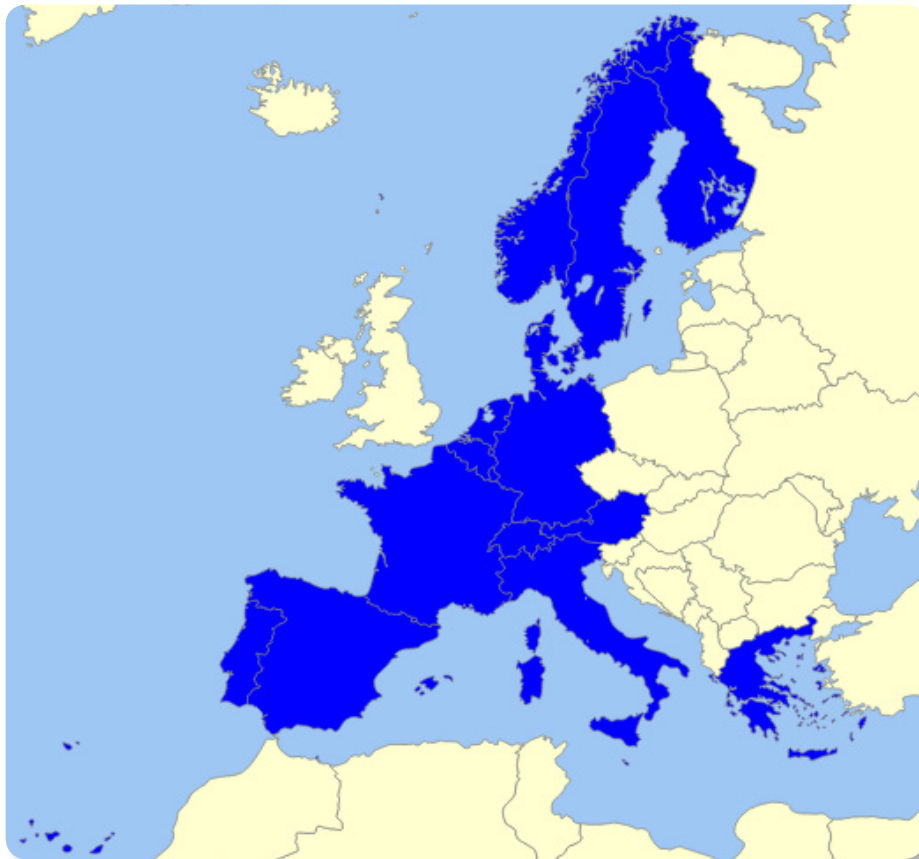




PROPERTY INSURANCE INITIATIVES

Title Insurance/ Legal Indemnities

in
Western Europe



a creative and dynamic approach to risk solutions...



What is Title Insurance/Legal Indemnities?

Legal Indemnity insurance, also known as Title insurance, is a form of general insurance which protects against loss from legal defects. These are typically discovered during a transaction or remortgage by the solicitors involved in the deal.

Why Use Title Insurance/Legal Indemnities?

- Surety of ownership
- Cover for known & unknown title defects
- Replace seller's title reps and warranties
- Transfer contingent liabilities to the Insurer
- Streamlined acquisition and disposal process
- Unlimited legal defence costs

There are many reasons to put a policy in place. The main reason is that it removes the risk from the transaction, allowing for the smooth sale / purchase of the land. Often these risks can be resolved legally, but this process can be time consuming and could turn a potential issue into a very real one.

Some common reasons for insurance being put in place are:

- Protects against the risk itself
- Speeds up the transaction
- Helps satisfy lender requirements
- Protects investments
- Allows for the sale of the land at a greater price
- Enables the seller to exit cleanly without any ongoing obligations

What does it Cost?

Premiums are related to the level of cover required and the risk exposure. They are a one off payment and can range from 0.2% to 2% of the value of the transaction, depending on the size, complexity and risk of the deal.

Common Risks

- Restitution Claims
- Missing Title Documentation
- Third Party Rights
- Corporate Defects
- Breach of Legislative Requirements
- Planning Risks
- Breach of Pre-emption Rights
- Registration Gap
- Faulty Public Tender Process
- Illegal Privatisation Procedure

Country Specific Risks

Italy - Donation

In Italy, a share of a deceased person's estate is 'ring-fenced' for the surviving spouse and children. If a relative is disinherited they can challenge any gifts of property made by the deceased. If the ring-fenced share is inadequate, gifts can be clawed back free of any mortgage placed on them. This can affect the ability to sell the property as buyers worry the property may revert to the estate

Insurance allows mortgages to be placed on gifted properties as the mortgage is protected by the policy. Buyers know they will be compensated in the event the property is returned to the estate and as well as covering ancillary legal costs.

France - Challenges to Building Permits

Building permits are compulsory authorisations for new constructions or extensions where the surface area in question is over twenty square metres. The consequences of failure to obtain a building permit or to comply with standards are extremely serious and can lead to the demolition of the building. Problems can arise when a building permit is absent or lost, or when the details are unknown. Approaching the authorities could lead to the building being pulled down.

Insurance can be obtained to protect the insured should the authorities or a 3rd party challenge the validity of the permit. The policy will also pay out any fines or loss in value to the land.

Germany – Voidable Leases

Over 50% of all German commercial leases breach the requirements of the German Civil Code. As a result, the tenant can prematurely terminate the lease. This could mean a property is worth substantially less than the purchase price. Landlords will often attempt to remedy the issue by approaching the tenant, who is often unaware that the lease is voidable. This could cause the tenant to seek a reduction in rent or a payment in order to not void the lease.

An insurance policy protects against the loss in rental value to the property should the tenant take advantage of the fact the lease is voidable. This prevents the landlord from having to enter potentially costly negotiations with the tenant.

Netherlands – Overhanging Canals

Many properties in the Netherlands do not have the correct legal right to overhang the canal. This is a particular problem in Amsterdam where many properties have poor records or simply never obtained the correct permits. This can be challenged by the authorities or third parties, which may result in the demolition of the overhanging area or costly court fees to obtain the correct permits.

Insurance will protect the owner from any loss and pay the difference in the value of the property should it or part of it be demolished along with all legal and construction/demolition costs.

If you would like to know more about
Title Insurance / Legal Indemnity
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