

# **The Main Challenges in the Management of Joint Property Units in Waters in Finland**

**Teemu ULVI and Milla MÄENPÄÄ, Finland**

**Key words:** Jointly-owned Waters, Joint Property Unit, Joint Property Management Association, Cadastre, Water Resources Management

## **SUMMARY**

The jointly-owned water areas are a unique form of property ownership in the Finnish cadastral system. There are about 20,000 joint property units in water areas in the cadastre. The owners of participating property units form a joint property management association. The interest holders together have the power of decision over all matters concerning the unit.

There are many challenges in the operations of the joint property management associations. Many associations are not organised at all and do not have any operations. They may also have ceased in the course of time. The associations operate on a voluntary basis, but it is often difficult to tempt interest holders to participate in the association's administration and operations. The average age of active interest holders is also very high. Not all interest holders have equal opportunities for participation, especially those living far away as most associations do not use any modern tools in their communication or in meeting arrangements. In addition, the property division is very fragmented in many water areas, hindering the possibilities to use water resources efficiently and reasonably.

The organisation of fishing and the management of fish resources are usually the main forms of operation in associations. However, due to changing values and interests, an increasing number of interest holders are no longer interested in recreational fishing, and are prioritising environmental values. Thus they are less interested in participating in the operations of associations focusing only on fishing.

It is essential to secure the operational prerequisites of the joint property management associations as they have an important role in the decision-making of the management of water and fish resources. The operational prerequisites of the associations should be enhanced, otherwise the possibilities for exploitation of water resources for economic purposes and recreational use may be hindered in Finland.

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## **1. INTRODUCTION**

Finland has vast water resources. There are about 8,7 million hectares of water areas in total in the Finnish cadastre system. About 40% of them are inland waters. Water covers about 22% of the total area of Finland including territorial sea areas. (Maanmittauslaitos, 2017)

The jointly-owned water areas are a unique form of property ownership in the Finnish cadastral system. There are about 20,000 joint property units in water areas in the cadastre (Vilksa, 2006). The owners of participating property units form a joint property management association. The interest holders together have the power of decision over all matters concerning the unit.

There are many challenges in the operations of the joint property management associations. Many associations have never become organised and are not operational at all. It is also difficult to tempt interest holders to participate in the decision-making and the administration of the volunteer-based associations. In addition, the average age of active interest holders is very high, and they consist almost completely of men. Not all interest holders have equal opportunities for participation in decision-making, especially those living far away as associations use hardly any modern communication tools and thus access to information is limited. The associations are also the holders of fishing rights in their own water areas, so their main focus is traditionally on the organisation of fishing and the management of fish resources. Thus, interest holders having no interest in recreational fishing are less interested in participating in the operations of associations whose activities are focused only on fishing. In addition, in some waters property division is very fragmented with several property owners even in a small lake or a short river stretch. In such cases, the use and unified management of waters can be very difficult. (Ulvi 2015; Mäenpää 2016)

The challenges described above may hinder the possibilities for cost-effective river basin management and exploitation of the water resources for economic purposes and recreational use in Finland. It is essential to secure the operational prerequisites of the joint property management associations as they have an important role in the decision-making of the management of water and fish resources as the owners of the joint water areas. There is therefore a need for measures to support the operations of the joint property management associations. Many challenges could be tackled by more effective communication with shareholders and associations of the management of joint property units, but there are also some needs for amendment of legislation.

## **2. OWNERSHIP AND ADMINISTRATION OF WATERS IN FINLAND**

### **2.1 Real property units in water areas**

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The real property units in water areas are divided into three types in the cadastre. Public water areas are located in open waters, both in the territorial sea and in the biggest lakes. They are owned by the state. (Act on Right to Public Waters, 1966)

Private water areas belong to property units that can be owned by private citizens, companies, corporations or public bodies, such as the state or municipalities. They can be separate real property units consisting of only water areas or parts of property units containing both land and water areas. (Vilksa, 2006)

The remaining water areas belong to joint property units. There are about 20,000 such units in water areas in the cadastre. Since the first land division processes in the 1750s, fishing waters have typically been left undivided for the joint use of villages. Later, many jointly-owned waters were divided into smaller joint units or into private water areas between the interest holders. Still the jointly-owned waters form the biggest group of all water areas covering almost 4 million hectares, i.e. about 45% of Finnish surface waters (Fig. 1).

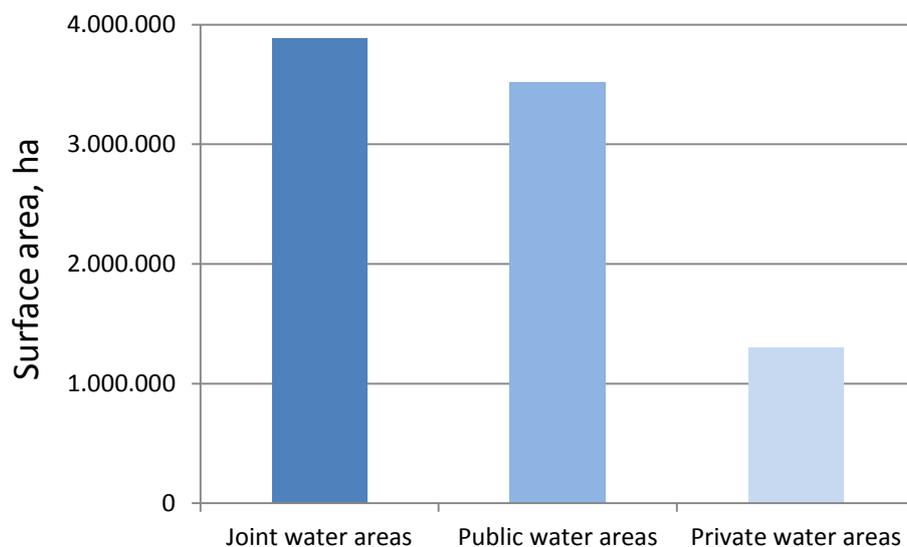


Fig. 1. The total surface areas of joint, public and private water areas in the Finnish cadastre system

## 2.2 Regulation of the use and decision-making of jointly-owned water areas

The main acts regulating the administration and use of the joint property units in water areas are the Act on Jointly Owned Areas (Yhteisaluelaki 758/1989), the Fishing Act (Kalastuslaki 379/2015) and the Water Act (Vesilaki 587/2011).

The Act on Jointly Owned Areas stipulates that the owners of participating property units form a joint property management association. The act lays down provisions concerning the use of joint property units and the decision-making of the associations. The meeting of interest holders has the power of decision in the joint property unit. There are precise rules on how the meeting must be convened and organised and how the issues must be settled by a vote if a decision is not unanimous. In general, the interest holders are entitled to vote according to their ownership share. The

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association can become organised by approving the rules for its operations. By the rules, the association can define the principles of its operations and course of actions.

The Fishing Act strongly steers the operations of the joint property management associations as, under the law, the right to fish and rule on fishing belong to the owner of the water area. Therefore, the operations of the associations are traditionally linked to the organisation fishing and the management of fish resources. The interest holders have the right to fish as decided by the association.

The Water Act sets some restrictions to the rights of the owner of the water area. In Finland, no-one owns the water as a substance in a natural surface water area. However, the Water Act states that surface water is administered by the party to whom the water area belongs, unless otherwise provided by the right of another party. In addition, regardless of the ownership of the water area, the act guarantees some special rights to everyone if no unnecessary damage, harm or disturbance is inflicted. Under the act, everyone has the right to move in a water body and on its ice-covered surface, and to abstract water or take ice from a water body for personal need. In addition, the possessor of a shore has the right to place an anchor post or to build a jetty or other comparable structure that extends into the water area. Furthermore, anyone who suffers from sludge, shallow water or a similar nuisance may take steps to remove the nuisance in order to improve the state and possibilities of use of the water body, if the measure does not require a permit from the authorities.

### **3. THE MAIN CHALLENGES IN THE ADMINISTRATION AND MANAGEMENT OF JOINTLY-OWNED WATERS**

#### **3.1 External drivers for change**

Recent societal development is putting pressure on the regeneration of operations and cooperation in the joint property management associations. Values and forms of use of waters in particular are changing. In many areas, tourism and recreational use are a significant part of the local economy. Almost half the Finnish population visits holiday homes on a regular basis. The number of summer cottages has doubled since the 1980s and the time that Finns spend there per year is longer than ever. Overall recreational use of waters has grown significantly.

The operations of associations have traditionally been focused on fishing. There is a need to expand the aims of operation from merely fishing to the maintenance and improvement of the status of water. As the main driving force, the EU Water Framework Directive demands a more comprehensive approach to river basin management including handling pressures like nutrient loading.

Policy goals aiming to increase consumption of domestic fish are adding to the pressure on finding new water areas for sustainable commercial fishing. On the other hand, recreational fishing has declined. With recent changes in fishing legislation, water owners would benefit from actively asserting their rights.

#### **3.2 Administrative challenges**

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If it functioned well, the Finnish system of voluntary-based joint property management associations could support sustainable economic growth and efficient river basin management. In practice, there are many practical challenges related to organisation of the administration of associations.

It should be easier to reach representatives of an association than all relevant individual interest holders. However, the associations register and update their changing contact information for authorities randomly. In addition, it is estimated that less than half of all associations have been organised. Due to missing registers, the exact number of organised and unorganised associations is not known. Often, the associations do not have comprehensive and up-to-date contact information for its interest holders, as it is not freely available but is subject to charge. In bigger associations, there can be hundreds of or even thousands of interest holders.

The law does not require that invitations to meetings have to be sent to all interest holders personally, but an invitation published in a local newspaper is not enough to reach all interest holders. As most associations do not use any electronic information channels, for example websites, particularly those living far away have more limited opportunities to receive information about the association's operations.

The associations can also operate unorganised, but it is difficult without rules. For example, the Act on Jointly Owned Areas requires that the all decisions in unorganised associations must be made unanimously by all interest holders. This means that only very small associations with only few interest holders can operate unorganised. Probably most unorganised associations have never had any activities. However, organisation does not guarantee that an association is operational as it may have ceased to be over in the course of time. Neither can a poorly organised association effectively supervise the interests of its property and interest holders. Such associations are probably not able to react quickly enough to matters concerning their interests.

### **3.3 Decreasing participation and activity**

One of the main challenges in the joint property management associations is how their ability to function in future can be ensured. An association depends on the activity of its partners. Interest in associations has declined and active partners are getting older. Most associations have no activity at all. An inoperative association is a barrier to the sufficient management of waters. An association has more power to supervise its interests than individual partners. In the worst case, an inoperative association can hinder sustainable development and restoration of the river basin and whole area.

### **3.4 Fragmented property division**

In some water areas, the division of properties is very fragmented making their use less tempting for interest holders (Fig. 2). In general, both the number of joint property units in water areas and the proportion of small joint property units are very high in Finland. However, there is a great variety among the joint property units in water areas. Their average area is 195 ha, but 44% of them are smaller than 10 ha and 70% smaller than 50 ha. Only 4% of units are bigger than 1,000 ha (Fig. 3). The number of participating property units in joint areas also varies significantly (Fig. 4). The

smaller the unit is, the more difficult it is to find volunteers among interest holders to take care of the water area.

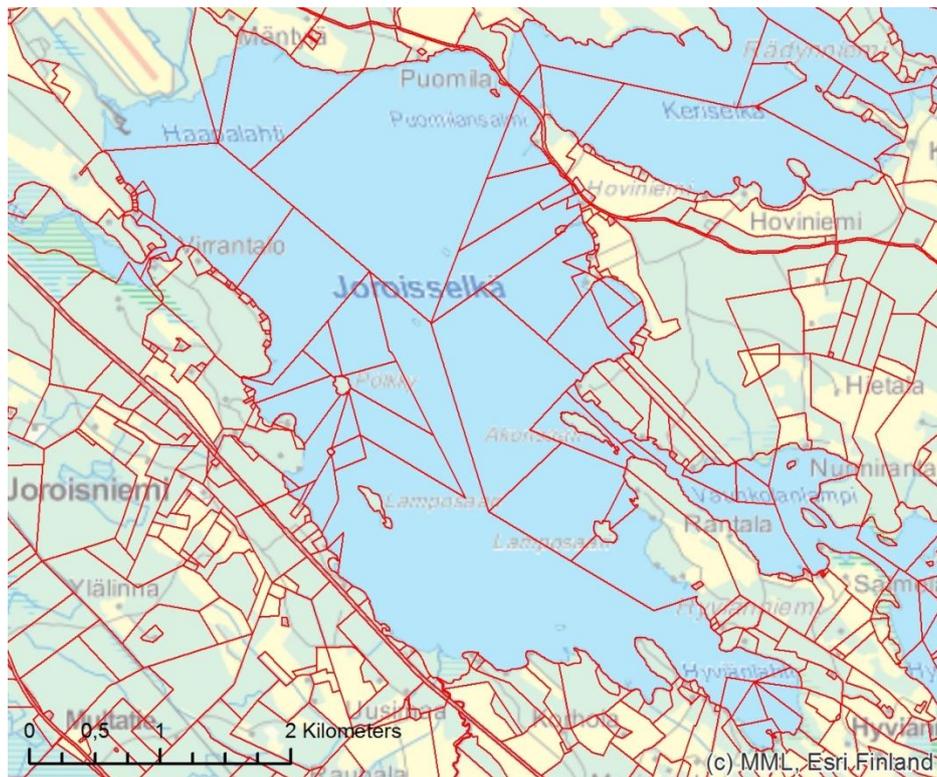


Fig. 2. Example of a fragmented property division in a small lake

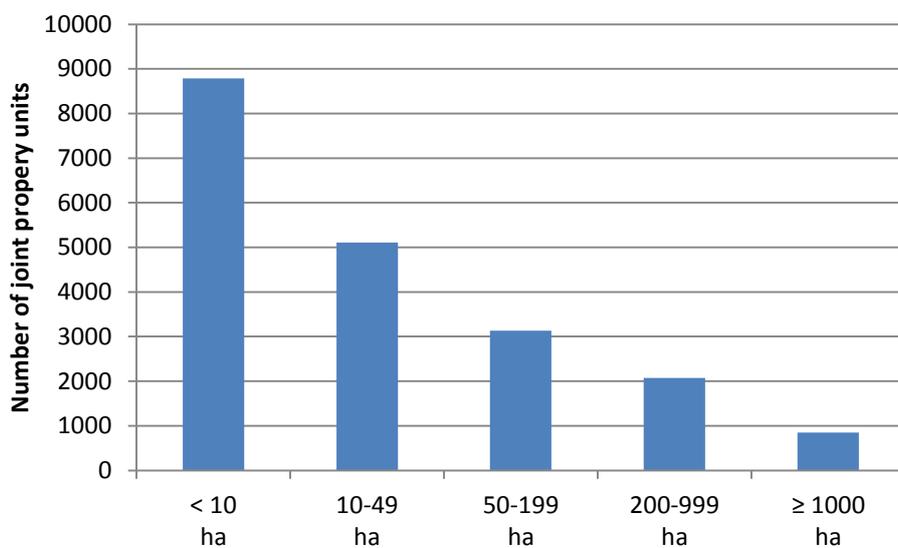


Fig. 3. The surface areas of the joint property units in water areas in the Finnish cadastre system

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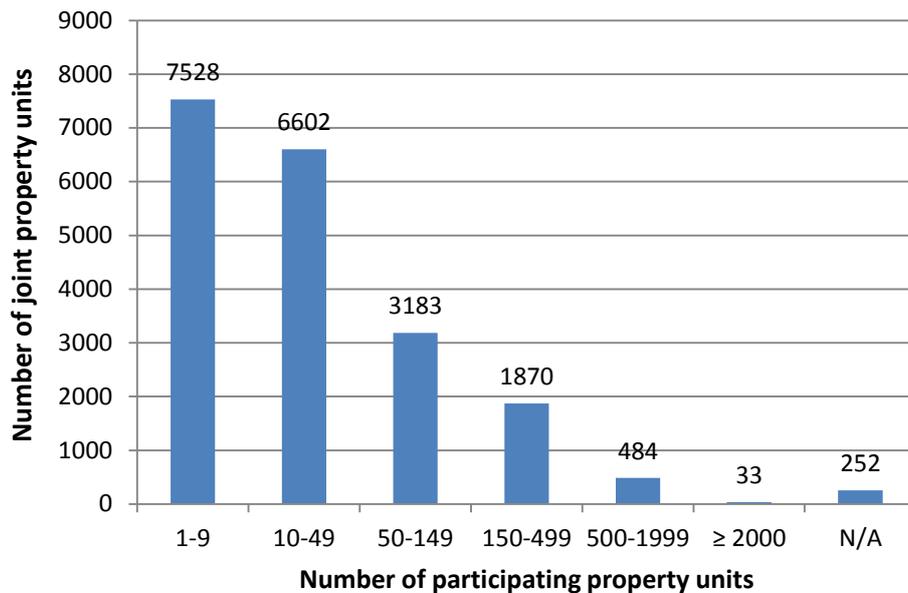


Fig. 4. The number of participating property units in jointly-owned water areas in the Finnish cadastre system

The Real Estate Formation Act (Kiinteistönmuodostamislaki 554/1995) allows joint property units to be joined together to form a new unit. The joining is a cadastral procedure, which can be applied to the cadastral authority based on the agreement of the units to be joined together. The interest holders' shares of the new unit remain the same in joining. Private areas can also be joined to joint units. The procedure is subject to a charge. Dozens of procedures are carried out yearly.

#### 4. DISCUSSION

There is a great need to enhance the administration and management of the joint water property units, as a well-functioning Finnish system of joint ownership could be ideal for efficient river basin management. The system forces and encourages local landowners to work together to gain the benefits of the good water quality and fish stocks. The joint property management association provides an already-existing organ for the organisation of and participation in local activities and gives a solid base for continuing and stable operations. It can also act as a legal entity and focal point. At the same time, the interest holders often benefit the most from good management of waters as users and property owners.

The benefits for active, well-functioning and suitably-sized associations are evident. There is a need to communicate this to the associations and the most relevant interest holders, in organised cooperation with authorities and interest groups that have a role in water management. At the same time, new tools and means to help associations in their operations need to be developed and unnecessary barriers need to be removed.

New active members, especially younger people, can be reached if activities are aimed at their wishes and values. This needs a change in the focus of activities from fishing to the more comprehensive management of the water areas. New digital-aided administration is also both necessary and relatively easy to put into operation. However, some changes may be needed in current legislation to make it more flexible for the application of modern communication tools.

Building the capacity of interest holders of joint water areas to manage and protect their waters is a key issue. Communication of the benefits is essential in making them aware of the possibilities of active associations and in changing their attitudes towards the joint management of waters.

If the current property division does not offer good possibilities for the reasonable use of water and efficient water management, the joining of joint property units can be one solution. The consolidation of property division could offer many benefits. In such cases, neighbouring property units should be encouraged to join together. However, this possibility is not well-known among the associations. In addition, fear of the high costs of the cadastral procedure is common although seldom relevant. Also here, the possibility of the joining process and its benefits should be better communicated through the cooperation of administration and other actors at national, regional and local levels.

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## BIOGRAPHICAL NOTES

Teemu Ulvi has an M.Sc. in Civil Engineering and a B.Sc. in Land Surveying. Milla Mäenpää has an M.Sc in Land Surveying. They both work at the Freshwater Centre of the Finnish Environment Institute SYKE. Their main tasks are related to water resource management and implementation of the EU Water Framework Directive.

## CONTACTS

M.Sc. (Eng.) Teemu Ulvi  
Finnish Environment Institute SYKE  
P.O. Box 413  
90014 Oulu  
FINLAND  
Tel. +358 40 571 7858  
Email: [teemu.ulvi@ymparisto.fi](mailto:teemu.ulvi@ymparisto.fi)  
Web site: [www.syke.fi](http://www.syke.fi)

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