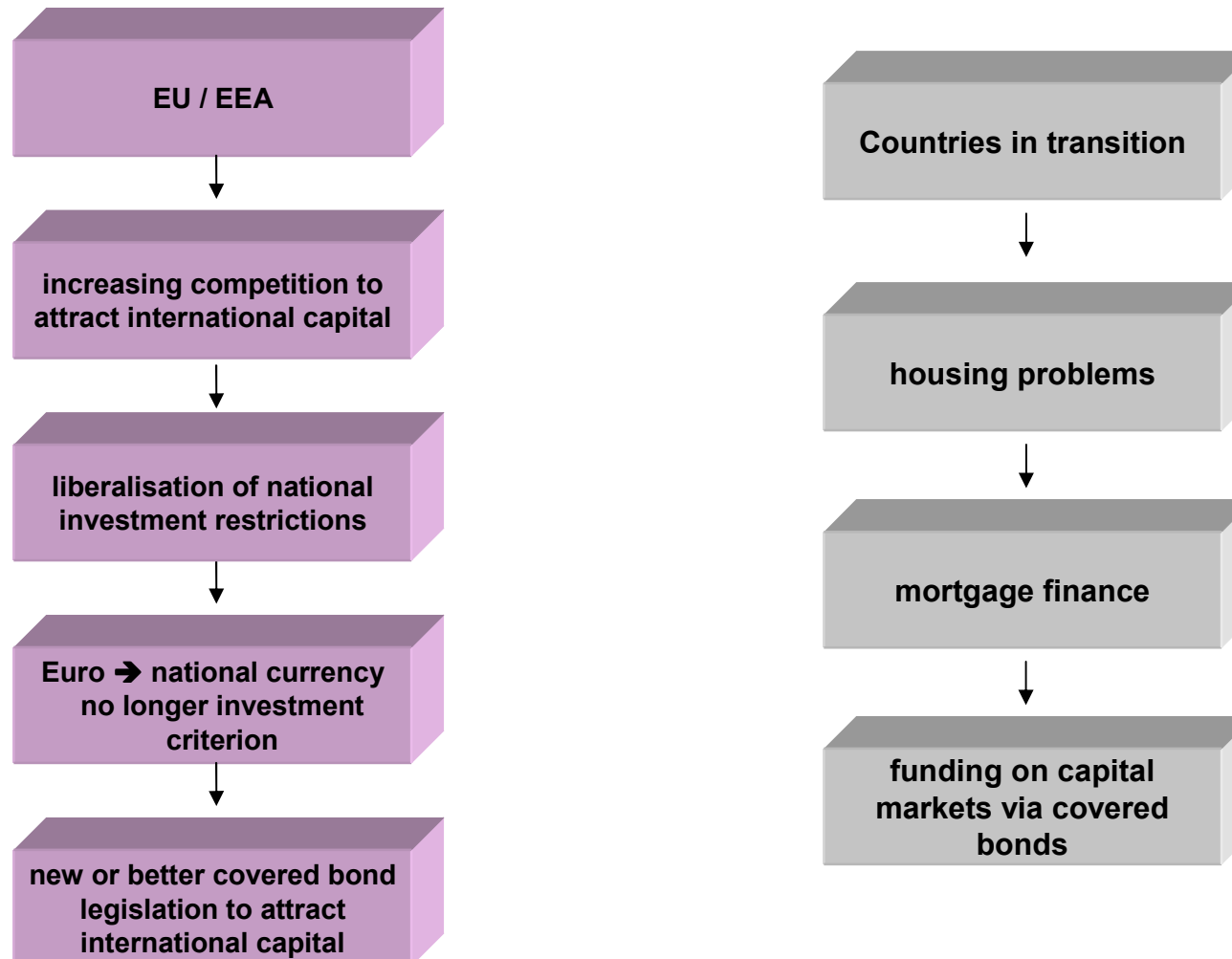




## Geographical Overview Covered Bond Legislation in Europe (as of October 2003)

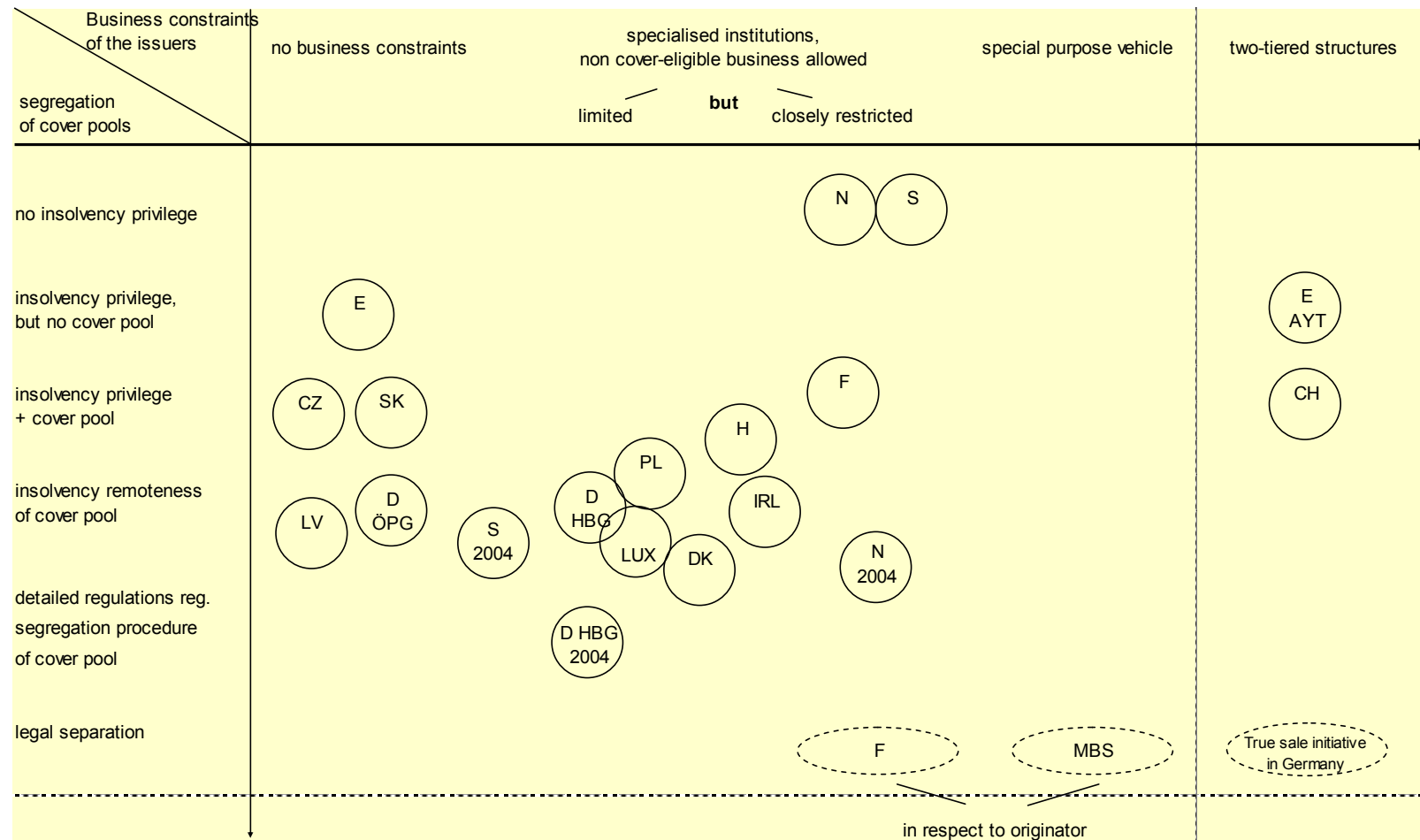


## Reasons for Renaissance of Covered Bonds



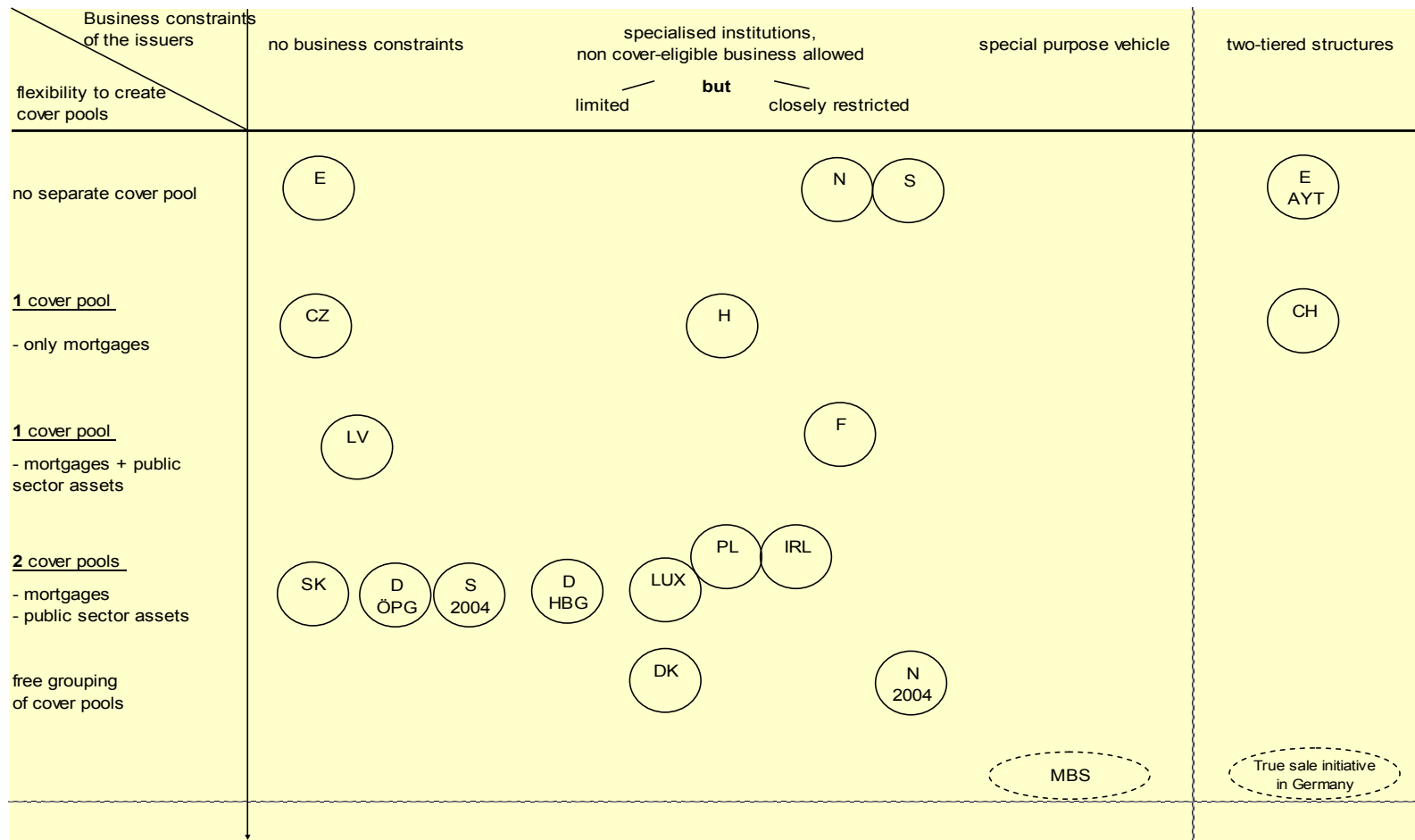
## Important Differences of Covered Bond Regulations

- specialisation of the issuer and segregation of the cover pool from the issuer -

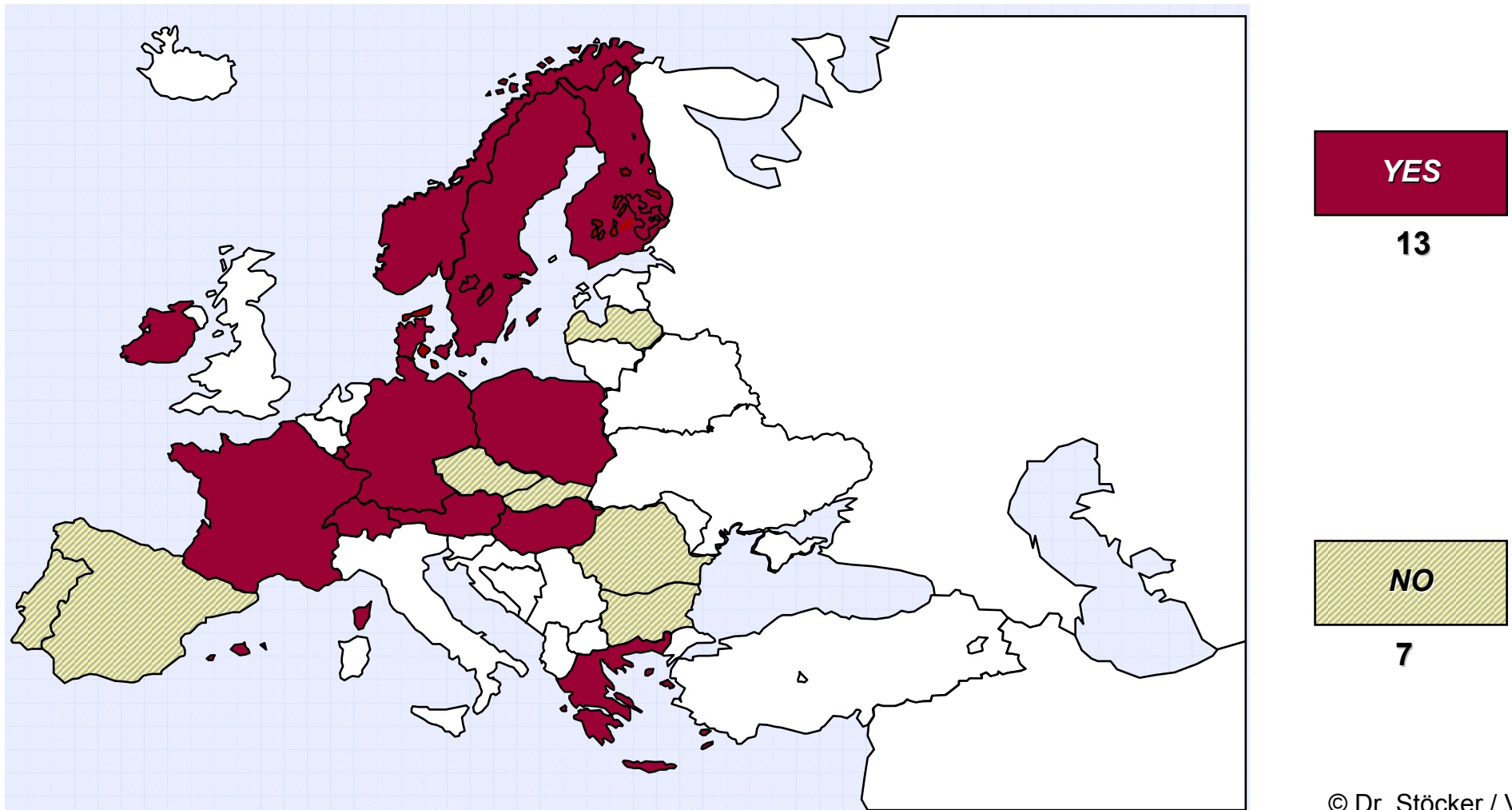


## Important Differences of Covered Bond Regulations

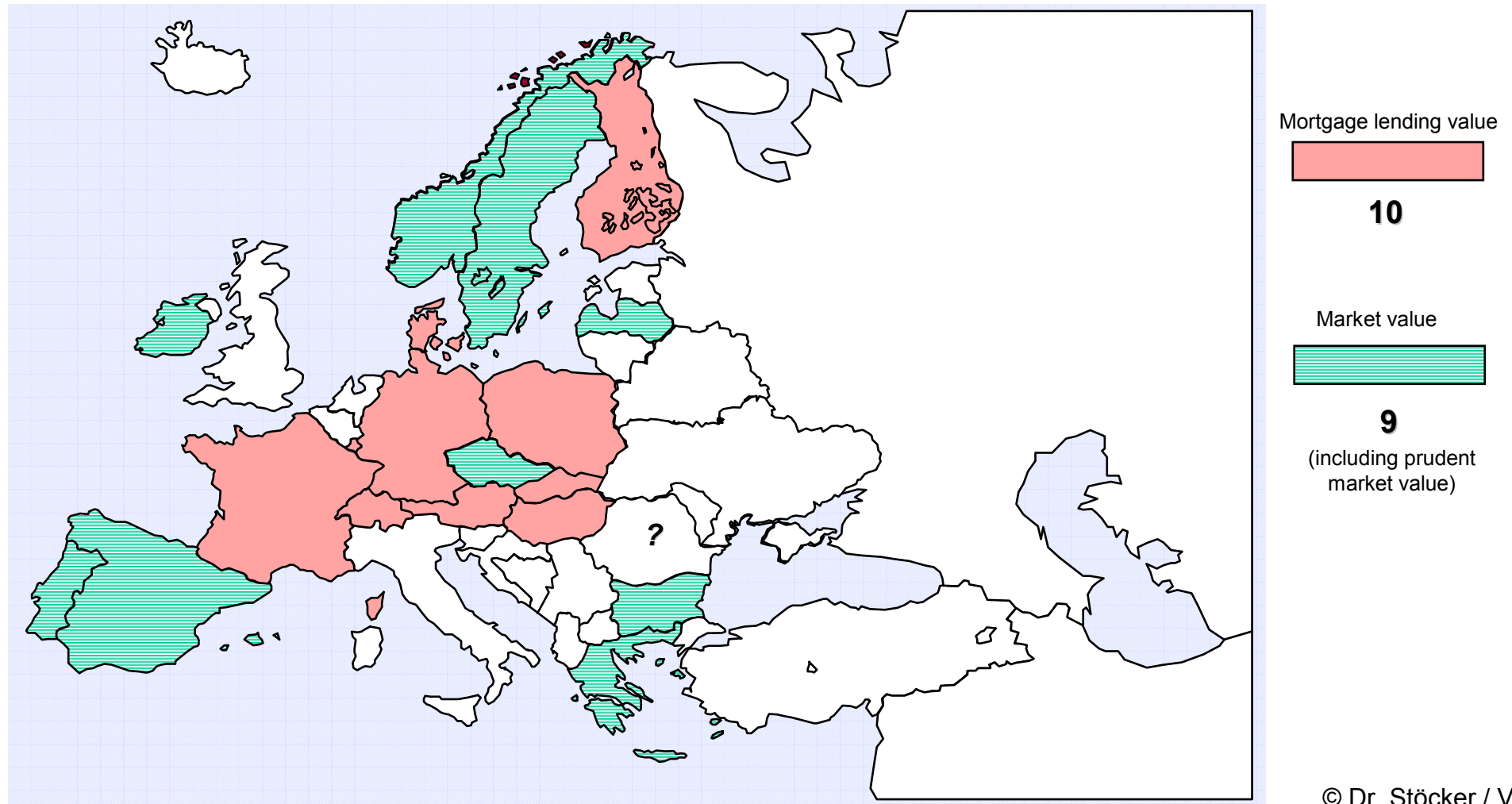
- specialisation of the issuer and flexibility to create cover pools -



## Important Differences of Covered Bond Regulations - specialist bank principle -

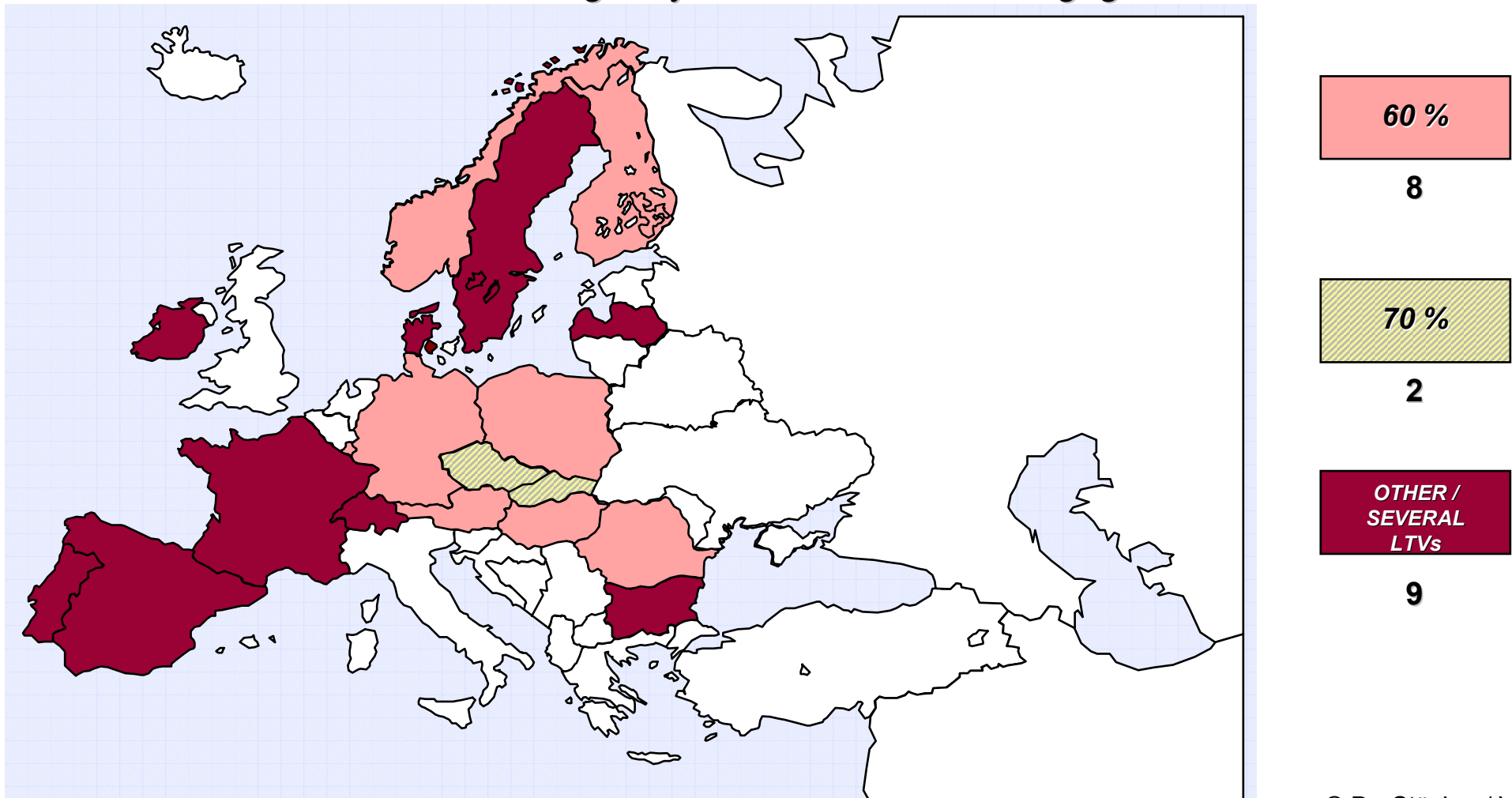


## Important Differences of Covered Bond Regulations - valuation as basis of eligibility criteria for cover mortgages -



## Important Differences of Covered Bond Regulations

- loan to value ratio as basis of eligibility criteria for cover mortgages -





## Challenges to Modern Covered Bond Legislations

**Detailed regulations and transparency required by analysts and rating agencies, especially regarding:**

- **segregation of cover pool in case of insolvency of the issuer**
- **derivatives in cover pool = complicated issue because of netting**
- **Asset Liability Management – separated regulations for the issuer and for the cover pool (interest rate risk limitations)**
- **liquidity issues, net present value calculations**
- **overcollateralisation and its insolvency-remoteness**





## Comparison of Covered Bond Legislation in Europe (6.10.2003)

(1)

	Denmark	Germany	Greece	Switzerland	Austria	Spain	Portugal
<b>Entered into force</b>	1850 / 1989	1.1.1900	1924	01.02.1931	01.01.1939	05.05.1981	16.04.1990
<b>Specialist bank principle</b>	yes	yes	yes	yes (central issuing entities)	yes	no	no
<b>Term protected by law</b>	yes (reakredit-obligation)	yes (Pfandbrief)	unclear (Katharevousa-Text: κτηματικά ομολογιαί – Transkribiert: klimatike omologije Translit.: ktematikai omologiai Dandiki.: κτηματικές ομολογιές Transkr.: klimatikes omologies Translit: ktematikes omologies)	yes (Pfandbrief, lettre de gage, obbligazione fondiaria)	yes (Pfandbrief)	yes (cédulas hipotecarias)	unclear (obrigações hipotecárias)
<b>Refinanceable through mortgage bonds</b>	mortgage and public sector loans	mortgage and public sector loans	mortgage loans	mortgage loans	mortgage and public sector loans	mortgage and public sector loans	mortgage loans
<b>Cover register</b>	no	yes	yes	yes	yes	no	yes
<b>Legally anchored preferential right in bankruptcy</b>	yes	yes	yes (but uncertain)	yes	yes	yes	yes
<b>Valuation regulations</b>	yes	yes	yes	yes	yes	yes	yes
<b>(Relative) lending limit for funding through mortgage bonds</b>	40/60/70/80/84 % of mortgage lending value	60 % of mortgage lending value	75 % of market value	2/3 of mortgage lending value	60 % of mortgage lending value	70/80 % of market value	80 % of market value
<b>Absolute lending limit</b>	yes	basically no (100 % of market value)	75 % of market value	no	no	no	no
<b>Limit for lending beyond the cover (volume above the relative lending limit)</b>	not permitted	20 %	not permitted	no	no	no	no
<b>Trustee</b>	no	yes	no	no	yes	no	no
<b>Substitute collateral</b>	no	yes	no	yes	yes	no	yes
<b>Limit for substitute collateral</b>	no	10 %	no	no	no	no	no
<b>Public-sector bond</b>	no	yes	no	no	yes	yes (but not used)	no
<b>Special ranking of cover mortgages</b>	yes	no	no	no	no	yes	no
<b>Special public supervision</b>	yes	yes	yes	yes	yes	yes	yes
<b>Art. 22 (4) UCITS directive fulfilled</b>	yes	yes	yes (but uncertain)	yes	yes	yes	yes



## Comparison of Covered Bond Legislation in Europe (6.10.2003)

(2)

	Sweden	Czech Republic	Slovak Republic	Hungary	Luxembourg	Poland	Latvia
<b>Entered into force</b>	1992	1.7.1995	1.3.1996	7.6.1997	19.12.1997	1.1.1998	29.9.1998
<b>Specialist bank principle</b>	in praxi: yes	limited licences	limited licences	yes	yes	yes	nein
<b>Term protected by law</b>	no (bostads-obligationer)	yes (zástavní list)	yes (záložný list)	yes (jelzáloglevél)	yes (lettre de gage, Pfandbrief, mortgage bond)	yes (list zastawny)	yes ((hipotekārā) ķīlu zīme)
<b>Refinanceable through mortgage bonds</b>	mortgage loans	mortgage loans	mortgage and mortgage secured public sector loans	mortgage loans and, to a limited extent, public sector loans	mortgage and public sector loans	mortgage and public sector loans	mortgage loans, loans guaranteed by the state or municipalities
<b>Cover register</b>	no	„independent declaration“	yes	yes	yes	yes	yes
<b>Legally anchored preferential right in bankruptcy</b>	no	yes	yes	yes	yes	yes	yes
<b>Valuation regulations</b>	yes	no	yes	yes	yes	yes	yes
<b>(Relative) lending limit for funding through mortgage bonds</b>	60 / 75 / 85 % of value of the property	70 % of market value	70 % of mortgage lending value	60 % of mortgage lending value	60 % of mortgage lending value	60 % of mortgage lending value	60 / 75 % of market value
<b>Absolute lending limit</b>	no	no	no	70 % of mortgage lending value	basically no (market value?)	100 % of mortgage lending value	no
<b>Limit for lending beyond the cover (volume above the relative lending limit)</b>	no	no	10 %	no	no	30 %	no
<b>Trustee</b>	no	no	yes	yes	yes	yes	no
<b>Substitute collateral</b>	no	yes	yes	yes	yes	yes	yes
<b>Limit for substitute collateral</b>	no	10 %	10 %	20%	20 %	10%	20 %
<b>Public-sector bond</b>	no	no	yes	no	yes	yes	yes
<b>Special ranking of cover mortgages</b>	no	yes	yes	no	no	yes	no
<b>Special public supervision</b>	no	yes	yes	yes	yes	yes	yes
<b>Art. 22 (4) UCITS directive fulfilled</b>	no	yes	yes	yes	yes	yes	yes



## Comparison of Covered Bond Legislation in Europe (6.10.2003)

(3)

	France	Romania	Finland	Bulgaria	Ireland	Norway
<b>Entered into force</b>	27.07.1999	9.12.1999	1.1.2000	13.10.2000	22.3.2002	probably 2004
<b>Specialist bank principle</b>	yes, but no staff permitted	unclear	yes	no	yes	yes („kreditforetak“)
<b>Term protected by law</b>	yes (obligation foncière)	unclear (obligațiunile ipotecare)	yes (kiinteistövuokudellinen joukkovelkakirjeslaina, julkisyhteisöva-kuudellinen joukkovelkakirjeslaina)	yes (ипотечна облигация ипотечна obligaciya)	yes (mortgage credit covered security, public credit covered security)	no (obligasjonslån med porteføljepant obligasjonslån sikret ved pant)
<b>Refinanceable through mortgage bonds</b>	mortgage and public sector loans and loans guaranteed by banks or insurances	mortgage loans	mortgage and public sector loans	mortgage loans	mortgage and public sector loans	mortgage loans and public sector loans
<b>Cover register</b>	no	no	yes	yes	yes	yes
<b>Legally anchored preferential right in bankruptcy</b>	yes	no	yes	yes	yes	yes
<b>Valuation regulations</b>	yes	no	yes	yes	yes	yes Regulations made by the supervision
<b>(Relative) lending limit for funding through mortgage bonds</b>	60 / 80 / 100 % of mortgage lending value / market value	60 % of value of portfolio	60 % of mortgage lending value	60 / 80 % of market value	60 / 75 % of the prudent market value	60 % of market value
<b>Absolute lending limit</b>	60 / 80 / 100 % of mortgage lending value / market value	no	basically no (market value?)	no	yes (80 % of the prudent market value)	60 % of market value
<b>Limit for lending beyond the cover (volume above the relative lending limit)</b>	no	unlimited	1/6	no	yes (10 %)	not permitted
<b>Trustee</b>	yes	no	no	basically no	yes	yes
<b>Substitute collateral</b>	yes	no	limited in time	yes	yes	yes
<b>Limit for substitute collateral</b>	20 %	no	no	30 %	20 %	proposal: 30 % Regulations made by the supervision (substitute collateral and derivatives)
<b>Public-sector bond</b>	yes	no	yes	no	yes	yes
<b>Special ranking of cover mortgages</b>	no	no	no	no	no	no
<b>Special public supervision</b>	yes	no	yes	unclear	yes	yes
<b>Art. 22 (4) UCITS directive fulfilled</b>	yes	no	yes	unclear	yes	yes



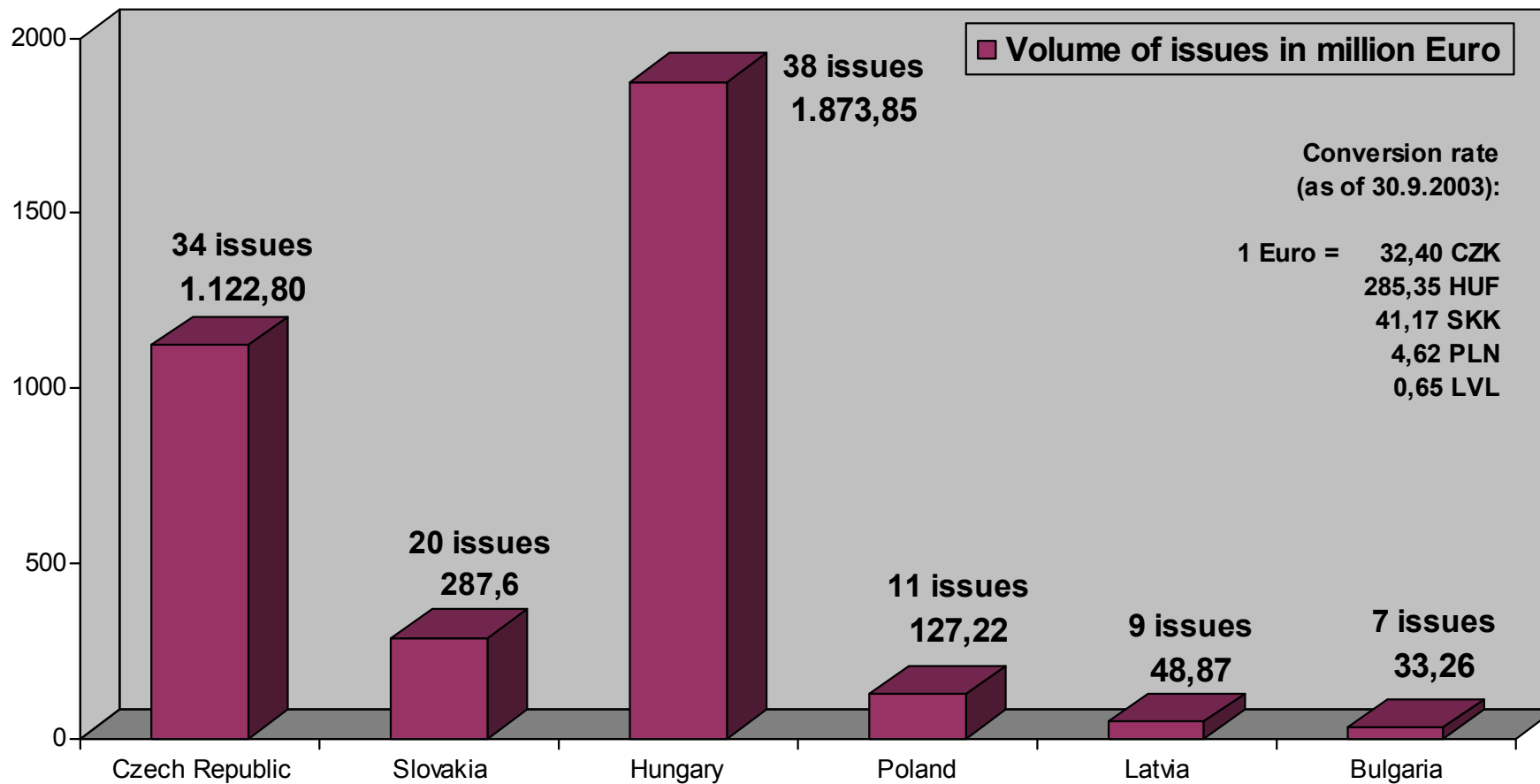
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Number of licences for mortgage banks / bonds issuers  
in EU-accession countries (as of 4/2003)

➤	Czech Republic	9
➤	Slovakia	5
➤	Poland	4
➤	Hungary	3
➤	Latvia	1



Covered bonds outstanding in central Europe since 1996:  
Czech Republic, Slovakia, Hungary, Poland, Latvia, Bulgaria (as of 30.9.2003)





## Reasons for Differences

- **Strategies of top management of banking groups regarding role of mortgage banks – cooperation models**
- **Transferability (assignment) of mortgages: transfer from retail banks to mortgage banks**
- **Access to finance all kinds of housing (including cooperative housing)**
- **Allowance to finance construction period**
- **Rapidness of registration**
- **Intensity of banking supervision – more severe, less business**
- **Valuation criteria – differences between commercial banks and mortgage banks**
- **Role of mortgage banks in subsidizing of housing**
- **Tax exemption of interests on covered bonds**
- **Commercial banks' awareness of interest rate risks and liquidity risks**



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