

Ukraine: new procedure of registration of rights to immovable property is adopted

Law-Now Ukraine
29.07.2011

On 22 June 2011, the Cabinet of Ministers of Ukraine adopted the long-awaited procedure to establish a new system of registration of rights to immovable property in Ukraine (Resolution No. 703 "On Approving the Procedure for State Registration of Rights to Real Estate and Their Encumbrances and The Procedure on Issuance of Extracts from the State Registry of Corporeal Rights to Real Estate" (the "**Resolution**"). The Resolution comes into force on 01 January 2012 and was adopted as necessary subordinate legislation pursuant to Article 15 of the Law of Ukraine "On State Registration of Corporeal Rights to Real Estate and Their Encumbrances", passed on 01 July 2004 (the "**Law**").

The Resolution provides a welcome overhaul of the procedures for state registration of rights to immovable property in Ukraine. It provides a "single window" of registration where the rights and encumbrances to both immovable property objects and land will be registered by a single body and will be included into a single system of state registration of rights to immovable property.

Starting from 01 January 2012, the State Registration Service of Ukraine and local departments of the Ministry of Justice of Ukraine (the "**Registrar**") will combine a number of functions, which are currently carried out by a number of authorities and institutions such as the Bureau of Technical Inventory and the Registry of Ownership to Immovable Property, local departments of the State Land Committee and notaries.

The Registrar will register rights to immovable property and their encumbrances in a new State Registry of Corporeal Rights to Immovable Property (the "**Registry**"). The Registry will include complete information regarding the registration of rights to both land and other immovable property, such as apartments, buildings and other permanent structures ("**Property**"). Furthermore, the Registry will include comprehensive information regarding all mortgages (hypothecs), statutory liens and other encumbrances to the Property ("**Encumbrances**"). Thus, the Registry will unify and consolidate information currently set out in separate registries: the Registry of Ownership Rights to Immovable Property, the Unified Registry of Prohibition on the Alienation of Immovable Property, the State Registry of Mortgages, the State Registry of Encumbrances Over Movable Property, and the State Land Registry.

The Resolution details the procedure of registration of rights to Property and Encumbrances, the list of documents required for registration, grounds for suspension or refusal of registration and the procedure for obtaining extracts from the Registry.

The term of registration of rights to Property should not exceed 14 (fourteen) business days and the registration of Encumbrances should be performed within 1 (one) business day. The date and time of registration of rights to Property and Encumbrances will be retroactive to the date and time of the application for registration. Rights to the Property are evidenced and confirmed in an extract obtained from the Registry, and the state guarantees the veracity of the information set out in the extract.

However, the information contained in the Registry will not be fully publicly accessible; it will be provided only to (i) owners of Property; (ii) successors and assigns; (iii) individuals or entities in whose interests an encumbrance is established, or authorized representatives of the above persons.

Although the Resolution contains some discrepancies with current legislation, we believe that the implementation of the Registry is a long overdue reform that should significantly enhance the security and protection of rights to immovable property, improve transparency and certainty in property relationships, should create more

favorable conditions for development of market relations, and begin to hopefully improve the investment climate in Ukraine.

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