

## **04 Annex - Free movement of capital**

### **21. LAW ON STATE SURVEYING AND CADASTRE OF IMMOVABLE PROPERTY**

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Pursuant to Article 88, item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**DECREE PROMULGATING THE LAW ON STATE SURVEYING AND CADASTRE OF  
IMMOVABLE PROPERTY**

**(Official Gazette of the Republic of Montenegro 29/07 of 22 May 2007)**

I hereby promulgate the Law on State Surveying and Cadastre of Immovable Property, adopted by the Constitutional Parliament of the Republic of Montenegro at the second sitting of the first regular session in 2007, on 15 May 2007.

Number: 01-703/2

Podgorica, 17 May 2007

The President of the Republic of Montenegro

Filip Vujanović, m.p.

**LAW ON STATE SURVEYING AND CADASTRE OF IMMOVABLE PROPERTY**

**TITLE 1**

**GENERAL PROVISIONS**

**Scope of the Law**

**Article 1**

This Law shall govern state survey, cadastre of immovable property and registration of immovable property-based rights, utility lines cadastre, main state map and topographic maps, survey of state borderlines, and other matters important for state survey and cadastre of immovable property.

**Meaning of Terms**

**Article 2**

As used in this Law, the following terms shall have the following meaning:

- 1) state survey (hereinafter referred to as: the survey) shall mean development of technical documentation and execution of geodetic works in the process of gathering and determining spatial data on immovable property (position, form, manner of use) and rights on immovable property in one or more cadastre territorial units or parts thereof, and carrying-out other activities determined by this Law;
- 2) immovable property shall mean: land (agricultural, buildable, forest and other), structures (business, residential, residential-business, economic and other structures), separate parts of facilities (apartments, business premises, garages, garage places, and basements), other over-ground structures (road structures, electrical energy structures, railway structures, air traffic structures, industrial structures, telecommunication structures, structures for sport and physical culture, and other) and underground structures (garages, reservoirs, pedestrian passageways, tunnels, shelters, metros, and other structures);

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- 3) Cadastre of immovable property shall mean single public record whereat immovable property and property rights on immovable property and obligation rights are registered in accordance with law;
- 4) utility lines shall mean over-ground and underground utility lines with pertaining devices and plants (water supply lines, sewer system, district-heating lines, oil pipeline, gas pipeline, electrical lines, telecommunications, drainage, industrial and other lines). Pertaining devices of utility lines shall include devices having been under construction or constructed on utility lines, which enable the functioning and suitable usage of utility lines (manholes, poles, reinforcement, and other devices);
- 5) holder of right shall mean a natural person or legal entity having ownership right, property-based or obligation right on specific immovable property;
- 6) user of immovable property shall mean a natural person or legal entity exercising property-based or obligation right on specific immovable property for the purpose of using it or collecting fruits;
- 7) geodetic works shall mean: basic geodetic works, state survey, activities regarding development and maintenance of cadastre of immovable property, utility lines cadastre, economic redistribution of agricultural land, development of the main state map and topographic maps;
- 8) basic geodetic works shall mean works including design and development of national grid reference networks in adopted cartographic projection, as well as in altitude, gravimetric and astronomic system;
- 9) National Grid Reference System shall mean a coordinate system necessary to define positions of points or structures in the space of the Republic of Montenegro (hereinafter referred to as: the Republic);
- 10) cadastral plan shall mean a horizontal terrain presentation of smaller part of the Earth's surface in orthogonal projection and adequate scale, and it shall contain borders of parcels and structures with their numeration, name of the settlement, named place, street, or square, house number, manner of using the land and geodetic base;
- 11) legal continuity shall mean to derive the right on immovable property from the right of legal predecessor to a legal successor;
- 12) clausula intabulandi shall mean explicit statement, or consent of a legal predecessor stated in a document on a legal transaction that a legal successor can register his/her right on immovable property, or that the right on immovable property can be transferred, limited, encumbered, or cancelled. The explicit statement can be given also in a separate document;
- 13) main state map (MSM) shall mean a topographic map of the scale 1:5000, produced in analogue form in form sheets for the entire territory of the Republic;
- 14) topographic maps shall mean maps produced in standardized international series scales 1:25000, 1:50000, 1:100000, 1:200000 where natural and man-made structures on the Earth's surface are depicted, in the size depending on the scale of the map;
- 15) indicative topographic maps shall mean maps of the scale smaller than 1:200000 up to 1:1000000 inclusive, which show natural and man-made structures on the Earth's surface;
- 16) geodetic-cadastral information system shall mean the basic sub-system of the information system of state authorities that provides in a unique manner recording of geodetic and cadastral data on immovable property and rights thereof, access to data by authorized users regardless of their location, exchange of data and information between entities party to the information system of state authorities;
- 17) database of the immovable property cadastre of the Republic shall mean integrated base of alphanumeric and graphical data of the cadastre of immovable property;
- 18) geodetic works in engineering-technical areas shall mean geodetic works in the area of civil engineering, urban planning and architecture, mechanical engineering and ship construction, mining and energy, agriculture and forestry, or works that are not part of the surveying and cadastre of immovable property.

**Public Interest**

**Article 3**

Survey, development and maintenance of the cadastre of immovable property shall represent a public interest.

**Work Programme and Work Plan**

**Article 4**

Survey, development of cadastre of immovable property, utility lines cadastre, economic redistribution of agricultural land, development of the main state map and topographic maps, shall be done on the basis of the medium-term work programme and annual work plans.

Survey of individual territorial units financed by legal entities and natural persons, may be allowed outside the plans referred to in paragraph 1 of this Article.

The medium-term work programme shall be adopted by the Government of the Republic of Montenegro (hereinafter referred to as: the Government) for a period of five years, whereas the annual work plan shall be adopted by the ministry responsible for finance (hereinafter referred to as: the Ministry).

The programme and plan referred to in paragraph 3 of this Article shall determine the type and scope of works, as well as the amount of funds for their realisation.

Funds for execution of the programme and the plan shall be provided pursuant to Article 176 of this Law.

The medium-term work programme referred to in paragraph 3 of this Article shall be published in the Official Gazette of the Republic of Montenegro.

**Application of Regulations**

**Article 5**

Provisions of the law which governs general administrative procedure shall apply to procedures set forth under this Law, unless otherwise stipulated by this Law.

**Competency**

**Article 6**

The administration authority responsible for affairs of state surveying and cadastre (hereinafter referred to as: the Administrative Authority) shall perform administrative activities related to development of the cadastre of immovable property, registration of rights in the cadastre of immovable property and maintenance of the cadastre of immovable property and development of the Main State Map and topographic maps.

Geodetic works related to the development and maintenance of survey, basic geodetic works, development of utility lines cadastre, shall be performed by business organisations, other legal entities and entrepreneurs registered for carrying out such works and having a work licence (hereinafter referred to as: geodetic organisations) in the manner and under conditions determined by this Law.

### **Basic Principles of the Cadastre of Immovable Property**

#### **Article 7**

The basic principles of the cadastre of immovable property shall be: principle of registration, principle of transparency, principle of reliability, principle of legality, principle of priority, and principle of procedure formality.

#### **Principle of Registration**

##### **Article 8**

The rights on immovable property shall be acquired, transferred, limited and terminated as of the registration in the cadastre of immovable property, unless otherwise set forth by law.

When a certain right is acquired pursuant to the court ruling, decision of another state authority, inheritance or by virtue of law without the registration in the cadastre of immovable property, the acquirer may request the registration of such right in the cadastre of immovable property, provided that a document suitable for registration is submitted along with the request for registration.

#### **Principle of Transparency**

##### **Article 9**

Any person shall have a right to access data contained in the cadastre of immovable property, to be issued with an immovable property certificate or certificate that a certain immovable property or right is registered in the Cadastre of Immovable Property.

#### **Principle of Reliability**

##### **Article 10**

Data on immovable property and rights thereon, registered in accordance with this Law, shall be deemed as accurate and no person can incur adverse consequences in immovable property transactions and other relations whereupon such data are used.

#### **Principle of Legality**

##### **Article 11**

The Administration Authority shall investigate, *ex officio*, whether requirements for registration, set forth under law, are met.

### **Principle of Priority**

#### **Article 12**

Registration of rights in the cadastre of immovable property shall be performed based on a time sequence of submission of registration requests.

Legal effect of registration on third parties shall start from the time of the submission of the registration request to the administration authority,

The administration authority shall register the number of the request and time of the submission of the request in the immovable property certificate immediately upon the receipt of the registration request.

By ceding the order of priority of the request for full registration or pre-registration such requests have in the order of priority, order of priority of such request may be substituted.

### **Principle of Formality of Procedure**

#### **Article 13**

In the procedure of registration into the cadastre of immovable property, the administration authority shall decide on registration based on documents suitable for registration and registered condition in the cadastre of immovable property.

## **TITLE II**

### **TECHNICAL DOCUMENTATION AND EXECUTION OF THE GEODETIC WORKS**

#### **Technical Documentation**

##### **Article 14**

Technical documentation shall include development of the main project.

The main project shall be developed for the needs of execution of geodetic works in the following areas:

- 1) basic geodetic works, survey and development of the cadastre of immovable property and utility lines cadastre;
- 2) economic redistribution of agricultural land;
- 3) main state map, topographic maps and indicative topographic maps.

Notwithstanding paragraph 1, item 1 of this Article, the main project shall not be developed in case of development of the cadastre of immovable property based on individual request of a holder of the right, or surveying and measuring individual utility lines, in accordance with this Law.

### **Contents of the Main Project**

#### **Article 15**

The main project shall be developed in accordance with the terms of reference and it shall contain, including but not limited to following details:

- 1) general data on subject matter of the project, work site, and supporting documentation;
- 2) terms of reference for development of the main project;
- 3) bases for development of the project (regulation and project design base documents);
- 4) technical report on executed previous works;
- 5) project solution for geodetic works;
- 6) organization of works (sequence of activities, time of realisation);
- 7) priced bill of quantities (scope, type and price of works);
- 8) graphical annexes and tables.

### **Development of Technical Documentation**

#### **Article 16**

Geodetic organisation registered for development of technical documentation, if it has at least one employee with university degree in geodesy, or masters degree or applied masters degree, relevant one-year working experience and authorization acquired by passing the professional exam before the commission established by director of the Administration may produce technical documentation.

Notwithstanding paragraph 1 of this Article, persons who have technical science PhD in geodesy shall be released from passing the professional exam for acquiring authorization.

The Ministry shall adopt the programme for passing professional exam for acquiring authorisation referred to in paragraph 1 of this Article.

The development of technical documentation referred to in Article 14 of this Law shall be assigned according to regulations on public procurement.

### **Project Control**

#### **Article 17**

The main project shall be subject to technical control.

An expert commission established by the administration authority shall carry out the technical control of the main project referred to in Article 14 of this Law.

Members of the commission referred to in paragraph 2 of this Article must meet conditions referred to in Article 16, paragraph 1 of this Law

The member of the commission referred to in paragraph 2 of this Article cannot be a person that took part in the development of the main project.

### **Technical Documentation for Engineering-Technical Areas**

#### **Article 18**

Special regulations shall govern technical documentation for execution of geodetic works in engineering-technical areas.

### **Managing Works and Professional Supervision**

#### **Article 19**

Managing works and professional supervision over execution of works for which this Law envisages a development of the main project may be carried out by a person meeting requirements referred to in Article 16, paragraph 1 of this Law.

An investor shall determine a person who will carry out professional supervision of work execution.

Professional supervision shall include: control whether works are executed in accordance with technical documentation; control and verification of quality of executed works; and application of regulations, standards and technical norms.

### **Execution of Geodetic Works**

#### **Article 20**

A contractor of geodetic works for which this Law envisages development of the main project shall be obliged to:

- 1) execute works based on the technical documentation, and in accordance with regulations, standards, technical norms and quality norms applicable to certain types of works;
- 2) keep a daily ledger on works and inspection book;
- 3) inform immediately in writing a person performing professional supervision of noticed shortcomings in the technical documentation and other circumstances having impact on execution of works and application of the technical documentation.

Execution of geodetic works referred to in paragraph 1 of this Article may be performed by a geodetic organization having at least two employees with background in geodesy, out of which one at least must have a university degree or masters degree or applied masters degree, at least one-year working experience on such activities and authorisation for execution of works acquired by passing the professional exam referred to in Article 16 of this Law before the commission established by the Administration Authority.

Execution of geodetic works financed from the Budget of the Republic shall be assigned in accordance with regulations on public procurement.



The administration authority shall perform assignment of works referred to in paragraph 3 of this Article and Article 16, paragraph 4 of this Law.

**TITLE III**  
**BASIC GEODETIC WORKS**

**National Grid Reference System**

**Article 21**

Positioning, determination of external gravitation field and geodynamic researches shall be done in the National Grid Reference System.

The following shall be determined within the National Grid Reference System:

- 1) spatial (three-dimensional) reference system;
- 2) horizontal (two-dimensional) reference system;
- 3) vertical (one-dimensional) reference system;
- 4) gravimetric reference system;
- 5) astronomic reference system.

**Spatial Reference System**

**Article 22**

Spatial reference system shall mean terrestrial three-dimensional coordinate system that corresponds to International Terrestrial Reference System by definition of coordinate zero value, orientation of coordinate axes, scale, longitudinal unit, and time evolution.

**Horizontal Reference System**

**Article 23**

Horizontal reference system shall represent two-dimensional coordinate subset of the spatial reference system where the position of points and structures is presented by two-dimensional, rectangular, curve coordinates, or geodetic longitude and latitude with respect to reference two-axes revolving ellipsoid of the Geodetic Reference System 80 (GRS 80).

**State Projection**

**Article 24**

Position of points and structures in the horizontal reference system shall be presented by two-dimensional, rectangular, rectilinear coordinates at the level of conformal Universal Transverse Mercator projection of ellipsoid GRS 80.

### **Vertical Geodetic System**

#### **Article 25**

The position of points and facilities in vertical reference geodetic system of the Republic shall be presented by ellipsoidal or physically defined longitudes.

Reference area of ellipsoidal longitudes shall be level ellipsoid of the reference system GRS 80.

Reference areas of physically defined longitudes shall be quasigeoid and geoid.

Reference area of the vertical reference system of the Republic shall have vertical position that corresponds to the medium level of the Adriatic Sea, realized by marigraphic observations for referent time period.

### **Gravimetric Reference System**

#### **Article 26**

For the reference system of gravimetric determinations in the Republic, the system with the minimum of six points where the value of gravitational acceleration is known, determined by application of precise ballistic gravimetric instruments, shall be applied.

### **Astronomic Reference System**

#### **Article 27**

Astronomic reference system shall mean inertial three-dimensional coordinate system that corresponds with respect to definition of zero coordinate value, orientation of coordinate axes, scale, longitude and time unit, time evolution and fundamental constants to the International Celestial Reference System.

## **TITLE IV**

### **SURVEYING OF IMMOVABLE PROPERTY**

#### **The Content of Surveying**

**Article 28**

The surveying includes:

- 1) placing points of geodetic basis and determining their coordinates for surveying of details;
- 2) determining cadastral territorial unit;
- 3) measuring, gathering and determining spatial and descriptive data about the immovable property;
- 4) gathering data on a holder of the right on immovable property, or user of immovable property;
- 5) cadastral classification and land quality evaluation;
- 6) development of cadastre plans;
- 7) metrological provision of geodetic works and their standardization.

**1. Geodetic Basis for Surveying of Details**

**Types of Geodetic Grids for Surveying of Details**

**Article 29**

Geodetic basis for surveying of details shall include geodetic grids (polygonal grid, linear grid, grid of planimetric control points and levelling grid) and geodetic points (points of reference grids).

**2. Cadastral Territorial Units**

**Types of Cadastral Territorial Units**

**Article 30**

Cadastral territorial units shall be cadastral parcel, cadastral municipality, and cadastral district.

**Cadastral Parcel**

**Article 31**

Cadastral parcel shall mean a part of the land in a cadastral municipality defined by borders and designated by a number, the holder of right or user of which is one or several persons.

Position, form, and number of cadastral parcel shall be depicted on a cadastre plan, while other data, related to the parcel, shall be registered in the cadastre of immovable property.

**Cadastral Municipality**

**Article 32**

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Cadastral municipality shall mean a territorial unit that, as a rule, includes area of a populated place, whose name is determined by law and which represents a basic unit where surveying is performed and the cadastre of immovable property developed.

If required so due to special reasons, one cadastral municipality may be formed for two or several populated places or several cadastral municipalities for one populated place.

The Government shall decide on change in the border of a cadastral municipality, upon obtained opinion of the administration authority and the municipality on whose territory the cadastral municipality is located

In case a change in the border of cadastral municipality changes borderers of neighbouring municipalities, the establishment of the new border of the municipality shall be done pursuant to law.

### **Marking Borders of Cadastral Municipality**

#### **Article 33**

The Administration shall mark cadastral municipality borders, by placing geodetic marks and describing borders in the border record book.

### **Cadastral District**

#### **Article 34**

Cadastral district shall mean a territorial unit for cadastral classification of land.

Cadastral district shall include two or more territorially connected cadastral municipalities, which represent economic unit with similar natural and other conditions of agricultural production.

The Government shall form a cadastral district and determine its name, at the proposal of the Ministry.

## **3. Measuring, Gathering and Determining Spatial and Descriptive Data on Immovable Property**

### **Contents**

**Article 35**

The following data shall be gathered by way of measuring, gathering and determining spatial and descriptive data on immovable property:

- 1) borders of territorial units (state border; borders of municipalities, cadastral municipalities and cadastral parcels);
- 2) cadastral parcels (position and form, manner of use, cadastral class, quality);
- 3) structures (position, borders, manner of use, number of storeys, area of the base, area of separate parts, construction year);
- 4) geographic and other names.

Position and form of immovable property shall be determined by surveying of details. Surveying of details shall be done by photogrammetric, polar, orthogonal method and global positioning method.

Surveying data must be such as to provide the possibility to restore the surveyed detail.

**Marking Borders of Immovable Property**

**Article 36**

A holder of right on immovable property on the territory where surveying is taking place shall be obliged to mark, with visible and permanent markers, borders of immovable property in a prescribed manner and at his expense.

The administration authority or geodetic organisation shall be obliged to publish a public invitation to holders of immovable property rights to mark borders of immovable property in a prescribed manner in at least one media outlet available on the entire territory of the Republic.

If a holder of right fails to mark in a prescribed manner borders of immovable property with visible and permanent markers, or fails to mark its in appropriate manner, the Administration authority shall carry out marking at the expense of the holder of right. Identity of the holder of immovable property rights shall be established in a prescribed manner.

When, in spite of determined and undertaken activities and presentation of evidence in accordance with law, it is not possible to mark borders of immovable property or it is not possible to determine identity of the holder of immovable property right, the Administration authority shall register state ownership of such immovable property, with post-registration that the immovable property is not marked.

Post-registration note referred to in paragraph 4 of this Article shall have the legal effect which expires after the expiry of one year as of its registration.

If within deadline referred to in paragraph 5 of this Article, the holder of rights comes forwards, proves the right on immovable property and marks the borders of immovable property he/she has the right on, at own expense, the Administration authority shall change the registration and delete the post-registration note.

The Ministry shall stipulate the manner of marking of borders of immovable property with border markers.

### **Access to Immovable Property and Preserving Geodetic Markers**

#### **Article 37**

Holder of immovable property right shall be obliged to allow persons engaged in activities regarding surveying and maintaining cadastre of immovable property to access the immovable property, place geodetic markers and gather data on immovable property.

Geodetic markers must not be destroyed, damaged, or be subject to unauthorized move or relocation.

Holder of immovable property right whereat geodetic markers are placed shall be obliged to inform the Administration authority, on any damage, destruction, move or relocation of markers within 15 days as of the day of finding out thereof.

### **Competence of Taking Care and Protection of Markers**

#### **Article 38**

The Administration authority shall take care of protection of geodetic markers and points of the National Grid Reference System.

### **Damage, Destruction and Relocation of Geodetic Markers**

#### **Article 39**

When construction or other works are executed on immovable property having geodetic markers thereon or in their immediate vicinity, which can damage or destroy markers or reduce the possibility of their use, an investor or contractor shall be obliged to inform the Administration authority thereof at least 15 days prior to work commencement.

If the use of existing geodetic marker is reduced or disabled as a result of execution of works referred to in paragraph 1 of this Article, an investor shall bear costs of removing, placing the marker and determining the point.

## **4. Gathering Data on Holder of Right**

### **Data Gathering**

#### **Article 40**

By gathering data on the holder of right on immovable property, the following data shall be gathered:

- 1) on ownership right and other property-based rights on immovable property;
- 2) obligation rights on immovable property registered in accordance with law;
- 3) encumbrances and limitations regarding disposition of immovable property.

## **5. Cadastral Classification and Land Quality Evaluation**

### **Cadastral Classification of Land**

#### **Article 41**

Cadastral classification of land shall be done based on natural and economic conditions of production of the existing cultivars on the land, and it shall serve for determining cadastre revenue.

Cadastral classification of land shall determine cadastral cultures and classes for each cadastral parcel within one cadastral municipality with respect to cadastral district.

### **Cadastral Cultures**

#### **Article 42**

Lands used in agriculture and forestry shall be classified in the following cadastral cultures: field, garden, orchard, vineyard, meadow, pasture, forest, reed-patch and swamp.

Each cadastral culture referred to in paragraph 1 of this Article within the area of one cadastral district shall be divided into maximum of eight cadastral classes.

Land that cannot be used in agriculture and forestry shall be classified as infertile.

Land that serves for special purposes and not used in agriculture and forestry shall be classified as infertile and its purpose shall be determined.

### **Commission for Cadastral Classification**

#### **Article 43**

The Commission for Cadastral Classification of Land, established by the Administration authority, shall carry out cadastral classification in a cadastral municipality.

The Commission shall consist of chairperson and two members, for which deputies shall be appointed.

A chairperson of the Commission shall be a person who is graduated agricultural engineer, or a person having masters degree or applied masters degree, having at least two years of working experience and authorization to carry out cadastral classification and land quality evaluation, acquired by passing the examination before a commission established by the director of the Administration Authority, whereas members of the Commission shall be geodetic expert and person who has immovable property on the territory for which classification is performed.

The Ministry shall adopt the program of passing the examination for acquiring authorisation referred to in paragraph 3 of this Article.

### **Announcing Data on Cadastral Classification**

#### **Article 44**

Data determined by cadastral classification of land shall be announced to holders of rights in the procedure of enabling public display of data on immovable property and rights thereof.

### **Land Quality Evaluation**

#### **Article 45**

Land quality evaluation shall mean classification of fertile land based on its natural characteristics, regardless of the manner of its use.

Territorial unit for land quality evaluation shall be the territory of the Republic.

In accordance with land quality or fertility, all lands suitable for agricultural and forest production shall be divided into eight land quality classes, and within each land quality class, one or more land quality sub-classes can be determined.

Land quality evaluation shall not be performed for infertile land and land for special purpose.

A graduated agricultural engineer, who has the authorisation referred to in Article 36, paragraph 3 of this Law and who is appointed by the Administration authority, shall carry out categorization of land in quality classes.

## **6. Development of Cadastre Plans**

### **Cadastre Plans**

#### **Article 46**

Cadastral plan in a digital form shall be produced based on data obtained by surveying details.



One copy of the plan shall be produced in analogue form, and together with the digital plan shall serve as an archive original.

Cadastral plan shall be produced in scales of 1:500, 1:1000, 1:2500, and 1:5000.

Producing a cadastral plan shall include also numbering of cadastral parcels, structures within the parcel and determining areas of parcels and structures.

The Administration authority shall carry out certification of technical reports, detailed study of surveying and cadastral plan.

Cadastral plans, technical reports and detailed studies of survey may be used only after having been certified by the Administration authority.

## **7. Metrological Provision of Geodetic Works and Standardisation**

### **Metrological Provision of Geodetic Works**

#### **Article 47**

For the purpose of metrological provision of geodetic works, in accordance with law, and based on national primary prototype units of longitude, angle, time and acceleration of gravitational force, secondary and working prototypes shall be established.

Prior to the usage of geodetic instruments, their metrological characteristics must be determined.

Geodetic instruments shall be subject to first inspection, periodical and extraordinary inspections, in accordance with law, the evidence of which is proved by a certificate of an organisation competent for metrology and an authorised laboratory.

### **Standardization**

#### **Article 48**

In order to provide common technical and technological basis for standardization and unification of geodetic works, national geodetic standards and adequate international standards shall be used, by which a necessary level of quality of geodetic works shall be reached.

The geodetic standard referred to in paragraph 1 of this Article shall contain: technical and technological requirements and rules on the basis of which geodetic works are defined, working procedures and processes for execution of geodetic works, procedures, manner and method for examining accuracy of results of measuring and levelling, uniform terms, definitions, symbols, marks, codes, ciphers, values and units.

**TITLE V**  
**CADASTRE OF IMMOVABLE PROPERTY**

**1. Common Provisions**

**Content of the Cadastre of Immovable Property**

**Article 49**

The Cadastre of Immovable Property shall include data on:

- 1) land – cadastral parcel (name of cadastral municipality; number, form and parcel area; type of land; cadastral culture; cadastral and quality class; cadastral; revenue; name or address);
- 2) structures (position; form; geodetic and useful area; manner of usage; name of the structure; address, number of storeys; year of construction and legal status of construction);
- 3) separate parts of the structure (position; form; construction and useful area; manner of usage; name of structure; address; number of storeys; number of rooms; construction year and legal status);
- 4) rights on immovable property and holders of such rights;
- 5) encumbrances and limitations (property and personal easement, mortgage, real property encumbrances, contractual right to pre-emptive purchase, right to purchase, right to resell, right to lease, contract of providing lifelong care, legal facts relating to an individual and immovable property, certain obligation rights and other).

The data referred to in paragraph 1 of this Article shall be determined and registered in the database of the Cadastre of Immovable Property with respect to cadastral municipality.

**Integral Parts of the Cadastre of Immovable Property**

**Article 50**

The Cadastre of Immovable Property shall consist of:

- 1) surveying detailed study;
- 2) working original of a cadastral plan;
- 3) immovable property certificates;

- 4) corpus of documents.

### **Surveying Detailed Study**

#### **Article 51**

Surveying detailed study shall consist of: project of the producing survey and cadastre of immovable property, original data on measuring, gathering and determining spatial and descriptive data on immovable property, technical report on executed works and data on calculating areas of parcels and structures.

### **Working Original of the Cadastral Plan**

#### **Article 52**

Working original of cadastral plan shall mean a copy of the archived original in analogue and digital form certified by the Administration authority and shall serve for maintaining survey.

### **Immovable Property Certificate**

#### **Article 53**

Immovable property certificate shall mean a core document on immovable property and rights thereof.

Immovable property certificate shall contain data on:

- 1) land – parcel (A list);
- 2) holder of right on the land – parcel (B list);
- 3) structures and separate parts of structures and holders of rights thereof (V list);
- 4) utility lines and holders of rights thereof (V list – part one);
- 5) encumbrances and limitations (G list).

Immovable property certificate shall include all cadastre parcels belonging to the same holder of right and structures on such parcels in the same cadastral municipality.

### **Corpus of Documents**

#### **Article 54**

Corpus of documents shall consist of original or notarised transcripts of documents important for registration of rights on immovable property, and shall be kept permanently.

**Public Documents of the Cadastre of Immovable Property**

**Article 55**

Notarised copy of a working original of cadastral plan and notarised immovable property certificate and extract from the immovable property certificate shall be public documents.

**2. Procedure of Producing the Cadastre of Immovable Property**

**Basic Provision**

**Article 56**

The Cadastre of immovable property shall be produced, as a rule, for the entire cadastral municipality.

Notwithstanding provisions of paragraph 1 of this Article, the cadastre of immovable property may also be developed for a part of the cadastral municipality upon request of holder of right.

**Producing the Cadastre of Immovable Property**

**Article 57**

The process of producing the cadastre of immovable property shall include:

- 1) producing a detailed study for public display of data;
- 2) public display of data on immovable property and rights thereof;
- 3) producing immovable property certificates;
- 4) producing corpus of documents.

**Detailed Study for Public Display of Data**

**Article 58**

A detailed study for public display of data shall include:

- 1) survey detailed study;
- 2) cadastral plans;
- 3) immovable property certificates with temporary registered data;
- 4) supporting documentation on immovable property.

**Public Display of Data**

**Article 59**

Public display of data on immovable property and rights thereof (hereinafter referred to as: the public display) shall mean a procedure where the detailed study for public display of data referred to in Article 58 of this Law shall be publically displayed to owners, users and interested persons on

the territory of a cadastral municipality for which the public display is enabled and for which rights on immovable property are established.

### **Producing Immovable Property Certificate and Corpus of Documents**

#### **Article 60**

An immovable property certificate and corpus of documents shall be produced upon completion of the public display.

### **Commission for Public Display**

#### **Article 61**

The Commission for Public Display (hereinafter referred to as: the Commission), appointed by the Administration authority, shall carry out public display of data.

The Commission shall consist of three members, as follows:

- 1) chairperson of the Commission (graduated jurist or having masters degree or applied masters degree, with three years of working experience and passed professional examination for work in state administration authorities);
- 2) member of the Commission (geodetic expert with passed professional examination for work in state administration authorities);
- 3) member of the Commission (representative of a local community).

### **Public Notice**

#### **Article 62**

The administration authority shall determine time and place of public display of data referred to in Article 59 of this Law by way of publishing announcement in at least one media outlet available on the entire territory of the Republic, no later than 30 days prior to commencement of public display.

Public notice referred to in paragraph 1 of this Article shall contain:

- 1) name of municipality and cadastral municipality;
- 2) description of borders of cadastral municipality or its part for which public display to data is enabled;
- 3) public invitation to persons considered to have a legal interest to participate in the procedure before the Commission;
- 4) place and premises where public display will be enabled;
- 5) working hours of the Commission;
- 6) time period during which the public display shall be enabled;

### **Determining the Right on Land**

#### **Article 63**

In the procedure of enabling public display, data from the land cadastre shall be compared with data registered in a temporary immovable property certificate.

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In the case of discrepancy between registered data, if the parties did not respond to public notice, the Commission may invite interested parties by a special invitation thereto attaching temporary immovable property certificate and hold a hearing.

The Commission shall obligatory, in case when the person registered in the land cadastre is not designated in a temporary immovable property certificate as holder of right, invite such person and hold hearing.

The invitation shall order persons to submit documents important for determining the rights on immovable property.

If the person fails to respond to public invitation or special invitation hand-delivered, and data from the land cadastre are the same as temporary registered data in the immovable property certificate, registration shall be done in the immovable property certificate.

If data from the land cadastre and temporary immovable property certificate are disparate, and invited persons did not respond to the invitation, the Commission shall determine rights based on data from the land cadastre of land and other available evidences.

### **Determining Rights on a Structure**

#### **Article 64**

A holder of right on a structure shall be:

- 1) constructor who constructed the structure in accordance with law;
- 2) constructor to whom building permit or use permit for the structure is issued;

In case the structure has a temporary character, for which a building permit or use permit is not issued or is constructed on several parcels or on another's land, a post-registration note shall be recorded in the G list of the immovable property.

### **Post-Registration Note for a Structure under Construction**

#### **Article 65**

In case when the structure is under construction, a post-registration note of construction on the parcel where the construction is started shall be registered in the G list, and shall contain data on: investor, technical documentation, building permit, deadline for completion of works and other facts relevant for the registration of post-registration note.

### **Determining Rights on a Separate Part of the Structure**

#### **Article 66**

Investor of the structure or other person who submits documents based on which a property right is demonstrated or a legal continuity regarding investor is determined, shall be determined as holder of the right on a separate part of the structure.

### **Separation of Joint Property**

#### **Article 67**

The administration authority shall separate the joint property, at the proposal of the Commission, based on the request of co-owners of immovable property whose right is being determined in the procedure of public display of data, provided that shares among them are not disputed.

If urban buildable land is subject to separation, separation of joint property of co-owners may be done only in accordance with the urban-development plan.

The Commission shall compile minutes on settlement upon separation of joint property or division of property, which shall have the validity of an enforcement document, and shall be kept in the corpus of documents.

### **Minutes on and Objection against the Decision**

#### **Article 68**

In the procedure of public display of data on immovable property and rights thereof, the Commission shall prepare minutes containing data on immovable property and rights thereof.

If the data in the minutes referred to in paragraph 1 of this Article are not disputed, data on immovable property and rights thereof shall be established by way of a decision.

Parties to the procedure may file an objection against the decision referred to in paragraph 2 of this Article within eight days as of the day of the delivery of decision.

Persons who did not participate in the procedure or holders of legal interest may submit objection against the data temporarily recorded in the immovable property certificate, within eight days as of the day of finding out about the data, but no later than until completion of public display.

The objection referred to in paragraphs 3 and 4 of this Article shall be submitted to the Commission for public display of data that is obliged to consider the objection and make a decision thereon within eight days as of the day of receiving the objection.

### **Appeal against the Decision**

#### **Article 69**

Appeal against the decision on the objection, referred to in Article 68 of this Law, can be filed with the Ministry within eight days as of the day of receiving the decision.

Registration in the immovable property certificate shall be done based on a final and binding decision on determining data on immovable property and rights thereof.

Administrative dispute may be conducted against the decision of the Ministry.

### **Completion of the Procedure on Public Display and Work of the Commission**

#### **Article 70**

The procedure on public display, for the purpose of this Law, shall be considered as completed when the Commission for public display submits to the Administration authority temporary certificates of immovable property with the corpus of documents by way of minutes.

### **Update of the Survey and Cadastre of Immovable Property**

#### **Article 71**

The cadastre of immovable property for a specific cadastral municipality or its part may be updated *ex officio* upon an initiative of the holder of rights.

The cadastre of immovable property will be updated if it is established for a specific cadastral municipality or its part that there is significant discrepancy between the status of the survey and established rights on one side and status in the field and actual rights on immovable property on the other side.

Provisions of this Law dealing with the process of producing the cadastre of immovable property shall apply to the update of the cadastre of immovable property.

### **3. Database of the Cadastre of Immovable Property**

#### **Development of the Database**

##### **Article 72**

After completion of public display of data on immovable property and rights thereof, the database of the cadastre of immovable property shall be developed for a cadastral municipality, or part of the cadastral municipality, which makes a single database of the cadastre of immovable property of the.

#### **Confirming the Database**

##### **Article 73**

When the Administration determines that the cadastre of immovable property for cadastral municipality or its part is produced in accordance with this Law, it shall confirm by way of a decision the database of the cadastre of immovable property and stipulate the commencement of its application.

The decision confirming the database of the cadastre of immovable shall be published in the Official Gazette of the Republic of Montenegro.

## **TITLE VI**

### **REGISTRATION IN THE CADASTRE OF IMMOVABLE PROPERTY**

#### **1. Registrations of Ownership Right**



**Ownership Right**

**Article 74**

Ownership right shall be registered in the name of the owner of immovable property.

A legal ground for acquiring ownership right (contract of sale, contract of gift, contract of exchange and other, unilateral legal transactions for transferring ownership right, court decision, decision of administrative body) shall also be registered.

Immovable property in state ownership shall be registered as the state ownership with titleholder having ownership rights and authorisations in accordance with law.

**Right to Co-Ownership**

**Article 77**

Right to co-ownership shall be registered by parts determined with respect to the whole, expressed in the form of fraction.

**Right to Joint Ownership**

**Article 78**

Right to joint ownership shall be registered for the benefit and in the name of all joint owners, with designation that it is a joint ownership in question.

**Strata Ownership**

**Article 78**

Right to strata ownership shall be registered in the name of strata owners of separate parts of the building (apartment, business premise, garage, basement, garage place), together with their right to joint ownership on joint parts of the building that can represent independent facility of ownership right and on land whereupon the building is constructed.

**2. Other Rights on Immovable Property**

**Property-Based Rights on Another's Property and Certain Obligation Rights**

**Article 78**

Property and personal easements, mortgage, sub-mortgage, lease for a period longer than 5 years, pre-emptive purchase right, prohibition to divest of and encumber the property, shall be registered in the G list of immovable property.

### **Property Easement**

#### **Article 79**

Property easement shall be registered as the right of owner of dominant estate and as encumbrance on the servient estate.

Property easement in general interest shall be registered as a right of the dominant estate and encumbrance of the servient estate.

Real easement on immovable property shall be registered with the content and scope of rights, without stating monetary value.

When exercising the easement right to is limited to certain spatial borders, such borders must be precisely determined.

It shall be considered that spatial borders for exercise of the right to easement are precisely determined, if they are drawn in the sketch attached to the document on the basis of which registration is requested.

### **Mortgage**

#### **Article 80**

Mortgage can be registered only for precisely determined claim expressed in money.

Monetary amount of the claim can also be determined in accordance with rules on currency or index clause.

Interest rate shall also be registered for claim for which interest payment is contracted.

If default interest rates are contracted, default interests shall be registered instead of the interest rate.

In case of claim for which annuity payments are contracted, annuity payment shall be registered instead of interest rate.

A mortgage securing a claim that can but does not have to occur (conditional mortgage) can be registered in the cadastre of immovable property.

If a mortgage secures claims that could arise from approved credit, management take over, guarantee, damage compensation or other claims which could occur, it shall be sufficient to determine the maximum amount of principal payment that credit or liability can reach (credit mortgage) in a document on the basis of which the registration is allowed.

When a mortgage is created on fruits, the cadastre of immovable property must explicitly state so.

### **Assigning Mortgage and Sub-mortgage**

#### **Article 81**

Assignment of the claim secured by mortgage shall be allowed for the entire claim or part of such claim and it shall be expressed in the form of fraction or amount.

Provisions of this Law on registration of mortgage shall also be applied accordingly to registration of sub-mortgage.

### **Joint Mortgage**

#### **Article 82**

Mortgage may be registered undivided as an encumbrance on two or more immovable properties or mortgage claims to secure the same claim (joint or simultaneous mortgage).

### **3. Types of Registration**

#### **Full Registration, Pre-Registration and Post-Registration Notes**

##### **Article 83**

Registration made in the cadastre of immovable property shall be: full registration, pre-registration and post-registration.

Full registration shall mean entry by which rights on immovable property are acquired, transferred, limited or terminated without additional justification.

Pre-registration shall mean entry by which rights on immovable property are acquired, transferred, limited or terminated provided that they are additionally justified.

Post-registration shall mean entry of certain legal facts that can produce legal effects under conditions prescribed by law.

If law, in case of certain type of post-registration, does not regulate its legal effects, the post registration shall have the legal effect of public notice, which is registered.

#### **Grounds for Registration**

##### **Article 84**

Registration of rights shall be done on the basis of:

- 1) law;
- 2) final decision of a competent authority;
- 3) final and binding decision of the court;
- 4) document of a legal transaction made in accordance with law.

#### **Registered (Predecessor) Owner**

##### **Article 85**

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Registration in the cadastre of immovable property may be allowed only for the benefit of the person who, at the time of registration request submission, is registered as holder of the right being requested by the registration or the one being fully registered at the same as the holder of the right.

When judgment debtor is not registered as owner of immovable property, registration of rights on immovable property may be determined only when the judgment creditor obtains change of registration of ownership right on behalf of the judgment debtor with an authority competent for registration in the cadastre of immovable property, on the basis of evidence on ownership of legal predecessor.

In case when a creditor is, under an enforcement document, authorized to require registration of mortgage or another right on immovable property of the judgment debtor, except for the ownership right, and the judgment debtor is not registered as owner of the immovable property, registration of the other right of judgment creditor shall be allowed only when judgment creditor acts in the manner prescribed in paragraph 2 of this Article.

### **Valid Documents for Registration of Rights**

#### **Article 86**

Registration in the cadastre of immovable property shall be done on the basis of documents prepared in the form prescribed for them to be valid, and which do not have obvious deficiencies that cause suspicion about their credibility.

A document that represents ground for registration, change, limitation or termination of right on immovable property, must contain clear and unequivocal legal ground thereof.

If a document consists of more folios, folios must be attached in such a manner that another folio cannot be inserted.

A document must state names of persons for whose benefit and behalf the registration is requested, so that there is no danger to confuse one person with another (for example: stating date of birth, unique identification number, place, day, month and year when documents are prepared, and similar).

### **1) Full Registration**

#### **Legal Ground for Full Registration**

##### **Article 87**

Full registration shall be done based on a document prepared in accordance with Article 86 of this Law.

Full registration for the benefit of a new holder shall not be allowed, if a previous holder of the right is not designated and a right of new holder determined in the document on the basis of which a full registration is performed.

Full registration only on the basis of private documents shall be allowed only if the signature on private document is authenticated in accordance with law.

Authentication of foreign private documents shall be regulated by international contracts or laws.

### **Private Documents**

#### **Article 88**

Private documents referred to in Article 87 paragraph 3 of this Law must contain the following:

- 1) exact designation of immovable property or right requested by full registration;
- 2) explicit statement (*clausula intabulandi*) of consent to full registration by a person whose right is limited, encumbered, terminated or transferred (the statement can be done in a separate document or in the registration request and it must meet all requirements for full registration).

A person whose right is limited, encumbered, terminated or transferred may give consent for full registration conditionally or time restricted by explicit statement in the document which is a ground for full registration.

### **Public Documents**

#### **Article 89**

Public documents, on the basis of which a full registration may be performed, shall be:

- 1) documents on legal transactions, prepared by a competent authority or notary within their competence and in the form of their validity referred to in Articles 86, 87 and 88 of this Law, provided that they contain all elements necessary for full registration on the basis of private documents;
- 2) decisions of the court or another competent authority, or settlements concluded before them, which are considered, in accordance with regulations on enforcement procedure, as enforcement documents for registration of rights in the cadastre of immovable property, provided that they contain accurate designation of immovable property and the rights being subject of the registration;
- 3) other final and binding decisions of a court or final decisions of another state authority or another document prepared in the form of notary's statement, if it is determined by law, that property-based rights are acquired, changed or terminated on the basis of such a decision or notary's statement;
- 4) foreign documents which are considered as public documents in accordance with law in the place such documents are prepared.

### **Registration of the Holder of Right**

#### **Article 90**

The following data, including but not limited to, shall be recorded in the cadastre of immovable property:

- 1) For natural person:
  - last name, name of one parent and first name;
  - unique identification number;
  - address and permanent residence.
- 2) For legal entity:
  - name;
  - registered office or business unit (address for delivery of written mail);
  - unique identification number registered in the business registry.

### **2) Pre-Registration**

**Document used as a basis for Pre-Registration**

**Article 91**

If a document on the basis of which, by rule, pre-registration is allowed fails to meet requirements for full registration in the cadastre of immovable property, pre-registration shall be allowed on the basis of such document.

**Pre-Registration of Mortgage, Pre-Emptive Purchase Right and Lease**

**Article 92**

Mortgage pre-registration shall be allowed only when claim and legal ground of the mortgage are sufficiently determined and proved by a document.

Pre-registration of pre-emptive purchase right and lease shall be allowed when the existence of the right and will of parties to register such right are proved by the document.

**Cases when Pre-Registration is Allowed**

**Article 93**

Pre-registration shall be allowed if:

- 1) private document does not contain explicit consent of predecessor for registration (clausula intabulandi);
- 2) public document does not contain a clause of legal and binding condition, in case when necessary;
- 3) private document is not authenticated in accordance with law;
- 4) statement of allowing full registration is conditional or time limited;
- 5) maximum amount of claim is not stated in the document of mortgage registration.

**Pre-Registration Effect**

**Article 94**

Pre-registration shall have a legal effect until it is justified or deleted.

By justifying pre-registration, pre-registration shall become full registration, effective from the time the request for pre-registration is submitted.

It shall be considered that the complaint for justifying pre-registration is timely submitted, even after the expiry of the prescribed deadline, provided that it is submitted prior to the request for deletion of the pre-registration.

**Justifying Pre-Registration**

**Article 96**

Pre-registration shall be deleted *ex officio* or at the request of a party, by expiration of the last day for its justification.

By expiration of the last day for justification, pre-registration shall be deleted and registration request rejected or pre-registration shall be deleted and final registration allowed.

Full registration effect based on the pre-registration shall become effective from the day of submitting the request for pre-registration.

### **Decision on Pre- Registration**

#### **Article 96**

The decision of pre-registration shall contain:

- 1) indication that the registration is conditional;
- 2) a deadline for justification;
- 3) precisely determined requirement for justification;
- 4) a legal consequence, if pre-registration is not justified in accordance with the requirements and within the deadline.

Pre-registration shall be entered in G immovable property certificate and it shall have the effect of first registration.

### **Deadline for Justification of Pre-Registration**

#### **Article 97**

Deadline for justification of pre-registration cannot be shorter than 30 days and longer than 60 days as of the day of adoption of the decision on pre-registration.

Exceptionally, in the case of complaint filed for justification of pre-registration, the deadline, referred to in paragraph 1 of this Article, can be extended for a maximum up to one year.

## **3) Post-Registration**

### **Type of Post-Registration**

#### **Article 98**

Post-registration shall be used to record facts relating to the owner of immovable property (the underage, guardianship, depriving of business capacity), or to the immovable property itself (initiating a lawsuit for determining rights on immovable properties, or for deletion of registration, initiation of expropriation procedure, existence of the prohibition to divest of and encumber immovable property, initiation of enforcement procedure on immovable property in cases prescribed by law regulating enforcement procedure, fiduciary transfer of ownership right, order of priority for a future registration, post-registration of extraordinary legal remedy, post-registration of direct enforcement of notary's statement, post-registration of bankruptcy and opening of bankruptcy procedure, post-registration of public good, post-registration of restitution, post-registration of joint ownership on inherited property, post-registration of appointment and revocation of a manager of apartment building, post-registration of construction of a structure, and other facts determined by law).

At the request of authorized person, court or another state authority, the Administration authority shall allow post-registration.

### **Post-Registration of Deprivation of Legal Capacity and Minority (age)**

#### **Article 99**

Post-registration of deprivation of legal capacity and minority, or their deletion, shall be allowed at the request of participants in legal transaction, their legal representatives, competent courts or other competent authorities, on the basis of documents proving the existence of facts whose post-registration or termination is requested.

### **Priority Post-Registration**

#### **Article 100**

Holder of right may request a post-registration regarding his intention to divest of his immovable property or to mortgage the property, in order to create priority for the rights that shall be registered based on such transactions.

Priority post-registration referred to in paragraph 1 of this Article shall be established from the moment when the competent authority receives the registration request.

Priority post-registration shall also be allowed in case of the mortgage securing a claim, with the maximum amount secured by the mortgage being stated.

A document, on the basis of which rights resulting from divesting of or creation of mortgage are entered, may be prepared prior to or after submission of the request for post-registration of priority.

### **Request for Post-Registration with Priority**

#### **Article 101**

Post-registration with priority shall be allowed only if, after the registered status in the cadastre of immovable property, full registration or deletion of the right or encumbrance to be registered or deleted is possible, and if the signature in the request for post-registration is authenticated in a prescribed manner.

### **Duration of the Post-Registration with Priority**

#### **Article 102**

Post-registration with priority shall cease to have legal effect by expiration of one-year deadline from its registration in case of conditional mortgage to be established, and in other cases by expiration of 60-day deadline from its registration.

The deadline for expiration should be indicated in the decision on adoption of the registration request as well.

### **Post-Registration on Cancelling Claim and Mortgage Complaint**

#### **Article 103**



Post-registration on cancelling the claim secured by mortgage shall be allowed at the request of a creditor who cancelled his claim to the debtor registered as owner of encumbered immovable property, provided that the cancellation is given in the form of a public document.

Post-registration of mortgage complaint shall be allowed at the request of a creditor who lodged a mortgage complaint against the person registered as the owner of encumbered immovable property provided that it is proved that the mortgage complaint is received by the court.

Post-registration of mortgage complaint may also be allowed, at the request of a creditor, by a court dealing with civil procedures.

Post-registration referred to in paragraphs 1 and 2 of this Article shall have such legal effect that cancellation or complaint is also effective against any later owner of the mortgaged property, which means that execution by foreclosure of mortgage can be directly implemented regardless of who has become the owner in the meantime.

Post-registration of mortgage complaint shall be deleted at the request of a mortgagor, if such complaint is refused or rejected by a final and binding decision or *ex officio* simultaneously with the deletion of the claim secured by the mortgage.

### **Post-Registration of Dispute**

#### **Article 104**

Post-registration of a dispute shall mean registration which makes obvious that a procedure regarding a registered right is conducted before the court or another competent authority, the result of which could influence full registration, belonging, existence, scope, content or limitation of such right.

The post-registration of a dispute of a final and binding judgment or final decision of a competent authority made on the complaint or request shall also have effect on persons who acquired rights on immovable properties upon submission of the request to a competent body for post-registration.

When a post-registered dispute is terminated by a decision by which a party obtains the right, the right awarded by the decision shall be assigned a priority order provided by the post-registration of the dispute.

### **Recording Post-Registration of a Dispute**

#### **Article 105**

Post-registration of a dispute shall be allowed if a party submitting request proves that a procedure regarding registered right is conducted before the court or another competent authority.

If, upon executed post-registration, a plaintiff withdraws the complaint or his claim is rejected by a final and binding decision, or if the request is finally rejected or procedure cancelled, due to which a post-registration was established, the deletion of the post-registration shall be allowed at the request of a holder of right on immovable property or his legal successor.

If a procedure due to which the post-registration was done is terminated by an enforcement decision on the basis of which the registration used to enter the post-registration would be changed, such decision shall be executed in the manner to allow registration of the change established by the enforcement decision as well as the deletion of the post-registration of the

dispute and all the registrations requested upon submission of the request for post-registration of the.

### **Deletion of the Post-Registration of a Dispute**

#### **Article 106**

Post-registration of a dispute shall be deleted *ex officio* upon expiration of the 10-year deadline as of the day of registration.

If it is proved, before expiration of the deadline referred to in paragraph 1 of this Article, that the post-registered dispute is not terminated by a final and binding or final decision, an authorized person may submit the request for renewal of the post-registration with the same priority, in which case the 10-year deadline shall be counted from the moment of its renewal.

Deletion of the post-registration of dispute shall not prevent new post-registration of the same dispute, whereby the new post-registration shall be assigned with the order of priority based on the time of submission of the request for new post-registration of the same dispute.

### **Post-Registration of the Complaint in order to Void Debtor's Legal Transactions**

#### **Article 107**

A person authorized to void legal transactions of a debtor (Paulian claim), may request a post-registration of the claim in the cadastre of immovable property, if the registration in the cadastre of immovable property is required in order to realize the claim.

The post-registration of the claim referred to in paragraph 1 of this Article shall enable that a final and binding judgment made shall also have effect against subsequent holders of rights on immovable property.

The administration authority shall allow post-registration of the claim to refute debtor's legal transactions, at the request of the creditor who filed the claim, provided that the submission of the claim to the court is proved. Court dealing with civil procedures may allow a post-registration, at the request of the creditor.

Post-registration referred to in paragraph 1 of this Article shall be deleted at the request of the authorized persons, if the claim is rejected or refused.

### **Post-registration of Appointment and Revocation of Manager of the Building**

#### **Article 108**

Post-registration of appointing and revocation of manager of the building (building entrance) shall be allowed at the request of any strata owner based on the decision of the assembly of strata owners or on the basis of enforcement decision of a competent authority of a local self-government unit on appointing temporary manager.

### **Post-registration of the Rejected Enforcement Proposal**

#### **Article 109**

When the court rejects the proposal of enforcement on immovable property in order to satisfy the claim for which the mortgage was not registered, post-registration of rejected proposal shall be ordered.

The post-registration referred to in paragraph 1 of this Article shall maintain the position in the order of priority, if the enforcement proposal is adopted upon the appeal.

Post-registration shall be deleted ex officio, when the decision on rejection becomes final and binding, or when the post-registration of the decision on enforcement replaces the post-registration in the same order of priority.

### **Post-Registration of Awarding Sold Immovable Property**

#### **Article 110**

Court that adopts a decision in an enforcement procedure on the enforcement on the immovable property shall order ex officio registration of the enforcement on immovable property in the cadastre of immovable property.

When, on the basis of a final and binding decision on delivering immovable property, the buyer acquires the right on immovable property, all registrations done after post-registration of the decision on enforcement on immovable property shall be deleted at the request of the holder of right.

### **Post-Registration of Joint Ownership of Co-Successors**

#### **Article 111**

A person, on whose request a death certificate is prepared by a master records office may, based on the death certificate request a post-registration of joint ownership of all successors.

## **4. Registration Procedure in the Cadastre of Immovable Property**

### **Competent Authority**

#### **Article 112**

The Administration authority shall perform registration in the cadastre of immovable property.

Registration procedure shall commence when a registration request or document on the basis of which registration shall be decided on ex officio is received.

### **Parties to the Procedure**

#### **Article 113**

Parties to the procedure shall be:

- 1) submitter of the request;
- 2) person for whose benefit registration is requested or person for whose benefit registration is decided ex officio in case such person is not submitter of the request;
- 3) person on whose property registration of encumbrance is proposed;
- 4) every person who proves a legal interest for registration.

### **Person that May Request Registration in the Cadastre of Immovable Property**

#### **Article 114**

A person who would acquire, change or lose right on immovable property by way of registration may submit the request for full registration or pre-registration.

Request for post-registration may be submitted by a person having a legal interest in post-registration or is authorized to do so by a special regulation.

Registration of joint rights may be required by any of the co-owners for the benefit of all.

If registration of parts divisible in proportion to the whole is in question, every holder can request registration of the relevant part for his benefit, and may also request registration of other parts for the benefit of other holders, if has a legal interest for that.

### **Proper Request**

#### **Article 115**

Registration of rights shall be carried out at the request of parties, which is supported with documents adequate for registration attached to it.

Request for registration in the cadastre of immovable property shall contain:

- 1) Designation of administration authority;
- 2) Name, name of one parent, and last name of submitter of the request, address and unique identification number of a citizen;
- 3) Name, registered office and unique registration number (for legal entities);
- 4) Name of cadastre municipality and all cadastre data on immovable property for which registration is requested;
- 5) Designation of the requested right.

Proposal for full registration shall also contain a proposal for pre-registration, unless explicitly excluded by a submitter of the request.

### **Rejection of the Request**

#### **Article 116**

The administration authority shall reject an incomplete request and request that does not contain all proofs suitable for making decision on whether the request is grounded or not.

Rejection of the request does not prevent submission of a new request, provided that the condition at the time of submission of the new request to the administration authority shall be relevant for

decision-making on the new request, and the new request shall have the order of priority it belongs to it based on the time of submission of the request for new registration.

### **Submission of the Registration Request**

#### **Article 117**

Registration request shall be submitted in a written form.

The request shall be received regardless whether a document suitable for the registration is attached to it.

### **Attachments**

#### **Article 118**

Documents representing the ground for allowing registration shall be submitted in original or in authenticated transcript.

Authenticated transcript shall have the same status as the original.

If documents are written in a foreign language, their translation authenticated by a court interpreter shall also be attached.

### **Allowing the Registration**

#### **Article 119**

The administration authority shall allow the registration if:

- 1) there is post-registration in the immovable property certificate prohibiting future registration;
- 2) persons on whose property registration of encumbrance is required are capable of disposing of the immovable property, the registration relates to;
- 3) authorized person submitted the request for registration;
- 4) grounds for the request result from contents of the submitted documents;
- 5) documents meet a prescribed form.

### **Registration Pursuant to an Abridged Procedure**

#### **Article 120**

In the procedure of registration in the cadastre of immovable property, decision-making process shall be carried out (without discussion and hearing of the parties), in accordance with abridged procedure, except in cases determined by this Law.

Administration authority shall be obliged forthwith to make a decision upon the request and no later than within 30 days as of the day of receipt of the request.

### **Change in the Order of Priority of Registration**

#### **Article 121**

Priority order of registration of property-based rights may be changed by submission of the request by a legally interested person.

For transferring the order of priority of registration, consent of all registered persons whose right may be affected by this change shall be required.

### **Adoption of the Request for Registration of Rights in the Cadastre of Immovable Property**

#### **Article 122**

The request for registration in the cadastre of immovable property shall be adopted by way of a decision and the registration of rights shall be allowed, if:

- 1) there are no obstacles for registration, in accordance with data from the cadastre of immovable property;
- 2) the request is in accordance with the contents of the submitted document;
- 3) document by its type, form and content, meets requirements for registration of rights on immovable property.

### **Content of the Decision on Registration of Rights on Immovable Property**

#### **Article 123**

The decision on registration of rights on immovable property shall contain:

- 1) type of the registration in the cadastre of immovable property being allowed;
- 2) detailed description of immovable property and holder of right affected by the change in the cadastre of immovable property;
- 3) data on changes in A, B, V or G list;
- 4) data on holder of acquired right;
- 5) order for implementation of change in the cadastre of immovable property.

### **Correction of Mistakes in the Cadastre of Immovable Property**

#### **Article 124**

If the data from the decision on registration are entered incorrectly in the cadastre of immovable property, the mistake may be corrected ex officio or at the request of interested party.

A special conclusion shall be adopted on the correction of mistake referred to in paragraph 1 of this Article.

## **Right to Appeal**

### **Article 125**

Against the decision of the administrative authority, an appeal may be lodged within eight days as of the day of receipt of the decision.

The appeal shall be submitted to the Ministry through the authority that adopted the first instance decision.

The appeal does not postpone execution of the decision on registration in the following cases:

- 1) enforcement decisions of courts;
- 2) registrations made by operation of law;
- 3) post-registrations in the cadastre of immovable property.

The final decision for registration of rights shall be enforcement decision for implementation of changes in the cadastre of immovable property.

The appeal against the decision on registration shall be recorded as post-registration *ex officio*.

The post-registration shall be deleted after the decision on the request becomes final.

## **Administrative Dispute**

### **Article 126**

Complaint in the administrative dispute and extraordinary legal remedies against final and binding decision of the Administrative Court shall be registered in the G list, and it shall have a legal effect of the post-registration of the dispute.

Post-registration of the dispute referred to in paragraph 1 of this Article shall be registered in G list *ex officio* or at the request of the party and shall have legal effect of post-registration of dispute.

## **Decision of the Second-Instance Body**

### **Article 127**

Decision of the second-instance authority on cancelling a decision on registration referred to in Articles 122 and 123 of this Law shall order deletion of the registration, restoration of the previous condition of registration and deletion of the post-registration of the appeal against the decision.

The decision of the second-instance authority rejecting the appeal shall order deletion of post-registration of the appeal.

The decision of the second-instance authority altering the decision on rejection of registration shall order requested registration and deletion of post-registration of the appeal.

## **Wrong Registration**

### **Article 130**

A person having a legal interest may submit a request for correction of registration in the cadastre of immovable property if he believes that the wrong registration was carried out in respect of the holder of right or another data on immovable property, within 2 years as of the day this Law enters into force.

The request may be submitted only for immovable property that was not subject to change regarding the holder of right from the effective date of the cadastre of immovable property until the day of submission of the request.

## **TITLE VII UTILITY LINES CADASTRE**

### **Definition of the Utility Lines Cadastre**

#### **Article 128**

Utility lines cadastre shall be unified and public record where the data on utility lines and rights on them are registered.

State authorities, business organizations and other legal entities and natural persons shall be obliged to use data from the utility lines cadastre in all transactions that require data on utility lines and underground structures, and especially when developing technical documentation or executing construction works.

### **Application of Provisions of this Law**

#### **Article 129**

Provisions of this Law on registration of rights on immovable properties shall apply accordingly to registration of rights on utility lines.

### **Development of Utility Lines Cadastre**

#### **Article 130**

Utility lines cadastre shall be developed on the basis of data obtained by geodetic surveying and measuring of utility lines and on the basis of the existing documentation on utility lines at the disposal of state authorities, business organizations, and other legal entities and natural persons.

For the purpose of developing utility lines cadastre, state authorities, business organizations and other legal entities and natural persons shall be obliged to enable the use of documentation on utility lines at their disposal and allow the access to utility lines to persons executing geodetic works.

Utility lines cadastre shall be developed per cadastre municipalities or in several cadastre municipalities if they constitute one populated settlement.

Holders of rights or users of utility lines shall finance development of utility lines cadastre.



### **Content of the Utility Lines Cadastre**

#### **Article 131**

Utility lines cadastre shall consist of:

- 1) detailed study of original terrain data obtained by geodetic surveying and measuring of utility lines;
- 2) working original of the cadastre plan of utility lines;
- 3) inventory of characteristic data on utility lines.

### **Competency for Development**

#### **Article 132**

Utility lines cadastre may be developed by an authorised entity having at least two employees with background in geodesy, out of which at least one has university degree or masters degree or applied masters degree and authorization to carry out the works.

Geodetic surveying and measuring of individual utility lines may also be carried out by an authorised entity having at least one employee with background in geodesy and authorization to carry out such works.

### **Review and Authentication**

#### **Article 133**

When a geodetic organization completes the works on development of the utility lines cadastre or on surveying and measuring individual utility lines, it shall be obliged to submit to administration authority, for review and authentication, developed utility lines cadastre or detailed study on surveying and measuring individual utility lines with all data gathered during its development.

If the administration authority determines that works on development of utility lines cadastre or surveying and measuring of individual utility lines were not carried out in accordance with regulations, it may request additional works or their correction, or shall adopt a decision ordering established shortcomings to be removed within a specified deadline.

If a geodetic organization developing the utility lines cadastre or surveying and measuring individual utility lines fails to act in accordance with the decision referred to in paragraph 2 of this Article, the administration authority may suspend, by way of a decision, further execution of works.

Appeal against the decision referred to in paragraph 3 of this Article shall not suspend its enforcement,

### **Database of Utility Lines Cadastre**

#### **Article 134**

Upon completing the development of utility lines cadastre or surveying and measuring individual utility lines, the database of the utility lines cadastre for a cadastral municipality or several cadastral municipalities shall be developed, which makes a single database of utility lines cadastre of the Republic.

**Confirmation of the Database**

**Article 135**

When the Administration determines that utility lines cadastre is developed in accordance with law, it shall confirm by way of a decision the database of the utility lines cadastre.

The Administration authority shall determine a day of starting the application of the utility lines cadastre in the decision referred to in paragraph 1 of this Article.

**TITLE VIII**

**MAINTAINING SURVEY, CADASTRE OF IMMOVABLE PROPERTY AND UTILITY LINES  
CADASTRE**

**Maintenance**

**Article 136**

Maintenance of survey, cadastre of immovable property and utility lines cadastre shall mean:

- 1) determining spatial changes on immovable properties and utility lines having impact on data from survey, cadastre of immovable property and utility lines, occurred after the effective date of the cadastre of immovable property and utility lines cadastre;
- 2) determining rights on new immovable properties;
- 3) registration of changes in immovable properties and rights in the cadastre of immovable property.

**Determining Spatial Changes and Competency for Execution of Works**

**Article 137**

In the procedure of maintaining the cadastre of immovable property and utility lines cadastre, the following spatial changes shall be determined and recorded in the database, occurred by:

- 1) renewal of destroyed markers of points of geodetic basis or by amending it, for the purpose of surveying and measuring details in the procedure of maintaining the survey;
- 2) division and merger of cadastral parcels;
- 3) construction, reconstruction and demolition of structures;
- 4) change in the manner of the land use;
- 5) installation or construction of new and reconstruction or termination of the use of the existing utility lines;
- 6) change or addition to the house numbers, names of streets and squares and change in borders of spatial units.

In the maintenance procedure, at the request of a holder of right, marking borders of cadastral parcels, identification of cadastral parcel, marking borders of utility lines, expert witnessing, and other, shall also be done.

The activities referred to in paragraph 1, items 1 to 5, and paragraph 2 of this Article shall be carried out by a geodetic organization, which has at least one employee with background in geodesy with authorization to carry out such activities.

The Activities referred to in paragraph 1 item 6 of this Article shall be performed by the Administration authority.

### **Informing on the Change in Immovable Property**

#### **Article 138**

Holder of right, user or investor shall be obliged to notify the administration authority of the occurred change on immovable property within 30 days as of the day of change occurrence.

Holder of right shall be obliged to submit, together with the notice referred to in paragraph 1 of this Article, the document representing the basis for registration of change, as well as documents on the basis of which occurred changes on immovable property can be determined.

The notice referred to in paragraph 1 of this Article shall be submitted on a form prescribed by the Ministry.

Holder of right shall bear costs for determining and recording changes.

### **Informing on the Change in Utility Lines**

#### **Article 139**

Investor shall be obliged to notify the administration authority of construction or reconstruction of utility lines, or change occurred in the existing utility lines, within 2 days as of the day of change occurrence.

Underground utility lines must not be covered before their geodetic surveying and mapping is done.

Approval for the use of utility lines may be issued if the investor also submits the certificate issued by the Administration authority stating that surveying and measuring of utility lines is performed in accordance with law.

The notice referred to in paragraph 1 of this Article shall be submitted on the form referred to in Article 138 paragraph 3 of this Law.

Holder of right or user of utility line shall bear costs of determining and recording changes.

### **Deadline for Submission of the Detailed Study**

#### **Article 140**

Geodetic organization shall be obliged to establish a change and submit to the Administration authority the detailed study of original field data on executed works on the field, as well as surveying and measuring of utility lines, or minutes on executed inspection in the procedure of marking borders of cadastral parcel and identification of the parcel, within 30 days as of the day of submitting the notice.

The deadline referred to in paragraph 1 of this Article shall not apply if the works are executed pursuant to a contract.

**Control, Review and Final Acceptance of Works**

**Article 141**

The Administration authority shall carry out control, review and acceptance of works referred to in Article 140 of this Law.

**Decision on Registration of the Change**

**Article 142**

The administration authority shall determine, by way of a decision, change in data in the cadastre of immovable property and utility lines cadastre, and shall decide on registration of new data in the cadastre of immovable property and utility lines cadastre.

When it is determined, in the procedure of deciding on the request for registration of change, that requirements prescribed by this Law are met, registration of the change in the cadastre of immovable property and utility lines cadastre shall be allowed, otherwise registration of change shall not be allowed.

**Determining Rights on New Immovable Properties and Utility Lines and Adoption of Decision**

**Article 143**

If the administration authority has determined that a change in immovable property occurred by construction or reconstruction of structures, upon submission of the detailed study of field data on executed works on the field, rights on new immovable property and utility lines shall be determined in the manner prescribed by Articles 64 to 68 of this Law.

Upon implemented procedure, the first-instance authority shall decide by way of a decision on the change in the immovable property and utility lines and on determining rights on new immovable property and utility lines.

In the decision allowing registration of, changes and registration of the right, the immovable property must be designated with data from the cadastre of immovable property and utility lines cadastre.

**Registration of Change in Immovable Property and Rights in the Cadastre of Immovable Property**

**Article 144**

Registration of changes in immovable properties and rights shall be carried out when the decision referred to in Article 148 of this Law becomes final.

**TITLE IX**

**MAIN STATE MAP AND TOPOGRAPHIC MAPS**

### **Manner of Developing the Main State Map**

#### **Article 145**

The main state map shall be developed in a digital and analogue form on the basis of data obtained by surveying and measuring details.

### **Topographic and General Topographic Maps**

#### **Article 151**

In addition to the map referred to in Article 145 of this Law, topographic and general topographic maps for the territory of the Republic shall also be developed, as the basis for spatial planning, thematic presentation of existing and planned spatial placements, economic, military, statistical and other needs.

Topographic and indicative topographic maps in analogue form shall be presented as a system of uninterrupted set of map sheets according to the international classification.

### **Cartographic Data Base**

#### **Article 147**

The main state map, topographic and indicative topographic maps shall be developed as unified cartographic database of the Republic.

### **Geographical Names**

#### **Article 148**

The Administration authority shall decide on geographic names (toponyms, hydronyms, oronyms and horonyms) and changes thereof, upon a prior obtained opinion of a municipality.

**TITLE X**  
**SURVEY OF THE STATE BORDERLINE**

**Competence for Surveying and Maintaining the State Borderlines**

**Article 149**

The Administration authority shall perform activities of surveying, marking, maintenance and restoring of border markers on the state borderline and shall prepare documents on the state borderline and keep the records of the state borderlines.

The activities referred to in paragraph 1 of this Article shall be performed in accordance with this Law and regulations governing the state border surveillance and international treaties with neighbouring countries.

**Detailed Study of the State Borderlines**

**Article 150**

Ad detailed study on the state borderline shall contain data on surveying, marking, maintenance, and restoring of border markers and the state borderlines and documents on the state borderlines.

**TITLE XI**  
**REGISTRY OF HOUSE NUMBERS, STREETS AND SQUARES AND RECORDS ON SPATIAL UNITS**

**Contents on the Registry of House Numbers, Streets and Squares**

**Article 151**

The registry of house numbers, streets and squares shall include: house numbers in a populated settlement; house numbers in a street or square; previously determined house numbers with a date of occurred change; master registration number and name of cadastral municipality; number of cadastral parcel; master registration number and name of municipality; master registration number and name of populated settlement; master registration number of a street and name of the street or square and previous name of the street, or square with a date of occurred change.

**Contents of Records on Spatial Units**

**Article 152**

In the records on spatial units, the data on the following spatial units shall be kept: the Republic, towns, municipalities, populated settlements, local communities, cadastral districts, cadastral municipalities, statistical districts, census districts, streets and squares, structures and pertaining house numbers, border area, national park, area with specific pollution, free customs zone and areas of interest for the entire Republic determined by law.

The records shall contain the data on: name, type, master registration number or code, borders on a topographic map and plans, and sources of data on borders, data on spatial units they are connected to and other data.

### **Competency for Keeping the Registry and Records**

#### **Article 153**

The administration authority shall keep registry of house numbers, streets and squares, as well as records on spatial units.

### **Data Submission**

#### **Article 154**

The state administration authority competent for statistics shall be obliged to submit documentation and acts important for the contents of the records on spatial units to the administration authority.

## **TITLE XII**

### **GEODETIC-CADASTRAL INFORMATIONAL SYSTEM**

#### **Contents of Geodetic-Cadastral Informational System**

##### **Article 155**

Geodetic-cadastral informational system shall be kept for the purpose of more efficient gathering and processing, maintaining and distribution of data on immovable properties.

Geodetic-cadastral informational system shall contain data and functions of the basic geodetic works, cadastre of immovable property, utility lines cadastre, registry of house numbers, streets and squares, records on spatial units, main state map, topographic maps and office-financial operations.

The Administration authority shall keep geodetic-cadastral informational system.

#### **Exchange of Data and System Development**

##### **Article 156**

Exchange of data and information within the geodetic-cadastral informational system on the entire territory of the Republic shall be achieved through the unique computer-communication network.

The Administration authority shall develop sub-systems and provide for the use of unique definitions, classifications, codes and standards for exchange and use of data and information.

## **TITLE XIII**

## **GEODETTIC ORGANIZATION**

### **Operating License**

#### **Article 157**

Geodetic organization may execute geodetic works and produce technical documentation, if it obtained an operating license.

The administration authority shall issue the license referred to in paragraph 1 of this Article by way of a decision on meeting the prescribed operating requirements.

The license shall be issued for the period of five years.

### **Requirements for License Issuing**

#### **Article 158**

The license may be issued to a geodetic organization registered in the Central Registry of Commercial Court for carrying out geodetic works and producing of technical documentation, that has a prescribed number of employees with background in geodesy with authorisation to carry out certain types of geodetic works and that has at its disposal geodetic instruments and equipment.

License may be issued to legal entities users of budgetary funds only for geodetic works executed exclusively for the needs of their core activity.

### **Duty of Geodetic Organization to Carry out Works**

#### **Article 159**

Geodetic organization that obtained the license for carrying out geodetic works shall be obliged to perform geodetic works on the entire territory of the Republic.

### **Identity Card to Carry out Geodetic Works**

#### **Article 160**

The Administration authority shall issue the identity card for carrying out geodetic works to the person employed in a geodetic organisation that meets requirements set forth under this Law.

The person who carries out geodetic works shall be obliged to present the identity card when:

- 1) presenting himself to holders of rights or users of immovable property;
- 2) entering the property in order to carry out geodetic works on the field;
- 3) presenting himself to an authorized person who performs supervision.

## **Duties of Geodetic Organization**



**Article 161**

Geodetic organization that was issued with the license shall be obliged to:

- 1) perform geodetic works on the basis of data on survey and cadastre from the official records of the Administration authority, taken at the event of notification about the works;
- 2) perform geodetic works in a good quality manner and in accordance with law, other regulations, standards and technical norms;
- 3) report to the Administration, within the deadline prescribed by law, the commencement of work execution;
- 4) remove within a specified deadline irregularities determined during the supervision procedure;
- 5) report to the Administration authority every change in registered office, name and every other change important for its work, within 15 days as of the day of occurred change;
- 6) treat equally requests of parties for execution of geodetic works regardless of their complexity and location, and it must not reject the request of a party without a justified reason;
- 7) submit detailed study of executed works or minutes on executed inspection in a procedure of maintaining survey, cadastre of immovable property and utility lines cadastre to the administration authority within 30 days as of the day of submission of the application;
- 8) post a working hours schedule and time for work with clients and comply with it;
- 9) notify administration authority on inability to perform activities for a period longer than a month, within three days as of the day of occurrence of reason for such an inability;
- 10) as ordered by the competent authority, at own expense, if the party does not object it, repeat an on-site investigation and determine a factual condition in the case when the authority in procedure acting upon a legal remedy or another stipulated procedure evaluates that the facts were not properly determined.

The administration authority shall adopt a decision in the case of the change referred to in paragraph 1, item 5 of this Article or change the Administration authority found out in another manner.

A justifiable reason referred to in paragraph 1 item 9 of this Article shall be considered to be a disease or another inability of employee to work with the authorised entity and the absence from work of the employee of the authorised entity in accordance with law.

**Termination of the Operating License**

**Article 162**

The license shall cease to be valid:

- 1) by expiry of period for which was issued;
- 2) at the request of a geodetic organization;
- 3) by opening the bankruptcy against a geodetic organisation;
- 4) by revocation.

The Administration authority shall decide by way of a decision on termination of the license validity referred to in paragraph 1 of this Article.

The Administration authority shall revoke the license of a geodetic organization if:

- 1) fails to meet prescribed requirements for the work;

- 2) submits to a competent department for cadastre of immovable property the detailed study of survey with data on non-existing changes or false data on changes;
- 3) allows, enables or orders an employee in a geodetic organization or person who is not employed in the geodetic organization to perform geodetic works (field or office), when such a person does not meet the prescribed requirements or the person was not issued with the identity card to perform such works;
- 4) fails to carry out delegated geodetic works on maintenance of survey and cadastre of immovable property for a period exceeding 90 days on the territory of municipality or town where it is headquartered;
- 5) fails to perform geodetic works on the basis of data from survey and cadastre from the official records of the Administration authority, taken over at time of notification about the works;
- 6) fails to report the commencement of work within the deadline prescribed by law;
- 7) fails to report to the Administration authority the change of registered office, name or any other change important for its work.

The decision referred to in paragraph 2 of this Article shall stipulate the deadline within which the identity card for carrying out geodetic works must be returned to the administration authority.

### **Temporary Suspension of Execution of Geodetic Works**

#### **Article 163**

Geodetic organization issued with an operating license may temporarily suspend execution of geodetic works based on the approval of the Administration authority.

The approval referred to in paragraph 1 of this Article may be issued to a geodetic organization for a period not exceeding 90 days only due to justified reasons, whereat the adequate proof thereof shall be submitted with the request.

### **Appeal**

#### **Article 164**

Appeal against the referred to in Article 157 paragraph 2, Article 161 paragraph 3, Article 162 paragraph 2, and Article 163 paragraph 1 of this Law may be filed lodged with the Ministry within 15 days as of the day of receiving the decision.

Administrative dispute may be initiated against the decision adopted upon the appeal referred to in paragraph 1 of this Article.

### **Re-Acquiring the License**

#### **Article 165**

Geodetic organization, the license of which terminated at its request, may re-acquire the license, if it meets requirements for the work pursuant to Article 157 of this Law.

Geodetic organization, the license of which was revoked due to the reasons referred to in Article 162, paragraph 2, items 1, 4, 5, 6, and 7 of this Law may submit a request for obtaining the license only after the expiration of three years upon as of finality of the decision on license revocation.

Geodetic organization, the license of which was revoked due to the reasons referred to in Article 162, paragraph 2, items 2 and 3 of this Law will not be issued with the operating license.

### **Termination of Validity of the Identity Card for Carrying out Geodetic Works**

#### **Article 166**

Identity cards for carrying out geodetic works of all employees in a geodetic organization whose license ceased to be valid or is revoked shall cease to be valid as of the day of termination of validity of the license, or as of the day when the decision on license revocation becomes final.

### **Operating License for Foreign Geodetic Organizations**

#### **Article 167**

A foreign geodetic organization may execute geodetic works in the Republic, except for the works on maintaining survey and cadastre of immovable property, if:

- 1) there is reciprocity;
- 2) is registered for execution of geodetic works in the state of origin.

For execution of works referred to in paragraph 1 of this Article, a foreign geodetic organization must obtain the approval of the Administration authority.

The approval referred to in paragraph 2 of this Article shall be issued by the Administration authority in the form of a decision based on the submitted proofs on meeting the requirements.

## **TITLE XIV**

### **INSPECTION SUPERVISION**

#### **Performance of Inspection Supervision**

##### **Article 168**

The Administration authority shall carry out inspection supervision, through geodesy inspectors, over the application of provisions of this Law and regulations adopted on the basis of this Law, in accordance with the law governing inspection supervision.

## **Authorizations**

### **Article 169**

In performance of inspection supervision, the inspector for geodesy shall be authorised to verify, including but not limited to, the following:

- 1) that geodetic organization executing geodetic works, or producing technical documentation, meets the prescribed requirements;
- 2) that a person who executes works meets the prescribed requirements;
- 3) that geodetic works are executed in accordance with technical documentation and that the documentation is produced in accordance with regulations;
- 4) that the executed works are in accordance with the law and prescribed standards, technical norms and quality norms;
- 5) that geodetic organization keeps the daily ledger of works and the inspection book in the prescribed manner.

## **Administrative Measures and Actions**

### **Article 170**

The inspector for geodesy, when it determines that a law or another regulation is violated, shall have the obligation and authorization to:

- 1) prohibit further execution of works, if it determines that a geodetic organization does not meet the prescribed requirements for execution of geodetic works or development of technical documentation;
- 2) prohibit further execution of works to a person executing them if it determines that such person does not meet the prescribed requirements;
- 3) order cessation of works if it determines that executed works do not comply with regulations, standards, technical norms and quality norms;
- 4) propose to the Administration authority a license revocation, if it determines that requirements are met for license revocation of the geodetic organization.

## **TITLE XV**

### **KEEPING AND USING OF DATA**

#### **Keeping Data**

##### **Article 171**

Data on the basic geodetic works, archive originals of plans and maps, the first and periodical copies of the databases of the cadastre of immovable property, original maps for land quality evaluation with descriptions of pedological profiles and results of laboratory analyses and samples, and original minutes on marking cadastre municipalities, shall be kept in a special archive of the Administration authority.

Detailed study of survey, cadastre of immovable property and utility lines cadastre shall be kept in specially secured premises of the administration authority.

Plans and geodetic detailed studies cannot be brought out from the premises of the administration authority.

### **Using data**

#### **Article 172**

State authorities and organizations, local self-government authorities, legal entities and natural persons shall have the right to access data in the cadastre of immovable property and utility lines cadastre, and request to have transcripts or copies of data issued to them in analogue or digital form on the facts contained in the cadastre of immovable property and utility lines cadastre.

The right to access referred to in paragraph 1 of this Article may refer to a working original in the cadastre plan and immovable property certificate, or the database of the cadastre of immovable property and utility lines cadastre of the Republic.

The administration authority shall be obliged to issue, at the request of a geodetic organization, data from the survey, by rule, within 5 days as of the day of the request submission.

An evidence of paid charge for using the data shall also be submitted with the request referred to in paragraph 3 of this Article.

### **Certification and Report on Data**

#### **Article 173**

The Administration authority shall issue, at the request of a holder of right or holder of legal interest in the immovable property, a certification on facts of the latest registration in the cadastre of immovable property and utility lines cadastre, and if so required even earlier registration status, or report on data from the cadastre of immovable property and utility lines cadastre as records of public interest.

The Administration authority shall submit to state authorities and organizations, and local self-government authorities, at their request, the report on data registered in the cadastre of immovable property which they require to conduct procedures ex officio.

### **Charge for Using Data**

#### **Article 174**

A charge shall be paid for using data from the survey, cadastre of immovable property and utility lines cadastre, as well as for services provided by the Administration authority.

State authorities, local self-government authorities and public services established by the Republic or the local self-government shall not pay charge referred to in paragraph 1 of this Article, if such data serve for carrying out activities within their competence.

The amount of charge referred to in paragraph 1 of this Article shall depend on the amount of costs for their collection, processing and entering into the database, number of potential users of data, contents and volume of data.

The Government shall determine the amount of charge for using data and for provision of services referred to in paragraph 1 of this Article.

**TITLE XVI**  
**AUTHORIZATION TO ADOPT ENABLING REGULATIONS**

**Competence**

**Article 175**

The Ministry shall adopt:

- 1) technical norms, methods and manner of work regarding development and control of technical documentation for execution of geodetic works and acquiring authorization to design and execute geodetic works, performance of professional supervision for cadastre classification and land quality evaluation;
- 2) contents and manner of keeping the daily ledger on works and inspection book;
- 3) technical norms, methods and manner of work regarding execution of the basic geodetic works;
- 4) technical norms, methods and manner of work applied in the survey and in its maintenance (geodetic basis, cadastral classification and land quality evaluation, cadastral plans, metrological provision of geodetic works);
- 5) technical norms, methods and manner of work regarding the development of cadastre of immovable property and its maintenance and registration of rights on immovable properties;
- 6) technical norms, methods and manner of work regarding the development of the utility lines cadastre and its maintenance;
- 7) contents and manner of work regarding the development of the main state map and topographical maps;
- 8) manner of establishment, contents and keeping records of the state borderlines;
- 9) manner of establishment, contents and keeping registry of house numbers, names of streets and squares and records on spatial units;
- 10) contents, establishment and maintenance of the geodetic-cadastral informational system;
- 11) manner of keeping, access, use or distribution of data from surveying and cadastre of immovable property;
- 12) manner and procedure for performing control, review and acceptance of works in the procedure of maintaining the cadastre of immovable property;
- 13) manner of obtaining an operating license and keeping records on operating licenses, contents and form of an identity card for carrying out geodetic works;
- 14) other technical norms, methods and manner of work in the area of state survey and cadastre of immovable property;
- 15) registration of rights on immovable property and registration procedure;
- 16) manner of carrying out supervision and control of geodetic works in engineering and technical areas;
- 17) technical norms, manner of work regarding development of technical documentation and control of technical documentation for works in engineering and technical areas;
- 18) manner for acquiring authorization for project design and execution of geodetic works in engineering and technical areas.

**TITLE XVII**

**FINANCING ACTIVITIES REGARDING SURVEY AND CADASTRE OF IMMOVABLE PROPERTY**

**Sources of Financing Activities regarding Survey and Cadastre of Immovable Property**

**Article 176**

Funds for financing activities of the medium-term programme and annual plans for surveying and the cadastre of immovable property and utility lines cadastre shall be provided from the following sources:

- 1) general revenues of the Budget of the Republic;
- 2) revenues from charges for using data from survey, cadastre of immovable property and utility lines cadastre and charges for provision of services;
- 3) portion of the tax on turnover of immovable property in the amount of 5% which is the revenue of the Budget of the Republic;
- 4) other sources (grants, loans, and other).

The funds referred to in paragraph 1, items 2 to 4 of this Article shall be directed to the account of the budget of the Republic and shall be earmarked for realization of the tasks referred to in paragraph 1 of this Article.

**TITLE XVIII**

**PENALTY PROVISIONS**

**Offences**

**Article 177**

A pecuniary fine in the amount of ten- fold to three hundred fold of the minimum wage in the Republic shall be imposed for an offence on geodetic organization having the status of a legal entity, if:

- 1) submits to a competent department for the cadastre of immovable property, the detailed study of survey with data on non-existent changes or false data on changes (Article 162, paragraph 3, item 2);
- 2) allows, enables or orders an employee in a geodetic organization or person who is not employed in the geodetic organization to carry out geodetic works (field or office), when such a person does not meet the prescribed requirements, or the person was not issued with the identity card for carrying out such works (Article 162, paragraph 3, item 3);
- 3) fails to perform geodetic works on the basis of data from survey and cadastre from the official records of the Administration authority, taken over at the event of notification about the works (Article 162, paragraph 3, item 5).

A pecuniary fine in the amount of one-half fold to twenty fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the legal entity.

A pecuniary fine in the amount of ten-fold to two hundred fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1 of this Article on an entrepreneur.

### Article 178

A pecuniary fine in the amount of ten-fold to two hundred fold of the minimum wage in the Republic shall be imposed for an offence to a geodetic organization having the status of a legal entity, if:

- 1) uses geodetic instruments without determined metrological characteristics, which were not subject to inspection (Article 47, paragraphs 2 and 3);
- 2) fails to submit the detailed study to the administration authority within 30 days as of the day of submission of notification on executed works, or minutes on executed inspection in the procedure of maintaining survey and cadastre of immovable property (Article 140, paragraph 1);
- 3) executes geodetic works and fails to meet prescribed requirements for work (Article 157);
- 4) fails to perform geodetic works on the basis of data of survey and cadastre of immovable property from the official records of the Administration authority, taken over at the event of notification about works (Article 161, paragraph 1);
- 5) fails to carry out geodetic works in a good quality manner and in accordance with law, other regulations, standards and technical norms (Article 161, item 2);
- 6) fails to report the commencement of execution of works to the regional unit, within the deadline prescribed by law (Article 161, item 3);
- 7) fails to remove within a stipulated deadline irregularities determined during the supervision procedure (Article 161, item 4);
- 8) fails to report to the Administration authority every change of registered office, name and any other change important for its work, within 15 days as of the day of occurred change (Article 161, item 5);
- 9) fails to treat equally the requests of parties for execution of geodetic works regardless of their complexity and location and rejects the request of party without a justified reason (Article 161, item 6);
- 10) fails to submit to the administration authority a detailed study on executed works or minutes on executed inspection in the procedure of maintaining survey, cadastre of immovable property and utility lines cadastre within 30 days as of the day of submission of notification (Article 161, item 7);
- 11) fails to post a schedule of working hours and time envisaged for work with clients, and fails to comply with it (Article 161, item 8);
- 12) fails to inform a regional unit on inability to perform activities for a period longer than a month, within three days as of the day of occurrence of reasons for such inability (Article 161, item 9).

A pecuniary fine in the amount of one-half fold to twenty fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the legal entity.

A pecuniary fine in the amount of ten-fold to two hundred fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1 of this Article on an entrepreneur.

Injunctive relief prohibiting the performance of geodetic works for the period from six months to three years may also be imposed for the offence referred to in paragraph 1, items 1, 2, 6, 7, 9, 10, 11, and 12 of this Article on a geodetic organization having the status of a legal entity, or on entrepreneur.

### Article 179



## 21. LAW ON STATE SURVEYING AND CADASTRE OF IMMOVABLE PROPERTY

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A pecuniary fine in the amount of ten-fold to two hundred fold of the minimum wage in the Republic shall be imposed for the offence on a business organisation or other legal entity, if:

- 1) fails to mark in the prescribed manner borders of immovable property by visible and permanent markers (Article 36, paragraph 1);
- 2) fails to allow persons working on activities regarding survey and cadastre of immovable property and their maintenance to access immovable property, set markers or gather data on immovable property (Article 37, paragraph 1);
- 3) fails to inform the Administration authority about every damaged, destroyed, moved or relocated marker on immovable property on which the marker is located within 15 days as of the day of finding out these facts (Article 37, paragraph 3);
- 4) fails to inform the administration authority, within the prescribed deadline, on execution of construction or other works that may damage or destroy the marker or reduce the possibility of its use (Article 39, paragraph 1);
- 5) uses plans, technical reports or detailed studies of survey that are not authenticated by the Administration authority (Article 46, paragraph 6);
- 6) prevents the use of documentation on utility lines at its disposal (Article 130, paragraph 2);
- 7) fails to report to the Administration authority occurred changes on immovable property within the prescribed deadline (Article 138, paragraph 1);
- 8) fails to report to the Administration authority occurred changes on utility lines within prescribed deadline (Article 139, paragraph 1);
- 9) covers underground utility lines, structures and communications before carrying out their surveying and measuring (Article 139, paragraph 2).

A pecuniary fine in the amount of one-half fold to twenty fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the business organisation and other legal entity.

A pecuniary fine in the amount of ten-fold to three hundred fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1, items 1 to 6 of this Article on an entrepreneur.

A pecuniary fine in the amount of one half fold to twenty fold of the minimum wage in the Republic shall also be imposed for the offence referred to in paragraph 1, items 1, 2, 3, 4, 6, and 7 of this Article on a natural persons – holder of rights or user of immovable property.

### **Article 180**

A pecuniary fine in the amount of one-half fold to ten-fold of the minimum wage in the Republic shall be imposed for the offence on a natural person, if performs geodetic works, is not employed with a geodetic organization, and is not issued with an identity card for carrying out such works (Article 160).

## **TITLE XX**

### **TRANSITIONAL AND FINAL PROVISIONS**

**Conclusion of the Initiated Procedures**

**Article 181**

The procedure for development of survey and utility lines cadastre that is not concluded until the day this Law enters into force shall be concluded in accordance with provisions of this Law.

**State Projection**

**Article 182**

Until the transfer to the new horizontal reference system in the Republic, horizontal position of points and structures shall be presented by two-dimensional coordinates in respect to the Basel ellipsoid and plane of conformal Gauss-Krüger projection.

**Termination of Validity of the Land Cadastre**

**Article 183**

In a cadastral municipality for which cadastre of immovable property is developed in accordance with provisions of this Law, the land cadastre shall cease to be valid as of the day of its application.

**Borders and Names of the Existing Cadastral Municipalities and Cadastral Districts**

**Article 184**

Borders and names of the existing cadastral municipalities and cadastral districts established in accordance with regulations applicable on the day this Law enters into force shall remain in force and may be changed only in the manner and in accordance with the procedure determined by this Law.

**Using the Existing Cadastre of Immovable Property and Land Cadastre**

**Article 185**

A cadastre of immovable property confirmed before the day this Law enters into force shall continue to be in force.

The existing survey and land cadastre shall be used until the day of confirming cadastre of immovable property on the territory where survey was completed and land cadastre developed.

**Execution of Geodetic Works**

**Article 186**

Geodetic works referred to in Article 14 of this Law may be carried out by the Administration authority for period not exceeding one year as of the day this Law enters into force.

### **Deadline for Harmonizing Operations**

#### **Article 187**

Geodetic organisations established before the day this Law enters into force shall be obliged to harmonize their operations within 120 days as of the day this Law enters into force.

### **Development of Utility Lines Cadastre**

#### **Article 188**

Utility lines cadastre in accordance with provisions of this Law shall be developed for urban areas within five years as of day this Law enters into force, and based on programmes and plans referred to in Article 4 of this Law.

### **Gravimetric Orientation Reference System**

#### **Article 189**

The international gravimetric grid IGSN 71 (International Gravity Standardization Network 71) shall be used until the application of gravimetric orientation reference system.

### **Deadline for Adoption of Enabling Regulation**

#### **Article 190**

Enabling regulations for the implementation of this Law shall be adopted within two years as of the day this Law enters into force.

Until the adoption of the enabling regulations referred to in paragraph 1 of this Article, enabling regulations applicable on the effective date of this Law and not contrary to this Law shall apply.

### **Termination of Laws Validity**

#### **Article 191**

## 21. LAW ON STATE SURVEYING AND CADASTRE OF IMMOVABLE PROPERTY

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On the day of entry into force of this Law the Law on State Surveying, Cadastre and Registration of Rights on Immovable Property (Official Gazette of the Republic of Montenegro, No 55/2000) and the Law on Cadastre of Utility Lines and Underground Structures (Official Gazette of the Republic of Montenegro, No 28/77) shall cease to have effect.

### **Entry into Force**

#### **Article 192**

This Law shall enter into force on the eighth of its publication in the Official Gazette of the Republic of Montenegro.

SU-SK Number 01-35/16

Podgorica, 15 May 2007

The Constituent Parliament of the Republic of Montenegro

The Speaker

Ranko Krivokapić, m.p.