

**Land Registration Act of the Republic of Croatia-incomplete txt\***

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*\*Please note that this version does not include the latest changes and amendments to the Criminal Code which were published in Official Gazette no 114/2001 and 100/2004 .*

**LAND REGISTRATION ACT  
(Official Gazette no. 91/1996)**

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**PARLIAMENT OF THE REPUBLIC OF CROATIA  
CHAMBER OF DEPUTIES**

**LAND REGISTRATION ACT**

**Part I. GENERAL PROVISIONS**

Article 1

Land registers shall be kept on the legal status of any real estate within the territory of the Republic of Croatia, including all such circumstances as may be pertinent to legal transactions, unless otherwise expressly provided for any specific land.

Article 2

(1) For the purposes of this Act, land shall mean any portion of the earth's surface which is entered in the cadastre under a specific number and name of the cadastral municipality in which it is located (the cadastral plot).

(2) All that is permanently connected with any land, whether on or underneath its surface, shall, in legal terms, constitute an integral part of such land and, unless otherwise stipulated hereby, share its legal destiny and, accordingly, be subject to all of the provisions hereof applicable to such land.

Article 3

- (1) All proprietary rights to land shall be entered into land registers, as well as any such other right for which such entry is stipulated by this Act.
- (2) All such other circumstances as may be pertinent to legal transactions shall also be entered into land registers, provided that such entry is stipulated therefore by this Act.

#### Article 4

A special legislation shall govern cases where an entry into land registers constitutes a prerequisite to the acquisition, modification, limitation or termination of any right to land.

#### Article 5

- (1) Land registers shall be kept by municipal courts.
- (2) Land registry courts shall be first-instance courts competent for the maintenance of land registers.
- (3) Within each court referred to in Paragraph (2) of this Article 5, land registers shall be kept by a special land registry office.
- (4) All procedures shall be conducted and all tasks shall be performed by the land registrar or any such other land registry officer as may be appointed therefor by the land registrar under supervision of the competent judge, unless otherwise determined by the minister of justice. The land registrar shall be held responsible for the actions of any such land registry officer.
- (5) A special log of land registry submissions shall be kept for the purposes of each land registry office.

#### Article 6

- (1) Land registers shall be kept manually (manually kept land registers) or by way of electronic data processing (land registers kept by way of electronic data processing or EDP land register).
- (2) Land registers kept by way of electronic data processing, together with the cadastre maintained in the same manner, shall constitute a land registry database of the Republic of Croatia (hereinafter: LRDB). The maintenance of such LRDB shall be centralised and encompass the territory of the Republic of Croatia.
- (3) The provisions of this Act shall apply both to manually kept land registers and land registers maintained by way of electronic data processing, unless this Act provides otherwise for the latter.
- (4) The minister of justice shall decide for each court whether it shall keep land registers for individual cadastral municipality manually or by using electronic data processing.

#### Article 7

- (1) Land registers shall be open to the public.
- (2) Any person may request to inspect land registers and all supporting lists in the presence of the land registrar, and obtain registered land certificates or listings and transcripts there from.

#### Article 8

- (1) Land registers, registered land certificates or listings and transcripts there from shall enjoy public trust and have the probatory force of official documents.
- (2) Land registers shall be deemed to give a true and complete view of the factual and legal status of land.
- (3) Any acquirer acting in good faith and with trust in land registers shall enjoy legal protection if he was not aware or, under the given circumstances, had no reasonable grounds to believe that what had been entered therein did not give a complete view of, or was different from, the actual state of affairs. The failure to investigate such actual state of affairs alone shall not constitute sufficient grounds for finding fault with any person for a lack of good faith.
- (4) Any person registering a right in good faith and with trust in the completeness of land registers shall acquire such right unencumbered with any charges that were, at the time when such person requested registration, not entered into such land registers nor was it evident there from that any request had been made for the registration of such charges, unless otherwise stipulated by this Act.

(5) Any person registering a right in good faith and with trust in the truthfulness of land registers shall enjoy the protection of his trust inasmuch as no party shall be able to deny to such person the validity of his acquisition on the grounds of the invalidity of his predecessor's registration following the expiry of the periods within which, under this Act, an action may be instituted with a view to deleting the registration of such predecessor.

#### Article 9

- (1) Land registers shall be based on data collected by way of cadastral survey.
- (2) The provisions hereof pertaining to the cadastre shall, as appropriate, also apply to other cadastres, provided that data therefrom are relevant to land registers.

#### Article 10

- (1) The designation of cadastral plots in land registers shall be identical to that in the cadastre and cadastral maps. In particular, land registers shall specify the numbers of cadastral plots, their surface areas as indicated in the cadastre, as well as buildings and other structures permanently located on or underneath the surface of land (land development level).
- (2) All rulings passed by courts and other authorities as to registrable rights shall contain all such designations of and data on cadastral plots, including their numbers, surface areas and the cadastral municipalities in which such plots are located, as may be indicated in land registers.
- (3) Should data indicated in land registers differ from those specified in the cadastre, the former shall prevail in all matters related to registrable rights, until such data are modified under the provisions of Paragraph (4) of this Article 10.
- (4) Any modification in the number, shape, surface area or land development level of a cadastral plot shall be entered into land registers pursuant to an *ex-officio* ruling passed by the land registry court, after the cadastral authority submits thereto a registration form for such modification made in the cadastre. The land registry court shall, upon the receipt of such registration form, forthwith **indicate in the property register** that a data modification procedure has been initiated.

#### Article 11

- (1) The authority responsible for the entry of modifications in the numbers, shape, surface areas or land development levels of cadastral plots into the cadastre shall, without any delay, notify the competent land registry court of any such modification made.
- (2) Land register courts shall notify the authority responsible for the cadastre of all such land register entries as may be relevant to the cadastre, including, but not limited to, land subtraction, addition and division.

#### Article 12

- (1) The court which has passed a valid ruling pertaining to any property-related right and in connection with modifications in the number, shape, surface area or land development level of a cadastral plot shall forthwith provide the cadastral authority with a copy of such ruling, which shall be deemed the registration of such modifications.
- (2) The provisions of Paragraph (1) of this Article 12 shall, as appropriate, also apply to final rulings passed by other authorities as to any property-related right and in connection with modifications in the number, shape, surface area or land development level of a cadastral plot.

#### Article 13

After the parcelization of any registered land unit is entered in the cadastre, all plots ensuing from such parcelization shall remain integral parts of such registered land unit until the subtraction of such plots therefrom is entered into land registers.

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### Chapter 1. COMPOSITION OF LAND REGISTERS

#### *Section 1. General provisions*

##### Article 14

- (1) Each land register shall consist of a general register and a collection of documents.
- (2) All such supporting lists as may be required by this Act or other relevant legislation shall be maintained for each general register.

##### Article 15

- (1) Land registry entries shall be made only in the general register.
- (2) In cases where law stipulates that the acquisition, transfer, restriction or termination of any right requires an entry into land registers, such requirement shall be met only by making such entry into the general register.
- (3) In cases where, pursuant to a ruling passed by the competent court or any other authority, or by way of inheritance, or under any relevant legislation, a person has acquired a right without any entry into land registers, such person shall have the right to have his acquired right entered into the general register under the provisions of this Act.

##### Article 16

- (1) The substance of all such rights which, under this Act or any other relevant legislation, may be entered into land registers (registrable rights) shall be entered into the general register.
- (2) If the substance of any registrable right cannot be expressed in a concise manner, the general register shall make references to specifically indicated parts of documents serving as a

basis for registration, and such parts shall, by way of their reference, be deemed entered in the general register.

## **Section 2. General register**

### *a. Composition of the general register*

#### Article 17

- (1) A single general register shall be maintained for all units of land located within a particular cadastral municipality.
- (2) The territories and names of cadastral municipalities shall be determined in accordance with cadastre regulations. However, a cadastral municipality may encompass only such units of land as may fall within the jurisdiction of one land registry court. Units of land falling within the jurisdiction of one land registry court may also be divided among several cadastral municipalities.
- (3) Common land shall be entered into the general register if so requested by any person having a legal interest therein.

#### Article 18

- (1) The general register shall consist of land registry files.
- (2) Land registry files shall serve for the registration of:
  1. registered land units and changes therein; and
  2. proprietary and other registrable rights related to registered land units, as well as changes in such rights.
- (3) All such other circumstances as may be required by law shall also be entered in land registry files.

#### Article 19

- (1) Each land registry file shall serve for the registration of only one registered land unit.
- (2) A registered land unit may consist of one or more cadastral plots located within the same cadastral municipality.
- (3) Several cadastral plots which are owned within the same cadastral municipality by a single person shall be integrated into a single registered land unit wherever so requested by such person, unless they are subject to different encumbrances and if, in terms of any restriction on title, they do not differ from each other, or if their integration, in itself, automatically eliminates all obstacles to such integration.
- (4) Each registered land unit shall constitute a legal entity whose composition may be changed only by entering the subtraction or addition of plots into land registers.
- (5) Should all plots be subtracted from the registered land unit entered in a land registry file, such land registry file shall be deemed vacant and no new land registry file shall be opened under the same number in the land register in question.
- (6) No modification in the development levels of cadastral plots constituting a registered land unit shall affect the composition thereof.

### *b. Contents of land registry files*

#### Article 20

- (1) Each land registry file shall comprise a **property register** (Sheet A), a **proprietary register** (Sheet B) and a **charges register** (Sheet C).
- (2) In case of co-owned land units, should any co-owner so request, a sub-file, as an integral part of the land registry file, shall be opened for his proportional share in the co-owned land unit.

- (3) Any such sub-file shall comprise a property register, a proprietorship register and a charges register. The provisions hereof pertaining to entries into land registry files shall, as appropriate, also apply to entries into sub-files.
- (4) With regard to any portion of a co-owned land unit for which a sub-file has been opened, all entries shall be made into such sub-file.
- (5) Apart from entries made into a sub-file opened for any portion of a co-owned land unit, all entries made in connection with such portion prior to the opening of the sub-file, as well as all entries related to the land unit as a whole, shall also pertain to the portion in question.
- (6) For entries referred to in Paragraph (5) of this Article 20, the order of priority shall be established on a joint basis.
- (7) No one may claim that he was not aware of any entry made into the land registry file or sub-file.

### **Property register**

#### Article 21

- (1) Property registers shall be used for the registration of all constituent parts of registered land units, as well as all such proprietary rights as may exist in favour of registered land units or any proportional share in co-owned registered land units.
- (2) All cadastral changes pertaining to any registered land unit (modifications in the number, name, surface area, development level of a cadastral plot, etc.), as well as the institution of procedures for the modification of such data in property registers, shall be entered into property registers.
- (3) Property registers shall also serve for the registration of all such restrictions on legal transactions related to registered land units as may be stipulated by public law, provided that such restrictions are not of a general nature.
- (4) The right of construction shall be entered into the property register of a separate land registry file, as a separate registered land unit.
- (5) Wherever a sub-file is opened, the existence and number of such sub-file shall be clearly indicated in the property register of the land registry file in which the entire real estate has been registered.
- (6) The co-owner's share in any co-owned property for which a sub-file has been opened shall be indicated in the property register of such sub-file under the registration number under which it has been entered in the proprietorship register of the respective land registry file. If such share is connected with the ownership of a separate part of such property, this shall also be indicated in the property register.
- (7) If any registered land unit is commonly known under a specific name, such name shall be indicated in the heading of the property register.

#### Article 22

- (1) Any modification in the contents of a property register, caused by an entry made into any other sheet of the respective land registry file, shall be, *ex officio*, clearly indicated in such property register.
- (2) Should any positive easement be entered in the land registry file of the servient tenement, this, as well as any other change in such entry, shall be, *ex officio*, clearly indicated in the property register of the dominant tenement.

### **Proprietorship register**

#### Article 23

- (1) Proprietorship registers shall be used for the registration of titles to entire registered land units.

(2) Proprietorship registers shall also be used for the registration of such restrictions as may personally be imposed on proprietors as to their powers to manage or dispose freely of their registered land units or shares in co-owned land units. Any prohibition of encumbrance or alienation shall only be clearly indicated in proprietorship registers.

(3) Any restriction on proprietors' powers to dispose of their registered land units or shares in co-owned land units, which is subject to registration into charges registers and applies to each proprietor, shall be clearly indicated in proprietorship registers.

(4) Wherever common land is entered into land registers, its common nature as well as all persons taking care of, managing, and bearing responsibility for, such estate shall be clearly indicated in the proprietorship register. If the entity taking care of, managing and bearing responsibility for any such public estate is the Republic of Croatia, this shall not be specially indicated.

(5) In case of public land used for common and public purposes, the Republic of Croatia shall be entered as their proprietor, unless such land is owned by any local self-government and administration unit, in which case the bodies or institutions entrusted with managing such land or the bodies which directly manage such land, shall be indicated.

#### Article 24

(1) The title to a separate part of property shall be entered in the proprietorship register as pertaining to the share in jointly-owned property which belongs to the co-owner for whom the title to such separate part has been created, with a specific indication of all separate parts and other incidental parts to which this applies. Each such proprietorship register shall bear the indication "Condominium ownership".

(2) A sub-file shall be opened, under the provisions hereof, for each share in co-owned property which is connected with the title to a separate part of such property.

#### **Charges register**

#### Article 25

(1) Charges registers shall be used for the registration of all proprietary rights encumbering registered land units or proportional shares in co-owned land units, as well as all such rights as may be acquired on the basis thereof, such as the rights to buy back, pre-empt, lease and let, and all such restrictions on powers to dispose of registered land units or shares in co-owned land units as may be imposed on proprietors of encumbered land.

(2) For any registered land unit which constitutes common land or public land owned by the Republic of Croatia or any local self-government and administration unit, the concession shall be entered in the charges register, according the provisions pertaining to lease registration, unless otherwise specifically required.

(3) Any prohibition of encumbrance or alienation shall be entered in charges registers.

### ***Section 3. Collection of documents***

#### Article 26

(1) At least a certified copy shall be retained of each document based on which any entry into land registers has been allowed.

(2) By compiling all such copies, a collection of documents shall be formed. All copies shall be bound into volumes.

#### Article 27

Each collection of documents shall be established on a common basis, for all general registers maintained with one court.

## ***Section 4. Collections of cadastral maps and supporting lists***

### Article 28

- (1) For each general register, there shall be a collection of cadastral maps.
- (2) Cadastral maps shall mean all maps prepared by the cadastre authority, showing the position and shape of all cadastral plots and buildings or other structures permanently located on such cadastral plots or underneath their surface.
- (3) Collections of cadastral maps shall serve to land register users for the purposes of convenience, in particular, to facilitate the determination of plot position and shape.
- (4) The cadastre authority shall deliver to land registry courts cadastral maps and all such modifications as may be made therein.

### Article 29

- (1) For each general register, a list of cadastral units, a list of their addresses, a list of owners and holders of construction rights, a list of conditionally registered owners, and any such other supporting list as may be required by this Act or any other relevant legislation shall be maintained.
- (2) The supporting lists referred to in Paragraph (1) of this Article 29 shall be maintained as determined by the minister of justice.

## **Chapter 2. LAND REGISTER ENTRIES**

### ***Section 1. General provisions***

#### *a. Types of entries*

### Article 30

Land register entries shall include registration, conditional registration and recordation.

- (1) **Registration** shall include entries whereby registrable rights are acquired, transferred, restricted or terminated without any specific subsequent justification.
- (2) **Conditional registration** shall include entries whereby registrable rights are acquired, transferred, restricted or terminated, but only on condition that and inasmuch as such rights are subsequently justified.
- (3) **Recordation** shall include entries clearly indicating all relevant circumstances which, according to law, may be recorded in land registers. Where and as stipulated by law, recordation may provide a basis for certain legal effects.

#### *b. Scope of registration and conditional registration*

### Article 31

- (1) Land registers shall be used only for the registration of titles and other proprietary rights to real estate, as well as the rights to buy back, pre-empt, lease and let, as well as concessions and all such other rights on real estate for which registration is allowed by other relevant legislation.
- (2) All restrictions on, and time-limits and conditions for, the titles and rights referred to in Paragraph (1) of this Article 31 shall be entered into land registers by the recordation of all such restrictions, time-limits and conditions as may be imposed on any such title or right, unless otherwise stipulated by this Act.

## **Specific provisions pertaining to ownership**

### Article 32



- (1) Co-ownership shall be registered according to interests determined in relation to the registered land unit as a whole and expressed as fractions.
- (2) The ownership of a specific separate part of any co-owned property (condominium ownership) shall be entered into the respective proprietorship register as pertaining to the share held in such co-owned property by that co-owner for whom the title to such separate part has been created, with a specific indication of such separate part of the property in question and all incidental parts to which it extends.
- (3) Joint ownership shall be entered in favour and the name of all joint owners, with the indication that such entry refers to joint ownership.
- (4) Where a title is restricted by a time-limit or condition upon the expiry or fulfilment of which it will be transferred to the acquirer, such title shall be entered in favour of such acquirer who will, upon the expiry of such time limit or the fulfilment of such condition, become the owner. When making any such entry, a specific indication shall be made of the time-limit or condition in question and of the acquirer's title as subsequent title. The entry of such subsequent title shall have the effect of a conditional registration of title, and it shall be possible to justify it if the time-limit expires or the condition for acquisition is fulfilled.
- (5) If a title is alienated as a result of its acquisition by the acquirer, but is, at the same time, restricted by a time-limit or condition upon the expiry or fulfilment of which it should be transferred back to the alienator, the entry of such title shall be fully subject to the provisions of Paragraph (4) of this Article 32, with the alienator's title being entered as subsequent along with the concurrent entry of the acquirer's title as prior.

### **Specific provisions pertaining to easements and encumbrances**

#### Article 33

- (1) In case of easements and encumbrances, the substance and scope of such rights shall be entered as specifically as possible, but their monetary value needs not be indicated.
- (2) If the exercise of easement is to be restricted to any area limited by specific boundaries, such boundaries shall be clearly defined.
- (3) In the event referred to in Paragraph (2) of this Article 33, the area of easement limited by specific boundaries shall be deemed clearly defined if such boundaries are indicated in a drawing attached to the document based on which registration is requested.
- (4) If any easement or encumbrance is created, but is restricted by a time-limit or condition, such time-limit or condition shall be recorded together with other elements of such right. Any subsequent restriction on an already existing right shall also be recorded.

### **Specific provisions pertaining to the right of construction**

#### Article 34

- (1) Any right of construction shall also be entered as a charge against the land which it encumbers, with an indication of the number of the land registry file in which such right of construction has been entered in accordance with Paragraph (2) of this Article 34.
- (2) Any right of construction shall be entered as a separate registered land unit in the property register of a new land registry file to be opened for this purpose, with an indication of the number of the land registry file in which the land encumbered with such right has been entered. The holder of any such right of construction shall be entered in the proprietorship register of such new land registry file.
- (3) Any building shall, following its completion, be registered as constructed on the basis of the right of construction.
- (4) If any right of construction is created, but is restricted by a time-limit or condition, such time-limit or condition shall be recorded together with other elements of such right. Any subsequent restriction on an already existing right shall also be recorded.

### Specific provisions pertaining to mortgage

#### Article 35

- (1) A mortgage may be entered as an encumbrance on the entire registered land unit or on the proportional share of a co-owner. No mortgage shall be entered as an encumbrance on individual constituent parts of a registered land unit.
- (2) Where a mortgage is created on income from another's land, this shall be expressly indicated in land registers.
- (3) The transfer of a mortgage claim and the creation of a submortgage shall be allowed with respect to the entire claim as well as any portion of such claim expressed as a fraction or amount.
- (4) If a mortgage is created, but is restricted by a time-limit or condition, such time-limit or condition shall be recorded upon the registration of such mortgage. Any other restriction on an already existing mortgage shall also be recorded.
- (5) The provisions hereof pertaining to the registration of mortgage shall, as appropriate, also apply to the registration of submortgage.

#### Article 36

- (1) A mortgage may be entered only with regards to a specified amount of money. Such amount may also be determined in accordance with the rules on currency or index clauses.
- (2) In case of claims where payment of interest has been agreed upon, the entry shall cite the interest rate. If the statutory interest rate is agreed upon in lieu of any other interest rate, the entry shall contain the words "statutory interest rate".
- (3) In case of claims payable in annuities, instead of interest rate the entry shall contain the words "annuity repayment".
- (4) If a mortgage serves as security for claims which may ensue from a granted loan, management take-over, guarantee, indemnity or any other claim which is yet to occur after a certain period of time or after the fulfilment of a condition, it shall be sufficient to enter in the document providing the basis for entry only the maximum amount of the principal of loan or liability.

#### Article 37

- (1) A mortgage may be entered jointly for a single claim, as an encumbrance of two or more registered land units or mortgage claims (joint or simultaneous mortgage).
- (2) A joint mortgagee may freely choose to recover his claim secured by a joint mortgage by acting on all registered land units which are encumbered by such mortgage or on only one or more such registered land units.
- (3) If all property encumbered by a joint mortgage has been sold to recover a claim, the proceeds from the sale of each individual property unit shall be used to settle the claims with a higher order of priority in the respective land registry file. The residual proceeds from the sale of each individual property shall serve to settle the claim secured by a joint mortgage in proportion with the share of such residual proceeds from the sale of individual property units in the sum of all residual proceeds.
- (4) If only some pieces of property encumbered by a joint mortgage have been sold and claims of certain mortgagees whose mortgages were registered after such joint mortgage have remained unsettled, a mortgage on such unsold property shall be entered *ex officio* in favour of such mortgagees' claims and shall be given an order of priority equal to that of the joint mortgage in question, but not exceeding an amount up to which each individual property would be liable for the joint mortgage with regards to the share of its value in the total value of all property encumbered by such joint mortgage. Mortgages thus entered in the said position maintain their erstwhile mutual relation in terms of order of priority.

#### Article 38

- (1) A mortgage acquired in respect of a particular claim shall also secure the costs of judicial action and execution, unless otherwise determined or agreed.
- (2) Three-year interest in arrears owed to a mortgagee on the basis of an agreement or law, shall have the same order of priority as the principal.
- (3) Three-year overdue claims for annual rent, maintenance contributions and other periodical payments shall have the same order of priority as that entered right from which such claims arise.

### *c. Scope of recordation*

#### Article 39

Land registry recordations may be made in order to:

- clearly indicate personal relations, in particular restrictions in respect of property management (e.g. minority, guardianship, extension of parental rights, declaration of bankruptcy etc.) as well as other relations and circumstances defined by law, with such an effect that nobody can claim that they did not know or were not obliged to know about them;
- produce legal effects ensuing from recordation according to the provisions of this or any other laws (recordation of priority, subtraction, joint mortgage, surrender of mortgage claims, dispute, compulsory auction, prohibition of alienation or encumbrance, obligation to request mortgage deletion, maintenance of order of priority, recordations required by the rules of execution of judgement and security, etc.).

### *d. Registered predecessor*

#### Article 40

Land register entries shall be made only against persons who were, at the time when a request for entry in a particular land register was submitted, entered therein as land owners or holders of rights for which entry is required or who have at least been concurrently registered or conditionally registered as such (registered predecessor).

#### Article 41

- (1) If any land or registrable rights have successively been transferred to more persons without registration thereof, the last acquirer may require that the transfer of such land or right be registered directly in his favour, provided that he is able to prove an uninterrupted succession of acquisitions without registration from the registered predecessor to himself.
- (2) In the event of alienation of a registrable right which has been transferred from a testator to a heir by way of inheritance, the acquirer shall be allowed to enter his right directly after the testator, provided that he is able to prove an uninterrupted succession of acquisitions without registration from the testator as registered predecessor to himself.
- (3) If a mortgage claim which has been transferred without registration to another person has terminated, the mortgagor may require such mortgage to be deleted without a prior entry of such unregistered transfer.

#### Article 42

- (1) If following the death of a registered predecessor any registrable right is transferred to his heirs, a heir's creditors may obtain security for their claims in respect of that heir without his prior entry into the register, but only to the extent of the indebted heir's inheritance.
- (2) The provision of Paragraph (1) of this Article shall, as appropriate, apply to cases where property or registrable rights are escheatable following the debtor's death.

### *e. Documents*

## Article 43

- (1) Entries into land registers shall be allowed only on the basis of documents prepared in a form prescribed to ensure their validity.
- (2) Legal grounds for the entry of registrable rights, their changes, restrictions or termination shall be made evident in the relevant document.

## Article 44

- (1) Entries into land registers shall be allowed only on the basis of documents free from any apparent fault which would bring their authenticity in doubt. If documents consist of more than one sheet, they shall be bound in such a manner that new pages cannot be inserted.
- (2) Persons against and in favour of whom an entry is required shall be indicated in any document in a way that precludes any danger of their being confused with any other person (e.g. by stating the date of birth, personal identification number etc.), together with an indication of the place, date, month and year such document was prepared.

*f. Order of priority*

## Article 45

- (1) Order of priority of any entry in land registers shall be determined on the basis of the time when the proposal for such entry or a ruling of another court or body requiring such entry is received by the competent the land registry court.
- (2) Entries made in respect of submissions arriving concurrently shall be granted an equal order of priority, unless otherwise stipulated by law.

## Article 46

It shall be possible to change positions in order of priority of individual rights registered on the same piece of real estate by way of registering or conditionally registering a cession of priority. Such cession shall be subject to a consent given by the beneficiary of the right being moved upwards and the beneficiary of the right being moved downwards. However, if the right being moved downwards is a mortgage, a consent of the mortgagor shall also be required and, if such right is encumbered by a right of a third party, then such third party's consent shall also be required. This shall not affect the scope or order of priority of other registered rights.

## Article 47

The right being moved upwards shall acquire, without any restriction, the position of the right being moved downwards in the order of priority, if the former is positioned in the land register immediately after the latter or if all persons whose rights are registered in between have given their consent thereto.

## Article 48

- (1) If the cession of priority of two rights which do not follow immediately one after another has occurred without the consent of the beneficiaries whose rights have been registered in between, the right being moved upwards shall acquire the position of the right being moved downwards only within the scope and quality of the latter.
- (2) If the right which being moved downwards is subject to any condition or time limit, the claim being moved upwards may be settled from the encumbered real estate before such condition is met or time limit expires only in such amount as pertains to the claim in accordance with its original order of priority.
- (3) In the event the buyer at an auction takes over a right being moved downwards with its previous order of priority and separate from the proceeds (best bid), the right being moved upwards shall be regarded as having its original order of priority when the proceeds are to be distributed.

## Article 49

The remainder of a right whose part has been moved upwards shall appear at its original position before a right which has been moved downwards, unless otherwise agreed or stipulated by law.

## Article 50

If by way of simultaneous cession of priority more than one registrable right assume the position of one registrable right, all such rights shall retain their prior mutual order, unless otherwise agreed or stipulated.

## Article 51

Subsequent changes in the existence or scope of a right being moved downwards shall not affect the order of priority of a right being moved upwards, unless otherwise agreed or stipulated.

**Section 2. Registration**

## Article 52

- (1) The land registry court shall allow the registration only on the basis of official documents or private documents on which the authenticity of the signature has been certified pursuant to a separate law.
- (2) Certification of foreign private documents shall be regulated by international agreements or international law.
- (3) The provisions of Paragraphs (1) and (2) of this Article shall be complied with if the signature certified is of the person whose rights have been restricted, encumbered, terminated or conveyed to another person.

## Article 53

- (1) Where a private document signed by an authorised representative is to serve as grounds for registration permission, in order for the registration against the authorising party to be allowed it is necessary that the authorised representative's signature on the documents be certified pursuant to Article 52 of the present Act.
- (2) In order for the registration to be allowed on the basis of a private document signed by an authorised representative, the said representative shall furnish evidence in support thereof:
  - power-of-attorney issued precisely for that particular transaction (Specified Power-of-Attorney), or
  - general power-of-attorney or a power-of-attorney issued for such transactions (generic power-of-attorney), which, at the time of submission, shall not be older than one year.
- (3) In order for the registration to be allowed on the basis of a private document signed by an authorised representative, it is necessary that the signature of the authorising party on the power-of-attorney be certified. The provisions of Article 52 of this Act shall, as appropriate, apply to such certification.

## Article 54

- (1) Private documents providing the basis for registration, shall, in addition to what is commonly required for documents, contain:
  - a) the precise designation of the land or right whose the registration is requested;
  - b) a representation made by the person whose rights have been restricted, encumbered, terminated or conveyed to another person that he agrees to the registration. Such representation may be made in a separate document or in an entry proposal. However, in such cases, any such document or proposal that contain such representation, shall comprise all elements required for registration.

(2) The person whose rights are being restricted, encumbered, terminated or conveyed to another person may make his consent for the registration subject to a condition or time limit which shall be explicitly stated in the document.

Article 55

(1) Official documents providing the basis for the registration are:

- a) documents on legal transactions drawn by a competent body or a notary public within their authority and in the prescribed form, if they contain all elements required for the registration based on private documents,
- b) rulings passed by a court or another competent authority or settlements made before them which, pursuant to rules of execution, are deemed deeds of execution appropriate for the entry of rights into the land register, if they state a precise designation of the land or right being entered.

(2) Whether or not and under which conditions and in what manner registration based on foreign documents which are deemed official documents in the jurisdiction where they were drawn may be allowed shall be regulated by special regulations.

### ***Section 3. Conditional Registration***

#### ***a. Permissibility of Conditional Registration***

##### Article 56

(1) If a document on the basis of which an entry is requested does not fully comply with the specific registration conditions (Articles 52, 53, 54 and 55) but fulfils general conditions for entry into the land register (Articles 43 and 44), such document shall provide the basis for conditional registration if it can be performed.

(2) If the consent for registration is subject to a condition or time limit, only conditional registration shall be permitted.

##### Article 57

(1) Conditional registration of a mortgage shall be allowed only inasmuch as both the claim and the legal basis for the mortgage have been sufficiently determined and proved by a document.

(2) If the court receives a deposit constituting a mortgage debt which cannot be immediately paid to the creditor or which the creditor is to cede to the third party who settled the debt, conditional registration shall be allowed for the purposes of deletion or assignment of the claim to the payer, only if there exists a document proving that the amount has been deposited with the court.

##### Article 58

Conditional registration of the rights to buy back, pre-empt, lease and let shall be allowed only when the existence of both the right and the will of the parties for the right to be entered are proven by a document.

##### Article 59

Official documents providing the basis for conditional registration shall include:

- a) unexecuted final domestic court rulings whereby a proprietary right is unconditionally determined or awarded or unconditionally dismissed,
- b) domestic court rulings or decisions by other authorities of equivalent effect whereby conditional registration is ordered as a security measure,
- c) other official documents specified by a separate law.

#### ***b. Justification of Conditional Registration***

##### Article 60

Conditional registration shall act until it is justified or deleted. Such justification shall turn the conditional registration into full registration, effective as of the time when the proposal for conditional registration was submitted.

##### Article 61

Conditional registration shall be justified:

- a) on the basis of a document appropriate for registration, which eliminates the fault owing to which full registration was not allowed,
- b) on the basis of a certificate on enforceability of a ruling passed by a court or other authority,
- c) on the basis of an final ruling whereby conditional registration is justified,
- d) on the basis of an official document or an notarised document proving that the condition for the issuance of consent for registration has been met, or that the specified time limit has expired.

## Article 62

- (1) The person in favour of whom the conditional registration has been allowed may file an action for the justification of conditional registration within fifteen days from delivery date of the ruling allowing conditional registration. The land registry court shall prolong the deadline on request, provided that there are reasonable grounds therefor.
- (2) In a lawsuit for the justification of conditional registration, the burden of proof as regards the legal basis for the acquisition of the registrable right shall rest with the plaintiff, as shall be the case of conditionally registered mortgage, as regards the existence of a valid claim within a certain scope as well as the legal basis for the acquisition of the mortgage right.
- (3) The defendant may make all objections against the existence of the registrable right, even if he has not filed an appeal against the ruling allowing conditional registration or if he has filed it with no effect.

## Article 63

- (1) If conditional registration fails to be justified, the person against whom conditional registration was allowed may request its deletion.
- (2) The land registry court shall refuse any proposal for the deletion of conditional registration if the file clearly indicates that the action for justification was filed on time or that the time limit for justification has not yet expired. Otherwise, a hearing shall be promptly held at which the person in favour of whom conditional registration has been allowed shall have to prove that the time limit for justification has not yet expired or that he filed the action on time. Otherwise, the deletion of conditional registration shall be allowed.
- (3) The action for justification of conditional registration shall be deemed submitted in due time even if submitted after the time limit has elapsed, provided that it was filed before the proposal for the deletion of conditional registration was submitted or at least on the same day that the land registry court received the proposal.

## Article 64

- (1) If the land registry court finds conditional registration justified, the justification of conditional registration shall be recorded at the motion of either party.
- (2) In the event the court finds that conditional registration is unjustified, conditional registration shall be deleted at the motion of either party.

## Article 65

If conditional registration is deleted because it has been finally ruled that the plaintiff is not entitled to the conditionally registered right in question or that conditional registration is not justified or that the person in whose favour conditional registration was allowed has waived the right of conditional registration, any conditional registration of such right that may be requested at a future date on the basis of that document, shall be refused *ex officio*. If a new conditional registration is nonetheless allowed, it shall be deleted as soon as the other party advises that such conditional registration was once deleted.

## Article 66

- (1) If conditional registration was deleted solely on the grounds that the action for justification has not been filed on time, a new conditional registration may nonetheless be requested, but such conditional registration shall have legal effects only as from the time when a new proposal is submitted.
- (2) An owner or holder of a registrable right may initiate an action to determine the absence of a conditionally registered right and in the case the court rules in his favour, he may demand that such ruling be recorded in order to prevent the issuance of a new permission for conditional registration.



## Article 67

- (1) If an allowed conditional registration is against the person registered as the owner, further entries may be allowed, both against the registered owner and against the conditionally registered owner.
- (2) If conditional registration is justified, the entry of such justification shall *ex officio* effectuate the deletion of all entries which were allowed against the registered owner after the receipt of the proposal on which basis the right of ownership was conditionally registered.
- (3) If conditional registration of the right of ownership is deleted, all entries permitted as regards such conditional registration shall be simultaneously deleted *ex officio*.
- (4) These provisions shall apply as appropriate in the cases where the assignment of the mortgagee's claim to another person was conditionally registered against the mortgagee.

## Article 68

- (1) If the deletion of a registrable right was only conditionally registered, further entries, e.g. sub-mortgage rights or cessions, as regards such registrable right may be allowed. However, their legal destiny shall depend on whether or not the conditional registration of such deletion will be justified.
- (2) If conditional registration is justified, the entry of such justification shall *ex officio* effectuate the deletion of all entries which were allowed in the meantime in relation to the now deleted right.

## Article 69

- (1) If there still exist any submortgage rights on a mortgage claim at the time when its deletion was requested, the deletion of such claim may be allowed only provided that its legal effects regarding such submortgage rights enter into force only once such submortgage rights have been deleted, unless otherwise stipulated by this Act.
- (2) Further entries on such mortgage claim shall not be allowed after the deletion is registered. If the deletion of a mortgage claim is only conditionally registered, further entries may be made thereon but only with that legal effect which depends on the destiny of such conditional registration.

***Section 4. Recordation***

## Article 70

- (1) Recordation may be stipulated when regulated by this or another act.
- (2) When an act foresees the possibility of recordation, such recordation shall be determined by a land registry court ruling at the motion of an authorised person, court or other competent authority, unless otherwise specifically stipulated.

*a. Recordation of personal relations*

## Article 71

Recordation of personal relations, as well as the deletion of such recordation shall be conducted at the motion of the parties, their legal representatives or competent courts or other competent authorities, on the basis of documents proving the existence of personal relations whose recordation or termination has been requested.

*b. Recordation of Order of Priority*

## Article 72

- (1) An owner shall be entitled to request the recordation of his intent to alienate his land or establish a mortgage whereby to establish the order of priority of those rights which shall be entered on the basis of these transactions. The order of priority shall be established by such recordation and shall run as of the time when the land registry court receives the proposal of entry.
- (2) A mortgagee may request the recordation of his intent to delete his claim in order to maintain a position in the order of priority for that claim which may be entered in that position on the basis of his right of disposal.
- (3) The recordation of the order of priority shall also be possible for a mortgage securing a the claim together with an indication of the maximum permitted amount up to which such claim would be secured by such mortgage.
- (4) The document on which basis the rights ensuing from alienation or the creation of a mortgage should be recorded may be drawn up before or after the proposal for the recordation of order of priority is submitted.

## Article 73

- (1) The recordation of the order of priority shall be allowed if the state of affairs as entered in the land register permits a right to be registered or deleted and if the authenticity of the signature affixed on the recordation proposal is appropriately certified.
- (2) The ruling approving the proposal for recordation of the order of priority shall be issued in one copy certifying that the recordation has been performed.

## Article 74

The recordation of the order of priority shall cease to have effect with the expiration of one year from its entry, if it is a mortgage being created, and in the cases listed in Article 72 of this Act, with the expiration of sixty days from the day of its entry. The ruling approving the proposal shall cite the date of expiry.

## Article 75

- (1) The proposal for the entry of deletion of rights for which the order of priority has been recorded shall be submitted, together with a copy of the ruling approving the recordation, within the deadline stipulated in Article 74 of this Act. If registration or conditional registration is allowed in the case of such proposal, the order of priority of such entry shall be recorded. The entry made shall be recorded in the above copy.
- (2) The entry with a recorded order of priority may also be allowed in the case where the land or mortgage claim have been assigned to a third party or if they became encumbered after the proposal for the recordation of the order of priority was submitted.
- (3) If the owner of land or the mortgagee goes bankrupt before the proposal is submitted, the entry for which the order of priority has been recorded shall be allowed if the document on such transaction had been drawn before such bankruptcy proceedings were instituted and if the date when the document was drawn is proved by official certification. If such document fails to fulfil these conditions, bankruptcy regulations shall rule whether or not such entry is allowed.

## Article 76

If alienation of land, a mortgage or the deletion of a claim are permitted to be recorded in the recorded order of priority, an order for the deletion of those entries which were allowed on such land or such claim after the proposal for the recordation was submitted shall be issued at the motion of the party in whose favour the registration has been allowed. The proposal for the deletion of such entries shall be submitted within fifteen days from the day when the registration with the recorded order of priority became effective.

## Article 77

(1) If the proposal for entry has not been submitted within time limits stipulated by law or if by the expiry of such time limit the amount in relation to which the recordation of the order of priority has been made is not used up, the recordation shall cease to have effect and shall be deleted *ex officio*.

(2) Deletion of a recordation shall be allowed before the expiry of the time limit stipulated by law only if a copy of the ruling approving such recordation has been submitted. Such copy shall bear the recordation of such deletion.

*c. Recordation of Mortgage Surrender and Mortgage Action*

## Article 78

(1) Recordation of a mortgage surrender shall be allowed by the land registry court by way of a ruling at the motion of the mortgagee who surrendered his mortgage to his mortgagor who is registered as the owner of the mortgaged property if such surrender has been served in the form of an official document.

(2) Recordation of a mortgage action shall be allowed by the land registry court by way of a ruling at the motion of the mortgagee who filed the mortgage action against the person entered as the owner of the mortgaged property if there is evidence that the mortgage action was filed with the court.

(3) Recordation of a mortgage action may be allowed by way of a ruling of a civil court at the motion of the mortgagee.

## Article 79

As a result of any recordation made under Article 78 hereof, a mortgage surrender or action shall also act against each subsequent owner of the mortgaged property, so that execution by way of settlement from such property shall be conducted directly regardless of who has become the owner of such property in the meantime.

## Article 80

(1) The recordation of a mortgage action shall be deleted by the land registry court at the motion of the mortgagor if such action is finally rejected or dismissed.

(2) The recordation of a mortgage action shall be deleted by the land registry court *ex officio* together with the deletion of the corresponding mortgage claim.

*d. Recordation of dispute*

## Article 81

(1) A recordation of dispute is an entry which shall be made apparent the fact that proceedings are being held before a court or other competent body in relation to registrable rights, the outcome of which may influence the registration, possession, existence, scope, content or encumbrance of such rights.

(2) As a result of a recordation of dispute any court ruling passed on an action shall also have effect against those persons who acquired a registrable right after the proposal for recordation of dispute was received by the land registry court. The same shall be valid when a recordation of dispute makes it apparent that proceedings on whose outcome the registrable rights depend are being held before another competent body.

(3) When a recorded dispute is concluded in the form of ruling whereby a party is awarded a right, this right shall acquire that place in the order of priority which was secured for it by such recordation of dispute.

## Article 82

(1) A recordation of dispute may be requested by any party in the proceedings from Article 81(1) hereof, and any other person participating in the proceedings who has a legal interest therein if they are able to prove that such proceedings have been initiated. A recordation of dispute may be allowed by the land registry court and any other court before which proceedings whose recordation is being requested are being held.

(2) A recordation of dispute which clearly shows that the proceedings from Article 81(1) hereof are being held before another competent body may be requested by any participant in the proceedings who has a legal interest in doing so, if he is able to prove that such proceedings have been initiated. A recordation may be allowed by the land registry court by way of a ruling after receiving a proposal to do so, while the body before which the proceedings have been initiated may order this *ex officio* also by way of a ruling.

(3) A recordation of dispute shall be allowed if it can be proved that the proceedings from Article 81(1) hereof have been initiated, except when law allows a recordation of dispute to be made before such proceedings have been initiated.

## Article 83

(1) If after a recordation is made the plaintiff withdraws from the action or his action is dismissed by a final ruling, or if his proposal or the proceedings which were the subject of such recordation have been definitively dismissed or stayed, the deletion of such recordation shall be made at the motion of the holder, or his legal successor, of the registrable right against whom such recordation was intended. The same shall apply when a recordation depends on the initiation of proceedings within a given time limit, but when such proceedings not initiated within the said time limit.

(2) If the proceedings which are the subject of the recordation are concluded with an execution ruling resulting from which the entry to which the recordation pertains should be altered, such execution ruling shall be conducted in such a manner that the entry of alterations shall be allowed in the manner and extent stipulated by the ruling. The deletion of both the recordation of dispute and all entries applied for after the recordation of dispute was received by the land registry court shall be ordered if they contradict the new entry.

## Article 84

(1) A recordation of dispute shall be deleted *ex officio* after the expiry of a period of ten years from the day on which it was allowed.

(2) If before the expiry of the period from Paragraph (1) of this Article it is proven that the recorded dispute was not finally or definitively concluded, a proposal may be submitted to renew the recordation with the same order of priority, with the period of ten years starting from the moment of its renewal.

(3) The deletion of a recordation of dispute shall not prevent a new recordation of the same dispute, but it shall acquire that place in the order of priority to which it is entitled according to the time at which the proposal for the recordation of the same dispute was submitted.

*e. Recordation of lawsuit to Contest Mortgagor's Legal Actions*

## Article 85

(1) Persons who are authorised to contest any legal action of their mortgagor pursuant to the regulations on contractual relations may, when contesting by means of a lawsuit, request a recordation of this lawsuit in the land registry files where a land registry entry is required in order to file such lawsuit.

(2) As a result of such recordation of lawsuit to contest the mortgagor's legal actions, the final ruling concluding such lawsuit shall be valid against all subsequent holders of the registrable right in question, so that execution may be conducted directly regardless of who subsequently becomes the holder of such registrable right.

## Article 86

- (1) A recordation of lawsuit to contest the mortgagor's legal actions shall be allowed by the land registry court by way of a ruling at the motion of the mortgagee who filed the lawsuit, if it is proven that the lawsuit was filed with the court.
- (2) A recordation of lawsuit to contest the mortgagor's legal actions may be allowed by a civil court by way of a ruling at the motion of the mortgagee.
- (3) A recordation of lawsuit to contest the mortgagor's legal actions shall be deleted by the land registry court if requested in cases when such lawsuit is legally rejected or dismissed.
- (4) The provisions of Article 84 hereof on the deletion and renewal of recordations of dispute shall be applied, as appropriate, to recordations of lawsuit to contest the mortgagor's legal actions.

*f. Recordation of Appointment or Dismissal of Trustee and Receiver*

## Article 87

- (1) A recordation of appointment of a trustee shall be allowed at the motion of any co-owner or joint owner on the basis of a document from which it ensues that this is the wish of all co-owners or joint owners.
- (2) The recordation of appointment of a trustee shall be allowed at the motion of any co-owner or joint owner pursuant to a court execution order on the appointment of a trustee.
- (3) The recordation of a receiver shall be allowed at the motion of the mortgagee to whose benefit the mortgage on income from land was established and on the basis of a document whereby the mortgagor and the mortgagee agree to entrust the management of the land in question to a specific person as receiver, rather than the mortgagee, with a view to settling the claim from income.
- (4) A recordation of receivership and receiver shall be allowed pursuant to the execution order establishing such receivership at the motion of an interested party. As a result of such recordation, any subsequent acquirer of the land in question may be subject to such approved receivership.
- (5) The provisions of Paragraphs (1) to (4) hereof shall be applied, as appropriate, in relation to a recordation of dismissal or replacement of a trustee or receiver and the termination of receivership.

*g. Recordation of Rejection of Execution*

## Article 88

- (1) In cases when a court rejects a proposal to approve execution over real estate for the recovery of a claim for which no mortgage was entered, the court which rejected the proposal shall order *ex officio* that such rejected proposal be recorded.
- (2) As a result of such recordation, during settlement a claim thus recorded shall have that place in the order of priority to which it was entitled by the recordation if the execution proposal is accepted on appeal.
- (3) A recordation shall be deleted *ex officio* when the ruling on rejection becomes final or when a ruling on execution with the same order of priority is recorded instead of the recordation.

*h. Recordation of Award*

## Article 89

- (1) A court passing a ruling on the identity of the buyer at a public auction (award ruling) in execution proceedings shall order that such award of real estate be recorded in the land registry.
- (2) Upon the recordation of award, it shall be possible to acquire rights through further entries against the previous owner provided that the award ceases to have effect.
- (3) When pursuant to a final ruling on the transfer of real estate a right is entered in favour of the buyer, all entries which were made against the previous owner after the recordation of award shall be deleted on request, as will all entries made in connection therewith.

### Part III. PROCEDURES IN LAND REGISTRY MATTERS

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#### Chapter 1. General Provisions

##### Article 90

- (1) Entries in the land registry shall be regulated and implemented by the land registry court having territorial jurisdiction by way of a ruling.
- (2) The land registry court having territorial jurisdiction shall be that court which maintains the land registry in which entries are to be made, unless stipulated otherwise by this or other act.

##### Article 91

- (1) The land registry court shall act primarily in accordance with regulations on nonlitigious procedure and secondarily on civil action procedure, unless otherwise stipulated by law.
- (2) Regulations governing civil action procedure shall be observed as appropriate in connection with expenses in land registry matters, unless otherwise stipulated.

##### Article 92

The land registry court shall make rulings without trial and examination of parties, except when otherwise stipulated by law.

##### Article 93

- (1) The land registry court shall initiate proceedings only at the motion of the parties or a competent body, except when otherwise stipulated by law.
- (2) The land registry court shall *ex officio* recommend to the parties and the competent body to request a given entry, if it finds this to be purposeful.

##### Article 94

If any item is not specifically determined by this Act, the time limits stipulated herein may not be extended nor shall a return to the previous state of affairs be allowed; this shall not encroach upon the exercise of anybody's right to litigation.

#### Chapter 2. PROPOSAL FOR ENTRY

##### Authorised Person

#### Article 95

- (1) Any person who would, by doing so, acquire, modify or lose a registrable right shall be authorised to submit a proposal for any entry which would be equivalent to a registration or conditional registration of such right.
- (2) A person who has a legal interest in the entry of a recordation, or is authorised to do so pursuant to special regulations, shall be authorised to submit a proposal for an entry which would be equivalent to a recordation.

#### Article 96

- (1) Anyone who submits a proposal on behalf of another must be authorised to do so, which he shall prove by producing appropriate documentation. Unless otherwise stipulated by this Act, the existence and validity of such authorisation shall be assessed according to general regulations.
- (2) A person whose registrable right would be ceded, limited or encumbered in favour of another by an entry may, on his own behalf and without any special authorisation, request this entry to be made in favour of such other person.
- (3) If an unregistered acquirer of registrable rights ceded these rights to another or limited or encumbered them in favour of another, the latter may request the entry of the rights of his predecessor.
- (4) When security is created for the same debt both in the form of a guarantee or in the form of a mortgage and the mortgagee does not request the entry of the mortgage, the guarantor may request the entry of the mortgage in favour of the mortgagee.
- (5) Entry of joint rights may be requested by any of the joint owners in favour of all. If it is a matter of the entry of rights divisible in proportion to the whole, any participant may request the entry of the corresponding portion in his favour, and the entry of the other portions may be requested in favour of the other participants if there is a legal interest for doing so.

### **Submission of Proposals**

#### Article 97

- (1) The proposal for entry shall be submitted in written form or shall be orally dictated for the record at the land registry court which shall accept it regardless of whether or not it is suitable for entry.
- (2) The proposal for entry shall be clearly designated as a submission directed to the land registry court with the designation: land registry case (land registry matter). This shall apply to all other submissions directed to the land registry court.

#### Article 98

- (1) The date and time when the proposal for entry was received by the land registry court shall be rendered visible (by lead seal) at the place in the land registry file in which the entry should be made, as well as the log number of the land registry submission under which it was received (log number). The lead seal shall be removed *ex officio* when the entry is made or the recordation of the rejection of the proposal for entry is made.
- (2) The Republic of Croatia shall be held objectively responsible for any damages which are incurred during the application of the regulations on the protection of trust in the accuracy and completeness of land registries due to the untimely entry of lead seals.

### **Content of Proposals**

#### Article 99

- (1) The proposal for entry shall contain the designation of the land registry court to which the proposal has been submitted, the name and address of the applicant and the person who must be

informed of the ruling and the number of the land registry file and the designation of the plot entered in the land registry file in which the entry should be made.

(2) The proposal for entry should clarify which right would be acquired, limited, encumbered or terminated with such entry, and if the entry of a recordation is sought, the personal relationship or legal fact whose entry is being requested. If the proposal is aimed only at the acquisition of registrable rights to income from land, this shall be explicitly stated in the entry proposal.

(3) Land registry files in which the entry should be made shall be cited by the designation indicated in the land registry.

#### Article 100

(1) The applicant shall be obliged to indicate the type of entry being requested; otherwise the proposal for entry shall implicitly contain a proposal for that type of entry (registration, conditional registration, recordation) which under the existing land registry conditions and attachments to the proposals is the most favourable to the person in whose favour such entry is being requested, and which is possible and permissible.

(2) The proposal for registration shall implicitly contain a proposal for conditional registration, if the applicant did not explicitly exclude this possibility.

#### Article 101

Several entries based on the same document, entry of the same right in several land registry files or registry of several rights in the same land registry file may be requested by one proposal.

### Attachments

#### Article 102

(1) Documents which should serve as a foundation for allowing entries shall be presented to the land registry court in their original form, while transcripts thereof may be attached to the proposal.

(2) The transcript of a document whose content has been certified in compliance with law shall be considered equivalent to the original.

(3) If the original is already in the possession of the court whose land registry department should act on the proposal for entry, it shall be sufficient to refer to such original in the proposal and attach a transcript if possible, while the land registry department shall obtain the original *ex officio*.

#### Article 103

(1) If the original cannot be immediately produced because it is in the possession of another court or another governmental body, this shall be indicated in the proposal and a transcript shall be attached on which such court or other authorities confirm that it fully corresponds to the original in their possession.

(2) If a proposal cannot be granted even if the original document were presented, this proposal shall be rejected without waiting for the original to be submitted.

(3) In cases when the proposal could be granted if the original were produced, such proposal shall immediately be recorded with the note: "until original arrives," so that the right in question maintains its order of priority.

(4) When the land registry court itself is not obliged to obtain the original, an appropriate period shall be determined for the applicant during which he must produce the original. This period may not be shorter than thirty nor longer than ninety days. The land registry court shall extend this period on request for justifiable reasons.

(5) If the original is not produced within the stipulated or extended period, the proposal shall be rejected and the corresponding recordation shall be deleted *ex officio*. If the original is presented before the proposal is rejected, the court shall nonetheless rule on the proposal.

#### Article 104



(1) If the documents are not written in the Croatian language or in another language in which submissions may be submitted to the court, a translation verified by a sworn court interpreter must be submitted therewith.

(2) If there is no translation, but there is no indication that the proposal should be rejected, in order to maintain the order of priority of the right in question, the proposal shall be recorded with the designation: "until translation arrives." An appropriate period shall simultaneously be determined during which the applicant must submit a translation, which may not be shorter than thirty days nor longer than ninety days. This period may be extended for justifiable reasons. If the translation is not submitted within the stipulated or extended period, the proposal shall be rejected and the recordation shall be deleted *ex officio*. However, if the translation is submitted before the proposal is rejected, the court shall rule on the proposal.

#### Article 105

The applicant, who submits an irregular proposal for entry or a proposal which does not contain all the necessary attachments, shall be called by the court to rectify such shortcomings within an appropriate period.

### Chapter 3. RULING

#### Article 106

(1) Entries shall be made on the basis of rulings made by land registry courts, which rulings shall determine and prescribe its entry in the land register (ruling on entry).

(2) Land registry courts shall also make the ruling on entry in the cases when a land register entry has been made based on the ruling of some other court or some other body within their competencies.

#### Article 107

(1) The ruling related to an entry shall be governed by the state of affairs prevailing at the moment when the proposal has been received by a land registry court.

(2) The provisions of Paragraph (1) of this Article shall apply also in the case when a defect in attached documents has been eliminated following the court order referred to in Article 105 hereof.

#### Article 108

(1) After it has reviewed the proposal for entry and attached documents, the land registry court shall approve the entry if:

- the land register does not indicate any impediment to such entry with regards to the thing being entered,
- there is no grounds for a doubt as to whether the persons against whom the entry is required are capable of disposing of the thing being entered or as to whether the person who has submitted the proposal is authorised to do so,
- the grounds for the proposal arise from the contents of submitted documents, and
- the documents have been submitted in the required form.

(2) When a land register entry has been made based on the ruling of some other court or some competent body other than a land registry court, land registry courts shall limit themselves to the investigation of whether such entry has been made on the basis of a ruling of a competent body and whether such entry is possible with regards to the actual state of affairs as entered in land registers. The court or some other body which has approved such entry shall be competent to make rulings on other relevant conditions.

#### Article 109

- (1) By its ruling made on a proposal for entry, the court shall either approve such proposal or reject it.
- (2) The ruling on any entry shall indicate the land registry file where such entry is to be made and, if necessary, the registered plot number, the person in whose favour such entry is to be made and his address, the type of entry (registration, conditional registration, recordation), the subject of entry, all documents serving as a basis for such entry, the right which shall be entered, including its essential contents, as well as the order to make such entry in the land register with precisely determined contents.
- (3) If a proposal cannot be complied with entirely but only partially, the competent court shall order an entry pertaining to the approved part of the proposal and reject the part of the proposal for which entry has not been approved.
- (4) If the court rejects the entire proposal or a part of it, the ruling shall indicate all reasons for such rejection.
- (5) If an entry has been approved by an obviously incompetent body, the competent land registry court shall reject the approval for such entry by way of its ruling and record such ruling on rejection.

#### Article 110

- (1) If any document suggests that the acquirer of a registrable right may have such right entered in land registers, but is, at the same time, subject to restrictions on his powers to dispose of the acquired right, or some other obligations or encumbrances to be concurrently entered as agreed, the entry of his right shall not be approved unless the entry of all such agreed restrictions, obligations or encumbrances is requested at the same time.
- (2) A proposal for a concurrent entry of mutual rights may be submitted by either party.

#### Article 111

- (1) Should a proposal for entry be rejected, such rejected proposal shall be recorded. However, such recordation shall not be justified if the proposal for entry or the attachments thereto do not clearly indicate the property or right to which such proposal pertains, or if such property or right have not been entered in the land registers of the court in question or have been entered in favour of a person other than the person against whom such entry should be made according to the contents of the relevant document.
- (2) If a proposal for entry has been rejected by a court other than the competent land registry court, such other court shall, *ex officio*, request the competent land registry court to record the rejected proposal for entry.
- (3) When a ruling on the rejection of a proposal for entry becomes effective, the competent land registry court shall, *ex officio*, delete the recordation of such rejected proposal and notify the parties thereof.

### Chapter 4. ENTRIES INTO LAND REGISTERS

#### Article 112

- (1) A land register entry may be made only by an order issued by the competent land registry court a part of its rulings on such entry, and in no manner other than that suggested by the contents of such order.
- (2) If the actual state of affairs as presented in land registers suggests that an order cannot be executed, the competent land registry courts shall, *ex officio*, rectify its ruling on the entry in question.

#### Article 113

In addition to the data specified in Article 109(2) hereof, each entry must contain the designation of the type of such entry, as well as the date on which and the number under which the proposal for such entry was received by the competent land registry court.

#### Article 114

If a land registry court has concurrently received a number of proposals pertaining to the same registered land unit, when making each entry related thereto, the numbers of such concurrently received proposals shall be recorded, together with a note that the proposals have been received at the same time.

#### Article 115

(1) If a land registry court has **concurrently** received a number of **proposals** which pertain to the same registered land and are mutually exclusive, but all meet the requirements for their entry, such land registry court shall approve and make all such proposed entries and notify all persons who have submitted such proposals that they should settle the issue of who is entitled to hold the right in question by way of a litigation.

(2) Once it is determined who of the persons who have submitted their proposals, as specified under Paragraph (1) of this Article 115, has the right to the subject of entry, other entries, as well as all such entries as may have been made in relation thereto, shall be deleted at the proposal of such holder of the right in question.

#### Article 116

(1) No words entered in the land register shall subsequently be modified or made illegible.

(2) If, while making an entry, an error occurs and is noticed of before such entry is concluded, it shall be rectified at the end of such entry by explicitly indicating any such part of the text as may be subject to rectification and the exact words used for that purpose. Such rectification shall be carried out without any separate ruling of the competent land registry court.

#### Article 117

(1) An error which has occurred while making an entry and has been noticed after such entry was made may be corrected pursuant to a ruling to be made by the competent land registry court on the rectification of such erroneous entry, on the basis of an agreement reached by all interested parties as a result of proceedings conducted before the land registry court with a view to rectifying such erroneous entry.

(2) During such proceedings for the rectification of an entry, the competent land registry court shall interrogate all interested parties in order to determine whether such entry may be rectified by agreement. If an agreement on the rectification of such erroneous entry is reached, the competent land registry court shall make a ruling on the rectification of such erroneous entry and issue and order that such rectification should be made in the respective land register and deemed effective as from the time when the rectified entry was requested.

(3) In default of such agreement on the rectification of an erroneous entry, the competent land registry court shall instruct those who have requested such rectification to institute a lawsuit and shall determine a reasonable time-limit for that purpose. Should the persons instructed to institute such lawsuit fail to do so by the determined time-limit, an agreement on rectification correction shall be deemed to exist.

#### Article 118

(1) An error committed while making an entry, which has been noticed after such entry was made, may be corrected *ex officio*, without conducting any proceedings for the rectification of such erroneous entry, provided that such rectification does not put in question any such right as may have already been acquired or endanger any person acting with trust in land registers.

(2) All rulings on the rectification of erroneous entries shall be delivered in accordance with the provisions of this Act pertaining to delivery.

## Article 119

The institution of the proceedings for the correction of an entry containing an error shall be recorded on the document on which the entry was made. The effect of such record shall consist in hindering subsequent entries from preventing the correction of such error. When the ruling on the correction of an entry containing an error becomes effective, the record shall be cancelled *ex officio*.

**Chapter 5. DELIVERY**

## Article 120

- (1) The **ruling on land registry procedure** shall be delivered to the proposer or his proxy and persons whose property has acquired a registrable right and whose registrable rights are transferred, encumbered, limited or terminated, and to the person against whom the record has been made.
- (2) The ruling on entry shall be delivered after the entry has been made.
- (3) The rulings in land registry proceedings shall be delivered in person.

## Article 121

- (1) A ruling which permits a complete or partial cancellation of an entry shall also be delivered to all persons who have registered or conditionally registered rights on that right whose complete or partial cancellation is permitted by the ruling.
- (2) A ruling on registration or conditional registration whereby the already recorded rights of third persons are being pledged or assigned shall also be delivered to the owner of property.
- (3) A ruling on conditional registration issued with regards to a proposal submitted by an alleged proxy whose authorisation is not valid for the registration shall be delivered to the authorising party.
- (4) A ruling on registration or conditional registration of ownership shall also be delivered to the mortgagee.
- (5) A ruling on the correction of an entry shall be delivered to the persons to whom a ruling on such entry is deliverable.
- (6) Rulings issued by land registry courts, required for the procedures applied by the body competent for cadastre, within its competence, shall be submitted to such body *ex officio*.
- (7) Rulings on entries related to acquisition of property and proprietary rights which are subject to tax payment, issued by land registry courts, shall be delivered to the competent tax administration *ex officio*.

## Article 122

The fact that the delivery has not been made properly or that it has not been made at all does not give the right to deny the validity of the registration entry. The person who derives his rights or exemption from obligation from the entry shall not be obliged to prove that the delivery has been made.

**Chapter 6. REMEDIES**

## Article 123

- (1) An appeal against the ruling on land registry procedure shall be permitted, unless otherwise stipulated by law.
- (2) A request for the protection of legality may be submitted against the rulings made during land registry procedure.

## Article 124

- (1) An appeal does not postpone the execution of an entry.
- (2) An appeal shall not contain new facts and new documents shall not be enclosed to it. The appellate court shall rule on appeals only on the basis of factual and legal situation prevailing at the moment when a land registry proposal was received by a land registry court.

#### Article 125

- (1) Appeals shall be submitted within fifteen days.
- (2) The appellate court shall made rulings on appeals.
- (3) Rulings which arrive with delay shall be immediately rejected by a court of first instance, regardless of whether the record of an unfavourable ruling has been cancelled.

#### Article 126

- (1) The ruling of a court of first instance on the rejection of an appeal shall be recorded ex officio.
- (2) The ruling of an appellate court which confirms the ruling of a court of first instance on the rejection of an appeal shall order the cancellation of the record referred to in Paragraph 1 of this Article.
- (3) Should an appellate court cancel a ruling on the rejection of an appeal, the record referred to in Paragraph 1 of this Article shall be considered to be the record of appeal.

#### Article 127

- (1) An appeal against the ruling on entry shall be recorded ex officio. If the appeal is rejected, such record shall be cancelled ex officio.
- (2) According to the ruling of an appellate court whereby an appeal against ruling on entry has been adopted, the entry shall be cancelled, the former land registry status shall be re-established and the record of appeal against the ruling shall be cancelled.

#### Article 128

- (1) According to the ruling of an appellate court whereby an appeal is rejected and whereby the ruling of a court of first instance on the rejection of entry has been confirmed, the record of the ruling on rejection shall be annulled and involved parties notified thereon.
- (2) According to the ruling of an appellate court whereby an appeal is adopted and the ruling of a court of first instance is altered, the record of ruling on rejection shall be annulled and involved parties notified thereon.
- (3) The effect of entry made in accordance with Paragraph 2 of this Article shall be the same as if it had been made at the moment when the proposal was submitted.

## Chapter 7. CANCELATION CLAIM

#### Article 129

- (1) The holder of a registrable right which has been infringed by the entry in favour of another person shall be authorised, in order to protect his right, to request the cancellation of all entries that infringe his rights and the establishment of the former land registry status (cancellation claim), as long as the facts on the basis of which his registrable right should terminate anyway become effective, unless otherwise stipulated by law.
- (2) Cancellation claim shall not be possible to initiate against a person who has registered his right by deriving it from the registered but invalid predecessor's right, acting with confidence in the authenticity of land registers and in good faith, except:
  - if the holder of registrable right referred to in Paragraph 1 of this Article, to whom a registration ruling in favour of the his predecessor has been delivered within the time limit for the submission of an appeal, has requested a recordation indicating that the entry is disputable and submitted a cancellation claim within sixty days after the expiry of the deadline for appeal, or

- the holder of registrable right referred to in Paragraph 1 of this Article, to whom a registration in favour of his predecessor has not been delivered has submitted a cancellation claim within three years after such entry was requested.

(3) The rules on the registration of dispute shall apply to the recordation of a cancellation claim. The person who has requested the issuance of the recordation of a cancellation claim and has, without a justified reason, failed to submit such claim, shall be responsible for the damage incurred to the person in whose favour the entry has been made.

## **Chapter 8. PROCEDURE RELATED TO JOINT MORTGAGE**

### **Principal land registry file specification**

#### Article 130

(1) The person who requires the entry of a joint mortgage shall specify one land registry file as the principal registry file and all others as auxiliary. In the case of absence of such specification, the first such file indicated in the proposal shall be considered the principal land registry file.

(2) Mortgage shall be entered in order to secure the entire mortgage claim in the principal and all auxiliary land registry files.

(3) In the case of a request to extend the already established mortgage as collateral for a claim to other land registry files, the file which was encumbered first shall be treated as the principal land registry file.

(4) The recordation in the principal land registry file shall refer to auxiliary land registry files and recordation in each auxiliary file shall refer to the principal land registry file.

### **Reporting and entry of joint mortgages**

#### Article 131

(1) If a creditor requests the extension of mortgage right as collateral for his claim and other property, he or she is obliged to report the mortgage already existing as collateral for the claim, in order to record joint mortgage. Should the creditor disregard this obligation, he or she shall be responsible for the damage which has been incurred consequently.

(2) Should the recordation of joint mortgage fail to be made for any reason, the mortgage creditor may request the entry of such recordation. The costs arising therefrom shall be covered by the creditor, in case he or she is responsible for the fact that the joint mortgage has not been entered.

(3) Should a land registry court – when deliberating on the proposal for the entry of mortgage right as collateral of a claim or during the entry process - notice that mortgage right has already been entered as collateral for the same claim in his records or the records of another land registry court, such land registry court shall enter joint mortgage ex officio. The land registry file in which mortgage has already been entered shall be considered as the principal land registry file. Land registry courts whose records already contain the claim shall be notified thereon.

#### Article 132

(1) The entry of joint mortgage in respect of registered land units entered in land registers of a number of land registry courts shall be requested from all such courts. The principal land registry file and all auxiliary land registry files shall be indicated in all proposals.

(2) The entry of joint mortgage may also be requested by submitting a proposal to the land registry court which has been selected as the court in which the principal land registry file will be kept. If the proposal specifies the order of its forwarding to other land registry courts, the land registry court shall act upon such specification.

#### Article 133

- (1) If a number of land registry courts participate in the first or a subsequent joint mortgage entry, each of them shall, in respect of mortgage related matters contained in its records, independently rule on whether the mortgage right entry is permissible and notify the land registry court which maintains the principal land registry file thereon.
- (2) An appeal shall be submitted via the land registry court which has made the ruling.
- (3) Should the entry of mortgage right in an auxiliary land registry file be cancelled as a result of an appeal, the land registry court which maintains the principal land registry file shall be notified thereon for the purpose of recordation.

#### Article 134

In the case of joint mortgage, an entry shall be given priority for each land registry file separately, according to the moment when the proposal for entry has been received by the land registry court whose records contain such entry.

### **Entry of changes in the principal land registry file**

#### Article 135

- (1) All proposals for the entry of changes related to joint mortgage shall be submitted to the land registry court which maintains the principal land registry file and shall be considered according to the status of such principal land registry file.
- (2) Should the proposal be submitted to a land registry court which maintains an auxiliary land registry file, such court shall deliver the proposal to the land registry court which maintains the principal land registry file ex officio and without delay and inform the proposer thereon.

#### Article 136

- (1) All changes to a joint mortgage, including transfer, limitation, encumbrance, cancellation etc. shall be entered only in the principal land registry file.
- (2) The entry of changes in the principal land registry file shall have the equal value as if it had already been made in all existing or future auxiliary land registry files. However, partial or complete cancellation of a joint mortgage as well as the mortgage in an individual auxiliary land registry file, shall be recorded in respect of all mortgage matters and in all auxiliary land registry files.

#### Article 137

- (1) Should a mortgage right be cancelled from the principal land registry file, all subsequent entries related to such mortgage right shall be cancelled from the principal land registry as well, so they will be transferred to one of the auxiliary land registry files maintained in that same land registry court. In the future, such land registry file shall be treated as the principal land registry file in case a joint mortgage still exists.
- (2) If the records of that land registry court do not contain any auxiliary land registry files and if the mortgage creditor has not made any ruling thereon, the court shall determine, ex officio, which auxiliary land registry file shall be treated as the principal land registry file in the future.
- (3) The notification on the conversion of an auxiliary land registry file into the principal land registry file shall be sent to land registry courts which maintain all auxiliary land registry files, which courts shall, ex officio, make recordations thereon in the all existing auxiliary land registry files.

#### Article 138

- (1) Such land registry proposals on which rulings cannot be made any longer because the mortgage in the former principal land registry file has already been cancelled shall be assigned to the land registry court which maintains the principal land registry file, and proposers shall be notified thereon.

(2) The order of priority of such proposals shall be determined according to the moment when they were received in the land registry court of the former principal land registry file.

### **Justification claim**

#### Article 139

(1) A single justification claim shall be sufficient for the justification of a conditional registration of a joint mortgage entered in different land registry courts.

(2) Justification claim shall be submitted to one of the courts in which a joint mortgage has been entered or to the local competent court.

### **Land registry certificates**

#### Article 140

Land registry certificates taken from land registry files which are, in regards to a joint mortgage, maintained as auxiliary, shall be referred to the principal land registry file, with an accompanying note that the changes to the mortgage have been entered only in the principal land registry file.

## **Chapter 9. DEPRECIATION AND CANCELLATION OF OLD MORTGAGE CLAIMS**

#### Article 141

A real estate owner encumbered with a mortgage, as well as any joint owner or co-owner, can request that the land registry court commences proceedings for depreciation and cancellation of mortgage claims:

- if at least thirty years have past since the mortgage claim registration, and in case when there are further entries referring to it - from the last of those entries;
- if it is not possible to find either those who are authorised according to the entries, or their legal successors, and
- if during all this time neither principal nor interests have been received, nor the right has been exercised in any other way.

#### Article 142

(1) If the land registry court determines that there is a probability that the proposal should be met and that the claimant has legal interest in that, it shall issue a notification and call for application of all those considering to have rights of mortgage claims or in regards to it.

(2) The notification shall clearly state the mortgage registration with all entries referring to it and a one-year application period shall be determined, stating the last calendar day to submit the applications.

(3) The notification shall be published in *Narodne novine* (The Official Gazette) and on the court's notice board, and in any other suitable way if necessary.

#### Article 143

If the notification period terminates unsuccessfully, the land registry court shall allow the mortgage claim depreciation, and shall determine the cancellation of the mortgage and other entries referring to it.

#### Article 144



If an application regarding right whose depreciation is requested is submitted within the notification period, the court shall inform about it the person claiming depreciation and refer him to a lawsuit regarding the existence of such mortgage claim and stay the depreciation proceedings.

## **Chapter 10. LAND SUBTRACTION AND ADDITION**

### ***Section 1. Modification of composition of the registered land unit***

#### Article 145

- (1) The registered land unit composition shall be modified by means of a land register subtraction and addition of cadastral plots. A new land registration file shall be established for the subtracted component if it is not added to an existing one.
- (2) As regards the subtracted component of the registered land unit, the effect of all entries regarding the registered land unit from which it is subtracted shall cease with the subtraction, except those entries which have been transferred into the land registry file in which this component is entered after the subtraction.
- (3) All entries referring to the registered land unit to which a component of the registered land unit from another land registry file has been ascribed, shall become effective with the addition regarding the added part.
- (4) The registered land unit composition shall not be modified by the entry of modification of land form, area or development level, and the land registry court shall carry out the entry of such modifications on the basis of the cadastre application form for the modification in the cadastre, and if the modification could effect the registrable rights, then also on the basis of a document suitable for the registration whereby title beneficiaries for the land in question agree with the modification.
- (5) The registered land unit composition shall not be modified by uniting a co-owned part with the title of a particular real estate component, but a new sub-file shall be opened for that component by request of the co-owner, with whose co-owned component the title of a particular component has been united, pursuant to Article 20 hereof.

#### Article 146

- (1) The land registry court shall rule on the subtraction and addition at the beneficiary's proposal.
- (2) The owner of the land the component of which is to be subtracted shall be authorised to request the subtraction, as well as others who could request the registration of title rights to their name.
- (3) The subtraction and addition shall be carried out also at the proposal of a body which brought a ruling whereby the procedure of land consolidation, expropriation or some other procedure was completed and in which it was ruled that the registered land unit composition would be modified.

#### Article 147

- (1) The subtraction of a registered land unit component and its addition to another registered land unit or opening of a new file for the subtracted component shall be allowed only if the document on which the proposal is based satisfies conditions for the title rights registration, and the component which is subtracted is strictly determined, with a plan if necessary which will be included in the document collection.
- (2) A proposal for the subtraction and addition to the registered land unit which belongs to the same owner, as well as a proposal to open a new land registry file to register subtracted cadastral plots to the name of the same owner, shall also be the documents whereby the owner shall hold his title. The certification of the owner's signature shall not be necessary.

#### Article 148

The subtraction and addition which would be at the expense of registrable rights of third parties registered in the land registry file from which land should be subtracted cannot be carried out without their approval, unless otherwise stipulated hereby.

## ***Section 2. Subtraction with the transfer of encumbrance (encumbered subtraction)***

### Article 149

- (1) The approval of persons in whose favour the registrable rights have been registered for the former registered land unit shall not be necessary to subtract particular registered land unit components, if all their registrable rights are registered in the new registered land file invariably.
- (2) The approval of a mortgage creditor shall not be necessary for the subtraction if the mortgage is registered as a joint mortgage in the former and new land registry file.
- (3) The easement, the contents of which is such that it is implemented only on a particular land component, shall not be registered in the new file if not exercised on the subtracted component which is registered in that file.
- (4) The recordation of the order of priority shall prevent the subtraction until a copy of a ruling by means of which the recordation was allowed is submitted, and until the subtraction is recorded in the engrossment as well as the mark of a new file opened for the component which was written-off.
- (5) All registrable rights beneficiaries shall be informed about the executed subtraction and opening of a new file.

## ***Section 3. Unencumbered subtraction***

### *a. Unencumbered subtraction at the owner's proposal*

#### Article 150

- (1) The owner wishing to subtract a part of the registered land unit without the transfer of encumbrance (unencumbered subtraction) can propose to the land registry court to invite those registrable rights beneficiaries whose approval would be necessary to object to the unencumbered subtraction within thirty days from the day the summons is served, or otherwise such subtraction shall be allowed, and thus their registrable rights regarding the subtracted component shall cease.
- (2) The recordation of the order of priority shall prevent the unencumbered subtraction until a copy of the ruling whereby the recordation was allowed is submitted, and until it is recorded in the engrossment that the subtracted component is subtracted without encumbrance.

#### Article 151

- (1) A proposal made pursuant to Article 150 Paragraph 1 hereof shall be recorded in the file of that registered land unit the component of which would be written off. The recordation shall have the effect that subsequent registrations do not prevent the subtraction.
- (2) The recordation shall be cancelled ex officio simultaneously with the subtraction procedure, or two years after the expiration of the recordation permit at the latest.

#### Article 152

The land registry court shall issue, by request, a certificate which shall indicate the rights against whose unencumbered subtraction a complaint has not been filed on time.

#### Article 153

- (1) The complaint filed on time shall prevent the subtraction. It shall not be necessary to indicate the reasons in the complaint.
- (2) The land registry court shall reject all complaints not filed on time.

#### Article 154

- (1) An obstacle to the subtraction can be removed by debt payment, so that a complaint shall be rejected if payment is proven by a document which fulfils the registration conditions.
- (2) The registrable rights beneficiaries which filed a complaint, and whose claims are recorded with the principal of an exact amount, must receive the payment although their claims have not matured, but they shall retain the right of indemnification which they suffered due to the advance payment.

*b. Unencumbered subtraction of small value components*

Article 155

- (1) The land registry court shall allow and exercise the unencumbered subtraction of a registered land unit component without the submission of a document and without a consent of the beneficiaries of rights which encumber the registered land unit if the cadastral office certificate confirms that a component which is subtracted does not surmount a hundredth part of the uninterrupted area of registered land unit component and if thus the value of the land remaining in the registered land unit would be only slightly reduced.
- (2) The land registry court shall not allow the unencumbered subtraction referred to in Paragraph 1 of this Article if the subtraction was already executed in the last five years on the basis of the provision referred to in Paragraph 1 of this Article.

Article 156

- (1) The registrable rights beneficiary claiming that the value of land remaining in the registered land unit have been significantly reduced by the unencumbered subtraction, can file a complaint to the unencumbered subtraction within thirty days from the day when a ruling on the subtraction permission was delivered.
- (2) The land registry court shall reject the complaints which are not filed on time.

Article 157

- (1) Regarding the complaint, the land registry court shall proceed according to the principles of extra-judicial procedure, and shall strive to reach an agreement between the parties. If the agreement is not reached, the land registry court shall decide on the complaint by means of a ruling. If the complaint is approved, the previous status shall be established ex officio in the land register after the ruling comes into effect.
- (2) If the subtracted part is added to another registered land unit, or if a new registered land unit has been established out of it, the complaint shall be recorded in the file of that registered land unit. This recordation shall have the effect so that entries coming after the subtraction cannot prevent that the previous status is established in the land register, if the complaint is approved. The recordation shall be cancelled ex officio after the ruling on complaint becomes effective.

*c. Unencumbered subtraction on the basis of an authorised body's ruling*

Article 158

The land registry court shall allow the unencumbered subtraction on the basis of an authorised body's ruling by means of which the procedure of land consolidation, expropriation or some other procedure was completed and in which it was ruled that the registered land unit composition would be modified, even if the unencumbered subtraction is determined without the consent of all encumbrance beneficiaries in a registered land unit component which is written off.

Article 159

The land registry court shall notify of a ruling on the permission of unencumbered subtraction publicly on the court's notice board, in *Narodne novine* and in any other appropriate way.

## Article 160

- (1) With the unencumbered subtraction executed in accordance with the provision referred to in Article 158 hereof, registrable rights which have not been transferred shall cease to exist, but their beneficiaries shall be entitled to compensation for what they have lost with it, but a pecuniary compensation cannot be lower than the one to which they would be entitled if the rights of compensation in case of dispossession are adopted in the corresponding manner.
- (2) Persons to whose benefit the unencumbered subtraction has been executed and the Republic of Croatia, or the local self-government and administration unit whose body has brought a ruling on the basis of which the unencumbered subtraction was allowed shall jointly be responsible for the compensation.
- (3) The right to compensation shall cease after three years from the time of knowledge of the consequences of unencumbered subtraction, and after the period of twenty years at the latest since the notification of a ruling on the unencumbered subtraction permission in *Narodne novine*.

***Section 4. Subtraction and addition procedure***

## Article 161

- (1) Only one proposal shall be submitted for the subtraction of particular registered land unit components from one file and their ascription to another file, or for the opening of a new file for them.
- (2) If the entries according to the proposal have to be exercised in the registers of two land registry courts, the proposal shall be submitted to the court in which the subtraction has to be exercised. If that court determines that there are no obstacles to the permission, the subtraction shall be recorded in the land register, and the proposal shall be directed to the latter land registry court for the approval and execution of the addition or opening of a new file, with a remark that there are no obstacles to the subtraction.
- (3) The subtraction recordation shall have effect so that subsequent entries regarding the component which has to be subtracted have effect only if its entry to another file is not allowed.

## Article 162

- (1) If the latter land registry court confirms that there are no obstacles, it shall exercise the addition or open a new file. It shall notify the former land registry court about it, which shall exercise the recorded subtraction immediately, marking the register and the file in which the subtracted component has been entered and shall notify the parties about it.
- (2) If the addition or opening of a new file is not allowed, the former land registry court shall be notified about it, together with the reasons of rejection. This court shall notify the proposer about it, stating the reasons of rejection and with a remark that the subtraction recordation shall be cancelled as soon as the ruling of the proposal rejection comes into effect.
- (3) If the subtraction and addition are allowed, the proposal and attachments shall be kept by the court in which the addition or opening of a new file was executed.
- (4) Regulations on the procedure during the subtraction and addition shall be implemented in an appropriate manner also when land is subtracted and added due to the exchange. The participants can decide by their will to which court they shall submit the proposal.

**Part IV. SPECIAL REGULATIONS REGARDING A LAND REGISTER MAINTAINED BY EDP AND THE LAND REGISTRATION PROCEDURE**

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**Chapter 1. EDP - LAND REGISTER**

Article 163

- (1) The EDP - land register is the register maintained by electronic data processing on the legal status of real estates applicable for legal transactions, and includes the cadastral data on the land form, area or development level, as well as the land registry court data on the land legal status stored in the land registry data base (LRDB).
- (2) The provisions hereof shall be applied to the EDP - land register, unless otherwise stipulated by provisions of this part of the Act.

**General Register**

Article 164

- (1) The General Register shall consist of lists of entries and lists of cancelled entries, which shall be equalled legally.
- (2) As part of the EDP-land register, the General Register shall be maintained exclusively by the storage of entries into the land registry data base (LRDB) which shall have the meaning of entry implementation.
- (3) Each entry stored in the General Register shall be marked by the entry date and the log number.
- (4) The land form, area or development level data shall not be separate land registry entries in the General Register, but the cadastral data about it stored in the LRDB making a part of the General Register.
- (5) Provisions on mutual notification of land registry courts and the bodies competent for the cadastre shall not be applied to the data contained in the LRDB.

**Entry list**

Article 165

- (1) The entry list shall be a part of the General Register consisting of the entry of the existing legal status of the registered land unit.
- (2) The entry list shall not contain the cancelled entries, except those which shall be necessary to present fully the existing legal status of the registered land unit.

**Cancelled entries list**

Article 166

- (1) The cancelled entries list shall be a part of the General Register into which the cancelled entries and entries which are not necessary anymore to present the legal status of the registered land unit shall be transferred, and into which the data on the implementation of all entries into the entry list shall be recorded.
- (2) The entry of cancellation shall be exercised by the transfer of the cancelled entry into the list of cancelled entries, unless it would damage the full presentation of the existing legal status of the registered land unit.

- (3) The change of registrable rights beneficiary shall be exercised by the entry of a new beneficiary into the entry list and by a simultaneous transfer of entry in favour of the former beneficiary into the cancelled entries list.
- (4) The entry of partial cancellation shall be exercised in such a way that the former entry shall be transferred into the cancelled entries list, while it shall be substituted by a new entry in the entry list, the contents of which shall include a part of the transferred entry which was not cancelled.
- (5) The entries which are not necessary anymore for the presentation of the existing status of the land register shall be transferred into the cancelled entries list ex officio, on the basis of a special ruling by the land registry court.

### **Collection of documents**

#### Article 167

The collection of documents in the EDP - land register shall be maintained manually.

### **Collection of land registry rulings**

#### Article 168

- (1) In addition to the EDP - land register, the collection of land register rulings shall be maintained, with the corresponding implementation of regulations for the documents collection maintenance.
- (2) A person cannot be reproached for not being in good faith only because he/she was not familiar with the contents of the collection of the land registry rulings.

### **Auxiliary lists**

#### Article 169

The auxiliary lists shall be maintained only by electronic data processing as part of the LRDB.

### **Review of EDP - Land Register and Issuance of Listings**

#### Article 170

- (1) The review of the General Register, auxiliary lists and a log of land registry submissions shall be achieved by the issue of listings from the LRDB.
- (2) If the party is satisfied with it, the review shall be exercised with suitable technical devices, and the land registrar shall provide, by request, the necessary information on the entries into the General Register or the auxiliary list.
- (3) Instead of registered land certificates, the listings from the LRDB shall be issued.
- (4) The seal and signature of the land registrar shall be placed on the listings from the General Register only by request.
- (5) The land registry courts and bodies competent for the cadastre shall provide listings and enable the review of all data on land stored in the LRDB, regardless of the fact in which cadastre municipality land is situated.

#### Article 171

- (1) When thus determined by the Justice Minister, public notaries shall be obliged to ensure all technical conditions and maintain technical devices for the review of the LRDB in their offices.
- (2) At a lawyer's request, the Justice Minister shall allow by means of a ruling to a lawyer to keep technical devices for the review of the LRDB, taking into account the technical possibilities.
- (3) Public notaries and lawyers referred to in Paragraph 2 hereof shall be obliged to enable the review of the LRDB to everyone. They shall have the right to compensation for that, which shall not surpass a fee determined for the review exercised in the court.

#### Article 172

Taking into account technical possibilities, the Justice Minister shall allow by means of a decision to other physical and legal persons, if they request it, to have technical devices for the review of the LRDB in their premises, if the need for the review into the EDP-land register cannot be

properly satisfied in some other way. This authorisation shall be cancelled when a need for which it was issued ceases to exist.

#### Article 173

- (1) The Justice Minister can make the authorisation for the review of the EDP issued pursuant to Article 171 and 172 hereof dependent on the fulfilment of certain technical possibilities in order to ensure the regular use of the EDP.
- (2) The Justice Minister shall be authorised to withdraw the authorisation for the review of the EDP pursuant to Article 171 Paragraph 2 and Article 172 hereof, if he determines that the conditions referred to in Paragraph 1 of this Article have not been fulfilled. He can issue the authorisation again when it becomes likely that the conditions shall be fulfilled again.
- (3) The Justice Minister shall bring the rules of regulations in which he shall determine who shall pay the fee for the review of the EDP and under which conditions.

## Chapter 2. SPECIAL PROVISIONS ON LAND REGISTRY PROCEDURE

### Proposals

#### Article 174

- (1) In order to increase the efficiency, the Justice Minister can issue the order that the land registry proposals are to be submitted in a stipulated form.
- (2) The proposal which shall not be submitted in a stipulated form shall not be disregarded only because of that, if it is otherwise suitable to be treated in the procedure.

### Lead seal and entry procedure

#### Article 175

- (1) When the entry proposal is submitted, the lead seal shall be affixed on the annotation of the land registry file in which the entry is proposed.
- (2) The entry in the land register can be exercised even without a written order by the land registry court, when the lead seal of the proposal on which the entry is based is noticeable.
- (3) The lead seal can be removed only on the basis of a ruling by the land registry court by means of which the entry is allowed, and after the entry is carried out. After the lead seal removal, the entry can be corrected only on the basis of a special ruling by the land registry court.
- (4) The provisions of this Article shall be adopted accordingly also to the transfer of an entry into the cancelled entries list.

### Contents of the entry

#### Article 176

- (1) The land registry entries shall not include the type of the entry, unless it is a conditional registration.
- (2) If acquisitions of title and mortgages are in question, than the document from which the acquisition of title and mortgage derives shall be marked according to the date when the document was issued and the important contents, and if one of the documents referred to in Article 55 Paragraph 1.b hereof is in question, it shall be marked by its type as well. In agreement with the head of the state administration central body competent for the cadastre, the Justice Minister can determine that particular marks shall be used. In case that there are several dates of the document issuance, only the last one shall be stated.
- (3) Unless otherwise stipulated in Paragraph 2 of this Article and Article 16 Paragraph 2 hereof, the document shall not be mentioned in the land registry entries.

### Number of the last entry

#### Article 177

- (1) The date and the log number under which the last entry was made (the number of the last entry) shall be made noticeable in the annotation in each file through electronic data processing.
- (2) A modification of the number of the last entry shall be made ex officio, without a ruling by the land registry court so that the number of the last entry shall be changed simultaneously with the removal of the lead seal whereby it was made visible that the proposal for the executed entry existed.

### **Correction of the charges register**

#### Article 178

- (1) A mark of the encumbered co-owned part shall be corrected in the charges register through electronic data processing, without violation of any rights, when this mark is modified in the property register.
- (2) A modification of the encumbered co-owned part mark shall be carried out ex officio, and without a ruling by the land registry court.

## **Part V. ESTABLISHMENT, RENEWAL, AMENDMENT AND RESTRUCTURING OF LAND REGISTRIES**

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## **Chapter 1. ESTABLISHMENT OF LAND REGISTRIES**

### *Section 1. Establishment Procedure*

#### Article 179

- (1) A land registry shall be established in every cadastral municipality which does not already have such a register.
- (2) Pursuant to a decision of the justice minister, the land registry shall be established ex officio by the court of first instance which has jurisdiction over the cadastral municipality for which the land registry is being established.
- (3) The land registry shall be established as an EDP land registry unless the justice minister stipulates otherwise.
- (4) The establishment of land registries shall be conducted by the municipal court judge as an individual judge, with the participation of the land registrar; individual operations within this procedure may be entrusted to another person, provided that the provision from Article 191(3) hereof is applied in an appropriate manner.

#### Article 180

- (1) The land registry shall be considered established as of the day on which the justice minister, after he or she confirms the compilation of the land registry files, stipulates that these files shall be treated as the land registry (the day of the opening of the land registry).
- (2) As of the day of the opening of the established land registry, any land registry in previous use shall be closed, as shall any register of deposited contracts.



(3) Upon the opening of the land registry, the procedure for the correction of entries in it (correction procedure) shall simultaneously be opened.

(4) After the opening of the established land registry, the entries from any previously unresolved matters shall be maintained in the new land registry. In the newly-established land registry, all matters not resolved at the time of its establishment shall be clearly designated as such; rulings shall be made on unresolved matters before all other matters and submission.

#### Article 181

(1) Land registry files shall be compiled in order to establish land registries pursuant to the practice that each individual cadastral plot shall form a separate registered land unit for which a separate land registry file shall be compiled, unless otherwise stipulated by law.

(2) When one structure is built on several cadastral plots, or they otherwise form a legal whole, each one of them shall be entered as a single registered land unit in the same land registry file.

(3) Cadastral plots which are not variously encumbered but belong to the same owner shall be entered into one land registry file if the owner requests this by means of an application in the correction procedure.

#### Article 182

Data taken from the land registry which shall be closed upon the opening of a new land registry shall be entered into the property register, proprietorship register and charges register of the land registry file. The same shall also apply to registers of deposited contracts and cadastres, pursuant to the regulations from Articles 183 to 185 hereof.

#### Article 183

Data from the cadastre on the surface area, contours and level of development of the cadastral plot, i.e. all plots which form a registered land unit, shall be entered into the property register of plots which is being compiled.

#### Article 184

(1) Data on the owners from the land registry which shall be closed upon the opening of a new land registry and from the register of deposited contracts shall be entered into the proprietorship register which is being compiled.

(2) If data on the person(s) who hold the title to a given registered land unit are not in the land registry which shall be closed upon the opening of a new land registry nor in the register of deposited contracts, or there is only data on certain aspects of the title, but not all, such as the owner or co-owner of a remaining portion of the title, the person who is the holder or user of the land shall be entered.

(3) If in the case from Paragraph 2 hereof data on the owner or co-owner of a certain registered land unit cannot be entered in the proprietorship register, the Republic of Croatia shall be entered as the owner or co-owner.

(4) When one structure

is built on several cadastral plots, or they otherwise form a legal whole, so that they shall be entered in the same land registry file as a single registered land unit, data on the owner or co-owners of this entire registered land unit shall be entered in the proprietorship register.

(5) The regulations from Paragraphs 1 to 3 hereof shall be applied to the entry in Paragraph 4 hereof, provided that all of those who would have otherwise been entered as owners or co-owners of the individual plots are entered as the co-owners of the entire registered land unit. They shall be entered as co-owners to equal shares unless there is documentation which confirms the extent of their co-ownership shares.

#### Article 185

(1) Data on the encumbrances and their beneficiaries from the land registry which shall be closed upon the opening of a new land registry and register of deposited contracts, as well as the

encumbrances based on a list pursuant to provisions of distraint proceedings shall be entered into the charges register.

(2) Data on encumbrances from the cadastre shall also be entered in the charges register, if they are not contrary to the other data entered in the property register, proprietorship register or charges register.

(3) Encumbrances shall be entered into the charges register in that order of priority which they obtain in the chronological order in which they were entered in the land registry which shall be closed upon the opening of a new register, in the register of deposited contracts and in the cadastre, and in order in which they were determined by the list pursuant to the distraint proceedings, provided that the nature of the encumbrances do not require anything else.

(4) When one structure is built on several cadastral plots, or they otherwise form a legal whole, so that they shall be entered in the same land registry file as a single registered land unit, data on the positive easements, utilisation, tenancy rights and proprietary encumbrances shall be entered in the charges register of this file so that the easements and proprietary encumbrances shall be entered as the encumbrances of the entire registered land unit, but which may only be realised on its individual parts as previously.

(5) When one structure is built on several cadastral plots, or they otherwise form a legal whole, so that they shall be entered in the same land registry file as a single registered land unit, data on usufruct and mortgages shall be transferred into the charges register so that they shall be entered as encumbrances of that co-ownership portion which in the sense of the provision from Article 181(2) and (3) hereof correspond to the plot which was so encumbered.

## ***Section 2. Section 2***

### ***a. Correction Procedure***

#### **Notification**

##### **Article 186**

(1) When the correction procedure is initiated, the land registry court shall, ex officio and without delay make public by notification:

- that the land registry for a specific cadastral municipality has been opened, as well as the location at which it can be reviewed together with cadastral plans, lists and other similar documentation and the methods for such review,
- that the regulated public registers and other real estate records existing until that time are being concluded on the day of opening of the land registry and placed out of use (i.e. they are being closed), because the land registry is now assuming their function,
- that as of the day of opening of the land registry only entries in it in terms of the real estate upon which this register is based shall produce those legal effects related to the acquisition, modification, transfer and termination of the title and other substantial rights which have been by law as having the legal effects of entry into land registries,
- that the correction procedure has been initiated in relation to the opened land registry, so that all persons who believe that something which has not been entered should be entered or a certain entry or its order of priority should be modified, supplemented or deleted, are called to submit their applications for proposed entries or their requests to alter the existing entries or their order of priority to the land registry court within a specific period (correction period),
- that no entries in the land registry shall be considered complete and accurate until the specific period for applications and requests specified in the notification is over,

(2) The correction period may not be shorter than six months nor longer than one year, and its last calendar day must be precisely stated in the notification.

(3) The possible legal repercussions of failing to submit an application or request in the stipulated correction period shall be stated in the notification. The notification shall also contain the stipulation that this period may not be extended, nor shall a return to the previous state of affairs be permitted.

(4) The public notification from Paragraph 1 hereof shall be published by the land registry court in *Narodne novine* and placed on the notice board in the facilities of the court, while the existence of such notification shall be noted in other effective means of public dissemination of information.

#### Article 187

- (1) Entries in the land registry shall not be considered complete and accurate for the duration of the correction period determined by the notification, so that no one may claim that he or she acted in the confidence that such entries were complete and accurate.
- (2) For the duration of the period from Paragraph 1 hereof, all registered land certificates and other documents issued by the land registry court on the basis of the data from the land registry to which this period applies shall bear a visible designation of this and the last calendar day of the aforementioned period shall be clearly indicated.

### Applications and Requests

#### Article 188

- (1) Applications to the effect that information must be entered in the land registry which has not yet been entered, as well as requests to modified, supplemented or deleted, shall be submitted in written form to the land registry court.
- (2) Applications to enter information in the land registry which has not yet been entered, and which are received by the land registry court before the correction hearings, shall be recorded on that list in the land registry file to which this entry applies.
- (3) Requests that a certain entry or its order of priority should be modified, supplemented or deleted, and which are received by the land registry court before the correction hearings, shall be recorded on that list to which it applies.
- (4) Until the recordations on applications and requests are deleted, no one may claim that he or she was not aware of them nor was required to be aware of them.

#### Article 189

Sub-mortgage creditors shall be authorised to submit applications and requests, as well as undertake all other actions during the correction procedure necessary to exercise the rights of the mortgage creditor on their own behalf and in favour of and within the limits of the authorisation of the mortgage creditors who are their debtors.

#### Article 190

- (1) Upon the conclusion of the correction period the land registry shall be considered complete and accurate, so that persons who act in good faith with confidence in this shall enjoy full legal protection.
- (2) Even after the conclusion of the correction period the land registry shall not be considered complete and accurate in terms of those files or entries in them for which an application or request has been recorded until such applications or complaints have been deleted.

### Correction Hearings

#### Article 191

- (1) Applications and requests shall be discussed at the hearings before the land registry court (correction hearings).
- (2) The correction hearings shall, upon the end of the correction period, be called and conducted ex officio by the land registry court in relation to each individual land registry file for which an application or request has been filed, and in relation to the applications and requests which apply to it.
- (3) The correction hearings shall be conducted by an individual judge with the participation of the land registrar as the recording clerk. In lieu of a judge, the hearings may be conducted by lawyer who has completed law school and passed the bar examination and who is not a judge of the court, if the president of the court grants him special authorisation to so for justifiable reasons.

(4) The land registry court shall conduct the correction hearings and pass rulings according to the regulations governing extrajudiciary procedures, unless otherwise stipulated by this Act.

#### Article 192

(1) All persons who have submitted applications and requests, persons against whose entries these applications and requests have been submitted and persons who may have a legal interest pursuant to the content of the land registry shall be called to attend the correction hearings in person and by means of notification on the notice board of the court.

(2) When necessary, the court shall call a representative of the body responsible for the cadastre to the correction hearings in the capacity of an expert assistant.

(3) The absence of persons called to attend shall not postpone the correction hearings, nor does it mean that the absent person has withdrawn his application or request or imply that such persons have recognised the applications or requests of others.

(4) In order to protect absent persons, the court shall, without delaying the hearings, appoint for them a temporary representative who shall participate in the corrections hearings on their behalf and at their expense and to whom the final ruling shall be delivered.

(5) No one shall be authorised to postpone the hearings nor effect a return to the previous state of affairs.

(6) The regulations from Paragraphs 3 through 5 hereof shall be cited on the call to attend the correction hearings.

#### Article 193

(1) At the correction hearings, the land registry court shall give all of those present the opportunity to clarify their duly submitted applications and requests, to respond to those of others and to offer evidence in support of their claims which can be presented during the aforementioned hearings.

(2) The land registry court shall make it possible for those present at the correction hearings to reach an agreement on all applications and complaints, and such concluded agreements shall be recorded in the minutes.

(3) At the correction hearings, the land registry court shall present the evidence which it feels pertinent.

(4) At the correction hearings, applications and requests submitted after the end of the correction period shall not be discussed, nor shall their grounds be proven, unless those present agree that the application or request which arrived subsequently, but recorded before the hearings, shall be treated as though they were submitted within the correction period.

### **Ruling on Applications and Requests**

#### Article 194

(1) The correction hearings shall be concluded by the land registry court when it assesses that all issues have been sufficiently discussed, and it shall immediately make and proclaim its ruling which shall, pursuant to the regulations from Article 195 hereof, fully or partially adopt, reject or discard the application for an entry or request to alter an entry or its order of priority.

(2) In its ruling in which it adopts the application for an entry or request to alter an entry, the land registry court shall allow the respective entry and order its implementation.

(3) Appeals may not be filed against the rulings of the land registry court made at the correction hearings, although such rulings shall not preclude the possibility of exercising this right in a lawsuit before a court or in proceedings before another competent body.

#### Article 195

(1) Should the land registry court establish that the implementation of the application or request would necessarily require the alteration of an entry in the property register on the surface area, contours or land development level of the plot, it shall not grant such an application or request. Instead it shall advise the persons who submitted the application or request to realise their claims in a lawsuit or proceedings before the competent body.

- (2) In cases of applications and requests on entries in proprietorship and charges registers on which all present have reached an agreement, the court shall rule in accordance with this agreement if this is permissible and if it is possible to implement such an agreement.
- (3) The land registry court shall rule on applications and requests on entries in the proprietorship and charges registers on which those present have not reached an agreement based on a legal assessment.
- (4) Applications and requests which have been submitted after the conclusion of the correction period and on which there has been no agreement to treat it as submitted in due time shall be rejected by the land registry court.
- (5) The land registry court shall direct persons whose applications or requests have not been adopted wholly or partially, as well as those for whose entry or initial entry order it stipulated a modification, supplementation or deletion to realise their alleged rights in a correction claim lawsuit.
- (6) If a correction claim is filed within a period of thirty (30) days after the conclusion of the hearings, the land registry court shall, when it receives confirmation that the claim has been filed, replace the recordation of the application or request with a recordation of a dispute.

### **Implementation of Entry**

#### Article 196

- (1) Pursuant to the ruling of the land registry court made at the correction hearings whereby the court accepted the application for entry or granted the request on the alteration of the entry or its order of priority shall be implemented in the land registry in the entry to which it applies.
- (2) The land registry court shall delete all recordations of applications and requests ex officio after the expiry of period of thirty (30) days after the correction hearings, and before this time if it is replaced with a recordation of a dispute.
- (3) Entries implemented upon the opening of a new land registry, if they are not altered on the basis of a ruling made by the court in correction proceedings, shall have the legal force of land registry entries.

### **Correction Claims**

#### Article 197

- (1) The right to demand a correction in an entry in the land register by filing a lawsuit or other form of proceedings before the competent body (correction claim) shall be exercised by the following:
- persons whose applications or requests have not been wholly or partially fulfilled by the land registry court during the correction hearings;
  - persons whose entries or initial entry order have been modified, supplemented or deleted by a ruling of the land registry court made during the correction hearings.
- (2) The right to demand a correction by means of a claim shall cease to be valid upon the expiry of the deadlines stipulated by this Act for filing deletion actions. The three-year period commences upon the implementation of the disputed entry, i.e. when the ruling on rejecting an application or request is delivered.
- (3) The regulations which in the case of deletion actions protect persons who acted in the belief of the completeness and accuracy of the land registry shall be applied for correction claims in an appropriate manner.
- (4) The regulations hereof on the recordation of disputes shall be applied to correction claims in an appropriate manner.

## **Chapter 2. RENEWAL AND AMENDMENT OF LAND REGISTRIES**

#### Article 198

- (1) A land registry, or any part thereof, shall be renewed ex officio if it is destroyed, lost or if it becomes unusable for any reason whatsoever.

- (2) A land registry shall be renewed ex officio if a new copy is made or if the readjustment of cadastral data is conducted in the cadastral municipality in question.
- (3) The provisions of this Act on establishment and correction procedures shall be applied in an appropriate manner in the course of the renewal of a land registry.

#### Article 199

- (1) A land registry shall be amended with further land registry files when all of the land in the cadastral municipality is not entered in the registry maintained for this cadastral municipality.
- (2) The provisions of this Act on the establishment and correction procedures shall be applied in an appropriate manner in the course of the amendment of a land registry.

### **Chapter 3. INDIVIDUAL CORRECTION PROCEDURE**

#### Article 200

- (1) An individual correction procedure may be conducted for a specific land registry file if there are justified reasons to do so.
- (2) The provisions on the correction procedure shall be applied in an appropriate manner in the course of an individual correction procedure, provided that the period for submitting applications or requests cannot be shorter than thirty days nor longer than six months.
- (3) An individual correction procedure may not be conducted for land registry files in land registries which have been established, renewed, modified or reformulated pursuant to this Act.

### **Chapter 4. PROCEDURES FOR OUTSTANDING MATTERS**

#### Article 201

- (1) In a renewed or amended land registry, and in land registry files which are being corrected, all land registry matters which have not been resolved at the moment of their opening and land registry submissions which were received by the land registry court within the period for submitting applications and requests within the correction period shall be clearly and visibly indicated.
- (2) Rulings shall be made on the matters and submissions from Paragraph 1 hereof before all later matters and submissions.

### **Chapter 5. TRANSFORMATION INTO EDP LAND REGISTRIES**

#### Article 202

In agreement with the head of the central state administrative body in charge of cadastres, the justice minister shall determine that the land registry in a given cadastral municipality which was maintained manually be transformed into an EDP land registry.

#### **Data Transfer**

#### Article 203

- (1) In the course of the transformation of a land registry into an EDP land registry, all non-deleted entries in the existing central register shall be transferred to the LRDB with the content and in the form which correspond to the regulations on maintaining central registers in EDP land registries.
- (2) By way of derogation from Paragraph 1 hereof, the following shall not be transferred:
- entries whose content may not be the subject of land registry entries (unallowable entries),
  - entries which may with great probability be considered superfluous because the titles which is their subject or to which they refer do not exist or cannot be implemented permanently or have become obsolete or it is a mortgage which was entered no less than thirty years previously with an obviously insignificant ensured claim value.
- (3) When, pursuant to a separate law, a specific title is replaced with another, this other title shall be entered into the EDP land registry pursuant to the provisions of this Act without affecting the

other entries and with the same order of priority in the course of the transfer, which shall not be considered the establishment of a new title.

### **Opening EDP Land Registries**

#### Article 204

Upon the storage of the entries of all files of a cadastral municipality in the LRDB, the land registry court shall determine the day on which the cadastral municipality shall replace the previous land registry with an EDP land registry.

### **Notification**

#### Article 205

- (1) The land registry court make public the opening of the EDP land registry by notification, accompanied by the appropriate application of the provisions of this Act on the publication of notifications on the opening of new land registries.
- (2) The notification must contain information on the possibility of corrections pursuant to Article 206 hereof.

### **Corrections**

#### Article 206

- (1) If the transfer of entries from the land registry into the EDP land registry is not completed in accordance with the regulations on the transfer of entries, corrections shall be made on the basis of a special ruling of the land registry court either by proposal or ex officio. The same shall apply if the transfer of a given entry is overlooked.
- (2) Entries which were not entered as irrelevant shall be stored at a special proposal.
- (3) A ruling on the deletion of an entry evaluated as impermissible shall issued by special request. The same shall also apply when acting pursuant to Article 203(3) hereof.

#### Article 207

- (1) If a correction encroaches on the title of a third party which was entered after the transformation of the land registry into an EDP land registry, the correction shall only be allowed if the proposal seeking such a correction is received by the land registry court within a period of six months from the opening of the EDP land registry, or the correction shall be made ex officio within this period.
- (2) The provisions from Paragraph 1 hereof shall not touch upon the possibility of requesting deletion by claim pursuant to the provisions of this Act on deletion actions, nor shall it touch upon the protection enjoyed by an honest acquirer.

### **Procedure for Unresolved Land Registry Matters**

#### Article 208

Land registry matters which have not been resolved at the moment of the opening of the EDP land registry and land registry submissions which are received by the land registry court within the period from Article 207 hereof shall be compared to the registry status in the central register maintained before the transformation. If the need for a correction of the entries transferred into the EDP land registry arises, the provisions from Articles 206 and 207 hereof shall be applied in an appropriate manner.

### **Responsibility of the State**

#### Article 209

- (1) The Republic of Croatia shall bear objective responsibility for the damages caused due to errors in maintaining land registries by means of electronic data processing.
- (2) The responsibility of the Republic of Croatia for the damages from Paragraph 1 hereof shall cease if the damages are caused by an unavoidable event, but it shall remain if the damages were caused by a defect or shortcoming in the computer program or computer malfunction.

(3) The provisions from Paragraphs 1 and 2 hereof shall have no bearing on the responsibility of judges and officials for damages.

### **Fees**

#### **Article 210**

Unauthenticated entries from the LRBD shall be exempt from payment of court fees for the duration of the correction period for EDP land registries.

## **Part VI. TRANSITIONAL AND FINAL PROVISIONS**

#### **Article 211**

(1) In agreement with the chief official of the central state administrative body in charge of cadastres, the justice minister shall harmonise the territories of cadastral municipalities and the jurisdiction of land registry courts within a period of one year after the entry of this Act into force, such that two or more land registry courts do not have jurisdiction over a single cadastral municipality.

(2) Until the rulings from Paragraph 1 hereof are passed, land registry courts and cadastres shall operate within the limits of their previous jurisdictions.

#### **Article 212**

(1) In agreement with the chief official of the central state administrative body in charge of cadastres, the justice minister shall determine the structure and operations of the LRDB.

(2) The minister of transportation, communications and maritime affairs shall secure the technical basis for the implementation of the provisions of this Act which deal with the LRDB and the structure and use of the EDP land registries.

#### **Article 213**

In agreement with the finance minister, the justice minister shall determine the method for utilising the funds foreseen for the implementation of this Act, as well as the coverage of the costs of establishing, amending, renewing and transforming land registries.

#### **Article 214**

(1) The justice minister shall adopt the regulations on the internal structure, maintenance of land registries and the execution of other tasks in the land registry departments of courts pursuant to the provisions of this Act (land registry regulations).

(2) The justice minister shall determine the necessary organisational structure of the staff employed in land registry departments, their qualifications and the methods and deadlines for the additional education of current staff.

#### **Article 215**

(1) The signature of the person who had at its disposal real estate in a document shall be considered duly certified even when:

- the document is co-signed and this signature is certified by a person who is authorised to sign such documents at the moment of certification,
- the document is co-signed and this signature is certified by a person who is authorised to sign such documents at the moment of certification as the body of a legal person who is the legal successor to that legal person who had the real estate at its disposal,
- the document is co-signed by the Attorney General of the Republic of Croatia in case when the legal person who had the real estate at its disposal has no legal successor.

(2) A certificate from the court register shall be attached to the document co-signed pursuant to the provisions of Paragraph 1 hereof in which the authorisation of the co-signer is clearly visible, and, when necessary, a document on legal succession or a lack thereof.



(3) The consent of the legal person who had at its disposal the real estate to permit entry in favour of the acquirer shall be considered granted when a statement on this in the stipulated form is submitted by the person authorised to co-sign according to Paragraph 1 hereof.

(4) The accuracy of the signature on a private document drafted before the entry into force of the Notary Public Act (*Narodne novine*, no. 78/93) which limits, encumbers, terminates or transfers to another person the title of a legal minor or person proclaimed unfit to work need not be certified if the document contains the consent of the body entrusted with care for the interests of such persons.

#### Article 216

The provisions from Articles 40 and 41 hereof shall be applied in an appropriate manner when the right to the administration, disposal and use of state-owned real estate, the right to use or the right of first use on state-owned construction land and all other rights to state-owned real estate is consecutively granted to several persons.

#### Article 217

The periods stipulated by this Act which are already under way shall proceed pursuant to the regulations which were valid up to the entry into force of this Act even after the entry into force of this Act, but not longer than the conclusion of such period as foreseen by this Act, counting from the day on which it enters into force.

#### Article 218

Entries which are not complete as at the entry into force of this Act shall be subject to the provisions of this Act, unless otherwise stipulated by this Act.

#### Article 219

On the day of opening established, renewed, amended or transformed land registries, the land registry which had been in use until such time and the register of deposited contracts shall be closed.

#### Article 220

(1) Upon the establishment, renewal, amendment or transformation of the land registries, entries on the right to administer, dispose of and use state-owned real estate in the land registries which shall be closed, or in the register of deposited contracts, shall ex officio be led as entries on titles in favour of the persons who were recorded as the holder of the right to administer, dispose of and use. If no one is recorded as the holder of the right to administer, dispose of and use state-owned real estate, the Republic of Croatia shall be entered as the holder of the title.

(2) Upon the establishment, renewal, amendment or transformation of the land registries, state ownership and the right to use, and the right of first use of state-owned construction land shall be deleted, and the person to whose benefit the right to use or the right of first use was entered in the land registry to be closed and the register of deposited contracts shall be entered ex officio as the holder of the title. If no one is recorded as the holder of the right to administer, dispose of and use state-owned real estate, the Republic of Croatia shall be entered as the holder of the title.

(3) The remaining material rights which existed on state-owned real estate and implemented recordations shall be entered in the order of priority as in the land registry to be closed and the register of deposited contracts, i.e. in the order in which they were established by the list pursuant to the provisions of the Distraint Act.

#### Article 221

(1) Upon the establishment, renewal, amendment or transformation of the land registries, all registered land units entered in the same land registry file in the land registry to be closed shall be merged ex officio. The same shall apply to a registered land unit which deals with the same real state and which is entered in the register of deposited contracts. If different persons are entered as the holder of the title or the right to use of individual registered land units, they shall be entered as

the co-owners of a unified registered land unit in equal shares, unless a ruling of the court determines different ownership shares.

(2) If a building has been built on state-owned land, the land and the building shall be merged into one registered land unit, and the owner of the real estate shall be entered as the person to whose benefit the title or the right to use was entered.

(3) The remaining material rights which existed on a registered land unit and the recordation on that registered land unit shall be entered in that order of priority in which they were entered in the land registry to be closed and the register of deposited contracts, i.e. in the order in which they were established by the list pursuant to the provisions of the Distraint Act. These entries shall be made in favour of the co-ownership share of that person to whose benefit the title or the right to administer, dispose of or use this registered land unit was entered. If the material right may only be exercised on the entire registered land unit, it shall be entered in favour of the entire registered land unit.

#### Article 222

(1) Upon the establishment, renewal, amendment or transformation of the land registries, entries on titles or the right to administer, dispose of or use of a specific part of a building shall be made ex officio as co-ownership entries in which the title to the specific part of the building is established in favour of the person to whose benefit the title or the right to administer, dispose of or use of the specific part was entered in the land registry to be closed and in the register of deposited contracts. Co-ownership shall be entered in equal shares, unless stipulated otherwise by law.

(2) The remaining material rights which existed on a specific part of a building and the recordation on that specific part of a building shall be entered in that order of priority in which they were entered in the land registry to be closed and the register of deposited contracts, i.e. in the order in which they were established by the list pursuant to the provisions of the Distraint Act. These entries shall be made in favour of the co-ownership share of that person to whose benefit the title or the right to administer, dispose of or use this specific part of a building. If the material right may only be exercised on the entire registered land unit, it shall be entered in favour of the entire registered land unit.

(3) The provision from Paragraph 1 hereof shall be applied in an appropriate manner even when the title to the specific part of a building is entered in the land registry as a recordation.

#### Article 223

Entries on the right to temporary use of real estate shall be made in an appropriate manner by applying the provision on entries on the right to rent or lease.

#### Article 224

(1) Periods of three (3) years to submit the deletion actions from Article 123 of the Ownership and Other Proprietary Rights Act and Article 129 hereof shall commence as of the date of entry into force of this Act.

(2) Extra-registry holders of proprietary rights shall be obliged to initiate a procedure for the entry of their proprietary rights to real estate and all changes on them in the land registry within a period of five years.

(3) The office of the attorney general shall be obliged to initiate a procedure for the entry of proprietary rights to the real estate of the Republic of Croatia, public goods and general goods within a period of five years from the date of entry into force of this act.

#### Article 225

(1) The owner of a specific part of a building who acquired this ownership on the basis of a contract prepared pursuant to the provisions of the Sale of Flats Bearing Tenancy Rights Act whereby the price of the flat did not include the price of the land shall be obliged to attach evidence that the owner of the land was paid compensation for the land according to the price

established pursuant to Article 371(2) of Ownership and Other Proprietary Rights Act to the proposal for entry of the title to land acquired on the basis of Article 370(3) thereof.

(2) The land registry court shall reject any proposal for entry which does not contain attached the evidence from Paragraph 1 hereof.

#### Article 226

(1) The land registry courts shall be obliged to establish and transform land registries pursuant to the provisions of this Act within a period of five (5) years of the date of entry into force of this Act.

(2) The justice minister shall issue a directive which confirms that the land registries from Paragraph 1 hereof have been established or transformed pursuant to the provisions of this Act.

(3) The directive of the justice minister from Paragraph 2 hereof shall be published in *Narodne novine* and in other public media if necessary. From the date of publication in *Narodne novine*, the state of affairs in the land registries shall be assumed to be complete and accurate.

(4) The period of five years from Paragraph 1 hereof shall not apply to those courts in which land registries accurately and completely reflect the actual state of affairs of the real estate.

#### Article 227

(1) The justice minister, the minister of transportation, communications and maritime affairs, the finance minister and the chief official of the central state administrative body in charge of cadastres shall adopt the regulations from Articles 211, 212, 213 and 214 hereof within a period of one year from the date of entry into force of this Act.

(2) The justice minister shall adopt the regulations from Article 173(3) hereof within a period of six months from the date of entry into force of this Act.

#### Article 228

The justice minister may adopt other regulations to facilitate the implementation of this Act if and when necessary.

#### Article 229

The subordinate legislation which has been applied up to the entry into force of this Act, if it does not contradict the provisions of this Act, shall be applied until the competent minister adopts the regulations for the implementation of this Act.

#### Article 230

Upon the entry into force of this Act, the State-owned Real Estate Registration Act (*Narodne novine*, no. 52/71) shall cease to be valid.

#### Article 231

This Act shall enter into force on 1 January 1997

Class: 932-01/95-01/02

Zagreb, 2 October 1996

CHAMBER OF DEPUTIES  
OF THE PARLIAMENT OF THE REPUBLIC OF CROATIA  
President  
of the Parliamentary Chamber of Deputies  
**Vlatko Pavletić, academician** (signed)