



Balcony infiltrations, why don't they often concern the condominium?

Overhanging and recessed balcony, liability, damage and compensation.

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It is known that the problem inherent in the issue of **infiltrations** in condominiums can affect both the common and private parts, which is why the *dispute* in the courtrooms can only be resolved after scrupulous and careful investigation of the causes of this phenomenon in order to identify the person who is responsible for it and, consequently, is bound by the obligation to restore and **compensate** for any damage.

In this regard, it is evident that, with regard to the **percolations** coming from the clearly common parts, the list of which, albeit by way of example, is identified in **art. 1117 of the Civil Code** the question may be more easily resolved. Let's think about the roof or the flat roof.

Otherwise, those infiltrations that relate to leaks deriving from broken **pipes** or gaskets are more insidious in the resolution, for which it will be necessary to perform a test to verify their nature, whether of condominium or private origin.

Coming to the subject in question, where there are **balconies** in a building, to identify and know the subject who, in the hypothesis of infiltrations coming from them, is required to intervene with maintenance works and, therefore, to assume the relative expense as well as respond of the damage caused, it is appropriate to keep in mind the distinction that exists in relation to the different typology of the same.

The balconies can be " **projecting** " or " **recessed** ", as better described below.

In any case, it will be seen how, in concrete terms, in both hypotheses, these are situations that involve, for the most part, the responsibility and, therefore, the burden of remedying them, of the individual owners and not of the condominium.

Overhanging and recessed balcony

As a preliminary point, it seems appropriate to remember that by " **projecting** " balcony we mean that which, by its very structural conformation, protrudes from the perimeter walls of the building and, more properly, extends beyond the facade.

In this hypothesis, the balcony represents a real **extension** of the building where it is located, constituting, in fact, an extension.

For this reason it is the exclusive property of the owner of the **unit** accessed.

Nevertheless, in order to be able to give an exhaustive framework, it is useful to specify that **not all the elements that make up** and denote this type of balcony can be traced back exclusively to private property.

Certainly, it is undoubted and indisputable that the **interventions** that include the **flooring** and waterproofing must be considered the responsibility of the owner, while otherwise those relating to the front panels or, in any case, to elements of a so to speak decorative character that becomes a distinctive sign, under a architectural profile, loom over all condominiums in consideration of their importance, denoting the physiognomy of the building from an aesthetic point of view.

With regard to the further typology, we speak of a so-called " **recessed** " balcony when each element of the same is included between the perimeter walls of the building.

In this case, the balcony **does not protrude from the facade of the building** but remains included within it forming a whole with it, so, thanks to the extensive interpretation of the discipline referred to in **art. 1125 of the Civil Code** and consequent application are [...] *the responsibility of the owner of the*

upper floor for the covering of the floor and the responsibility of the owner of the lower floor for the plaster, the paint and the decoration of the ceiling >.

Liability, damages and compensation

Having fulfilled the aforementioned basic premises and made the distinction between projecting and recessed balcony, in relation to the liability deriving from the occurrence of infiltration phenomena, it is necessary to illustrate the following

In the case of an overhanging balcony, if there are infiltrations on the floor below, the burden of eliminating the causes falls solely on the owner of the same, being the sole owner and successor in title.

In confirmation, it is appropriate to recall the orientation of Jurisprudence, according to which < The maintenance and renovation of an overhanging balcony is the exclusive responsibility of the owner of the apartment in which it is located, who must intervene quickly and promptly when 'worsening of the state of conservation or poor maintenance can cause damage to third parties.

Therefore, the owner of the projecting balcony **has to bear the expenses** related to its **maintenance** and renovation.

More precisely, the expenses related to the maintenance and renovation of the floor are due to the owner of the projecting balcony. [...] Similarly, the owner of the projecting balcony is responsible for the costs deriving from poor maintenance of the floor in the event that cracks or cracks have formed that have caused damage from infiltrations and lack of waterproofing, to the owner of the underlying balcony > . Court section III - Catania, 05/11/2019, n. 4380).

Otherwise, in the case of a recessed balcony, as shown above, given the function of supporting the floor in which it is located and covering the one below, the **maintenance costs are** borne by both owners.

This aspect affects, to be exact, the horizontal part of the balcony.

And the vertical part?

Here, considering that due to its own characteristics the recessed balcony is an integral part of the facade of the building, the expenses inherent in the vertical portion, such as the parapet, will be borne by the condominium.

Indeed, on this point the Jurisprudence recognizes that < With regard to the condominium nature or not of the external parts of the balconies and the consequent distribution of the **repair costs** , while for the costs concerning the horizontal part of the bunk balcony reference is made to art. 1125 cc, the vertical part, inserting itself into the façade, is instead considered to be of common property and, therefore, the costs for the maintenance of the same must be divided among all the condominiums according to the thousandths of ownership > (Court Palermo section . II, 08/06/2020, n.1648).

In light of the above arguments, it is consequently logical to state that the infiltrations originating from the balconies rarely involve the condominium, considering that the cause is, in most of the episodes, in the presence of cracks or fissures in the **floor** or in the poor waterproofing for which the intervention aimed at their elimination as well as the restoration of any damage will be up to the individual owners.

Source: <https://www.condominioweb.com/infiltrazioni-balcone-perche-spesso-non-riguardano-il-condominio.18476>

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