Decision Enacting the Law on Land Registry in Republika Srpska

In the exercise of the powers vested in the High Representative by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1.(d) of the last said Agreement, according to the terms of which the High Representative shall "Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation";

Recallingparagraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid "by making binding decisions, as he judges necessary" on certain issues including (under sub-paragraph (c) thereof) "measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities";

Considering the fact that the current system of land registration is not sufficient to guarantee the rights of persons and that the reform of such system is an indispensable precondition for, inter alia, economic development and

investment in BiH;

Noting that this Law shall provide the legal framework to secure title to property and overall bring certainty in the area of property rights thereby fostering the settlement of property relations in Republika Srpska;

Further noting that thePeace Implementation Council in its Declaration of May 2000 required the Entities to adopt harmonized legislation on Land Registry;

Bearing in mind that in the recent Jobs and Justice Agenda for reform agreed between the Government of Bosnia and Herzegovina and the International Community on 31 July 2002 it was pledged to reform land ownership registry and laws in order to restore confidence in ownership and investment;

Further bearing in mind that the Law on Land Registry is also part of the Action plan for removing administrative barriers to investment in BIH, which has been adopted by the Republica Srpska Government on 27th of February 2001;

Taking into account that further delay in the adoption of this very necessary law could only continue to bring uncertainty in the field of property rights and therefore directly affect the property rights of individuals;

Further taking into account that the National Assembly of the Republika Srpska failed to adopt the law in the last Parliamentary Session;

Having consideredand borne in mind all the matters aforesaid, the High Representative hereby issues the following

Decision

Enacting the Law on Land Registry in Republika Srpska

The said law, which forms an integral part of this Decision, shall enter into force as a law of the Republica Srpska as

provided for in Article 95 thereof, but on an interim basis, until such time as the Legislature of the Republika Srpskaadopts the same in due form, without amendment and with no conditions attached.

This Decision shall come into effect forthwith and shall be published without delay in the Official Gazette of the Republika Srpska.

Sarajevo, 21 October 2002

Paddy Ashdown

High Representative

Law on Land Registry in Republika Srpska

I – General Provisions

Article 1

Scope of Application

This present Law regulates the manner of keeping, maintenance and establishment of land registers as well as the registration of real estate and rights in real estate in the land register in the Republika Srpska (hereinafter referred to as the "RS").

Article 2

Definitions

(1) The land register within the meaning of this Law is the public ledger and public register of in rem rights to real estate, other rights which are foreseen by the Law for

registration as well as other factual cases foreseen by the Law which are important for legal transactions.

(2) Real estate within the meaning of this Law includes real estate plots, buildings as well as apartments and offices as separate parts of a building and other building objects.

(3) Priority notice is the conditional, provisional registration of real estate rights, whereby the acquisition, transfer, restriction or cancellation of a right is achieved by subsequent legal grounds.

(4) Notation is the registration of certain circumstances and facts which have an influence over the right of disposal of the real estate (personal relationships: minority age, guardianship, extension of parental rights as well as opening of bankruptcy, legal pendency, expropriation proceedings, priority ranking, judicially enforced receivership, *inter alia*).

(5) Entry is the final registration of the rights to real estate with which the rights have been unconditionally acquired, transferred, limited or cancelled.

Article 3

Prerequisites of the Registration

(1) The registration procedure in the land register begins with the registration application. The application shall refer to the prescribed registration text. The norm text shall be issued by the Minister of Justice.

(2) In addition to the registration application, the documents justifying the application are to be submitted. These can include:

1) the legal instrument underlying the acquisition of the in rem right;

2) the underlying documents for the evidence of the in rem right;

3) a certified copy of the court Decision justifying the registration;

4) any other document confirming the secured in rem right by the priority notice;

5) the documents designated in Art. 7 hereof;

6) any other documents resulting by law which are necessary for the registration.

(3) Registration is also conditional upon proof of payment of the court fee.

(4) In the event that the documents are located in the same office of the authority in which the registration should be undertaken, then the documents need not be submitted again. The processing authority should make a notation on the registration application concerning where the documents are located.

Article 4

Registration of a Transfer of Ownership

If the registration concerns a transfer of ownership, then the sales or transfer contract is to be proved.

Article 5

Constitutive Effect

(1) Ownership and other rights to real estate first come into existence upon registration in the land register (including those which are provided for in Article 87 of this Law).

(2) The provisions concerning the acquisition of ownership or other rights by inheritance shall not be affected by the

provision of para. 1 of this Article.

Article 6

Real Estate to be Registered in the Land Register

All real estate shall be registered in the land register (compulsory registration).

Article 7

Prerequisite for the Registration of Real Estate

A registration folio plus a copy of the cadastral survey map shall be necessary for the registration of real estate in the land register.

Article 8

Registration Obligation

The registration of real estate rights as well as the registration of all amendments which concern the information contained in the land register are obligatory.

Article 9

Full Faith and Credit

(1) The registered right is deemed to be correct. The deleted right shall be deemed to no longer exist.

(2) The content of the land register is presumed to be correct for third parties who rely in good faith on the existence of real estate or a right to such real estate and acquire such through a legal transaction, insofar as the correctness of the land register is not contradicted by the registration of an objection or the third party has knowledge of the incorrectness of the land register or has no knowledge as a result of gross negligence.

(3) If the beneficiary registered in the land register is restricted in his right of disposal due to rights of a third person, such restriction in favor of the third party shall only be legally valid if this limitation is registered in the land register or is known to the third party.

(4) The date of the filing of the application shall be authoritative with regard to determination of the good faith of the third person.

Article 10

Description

In legal transactions, the real estate is to be described in accordance with the information contained in the land register.

Article 11

Jurisdiction over the Subject Matter

(1) The courts which shall have jurisdiction over the subject matter for maintaining the land register shall be those determined by the applicable laws.

(2) Insofar as the maintaining of the land registers, upon the coming into effect of this Law is incumbent upon the administrations, the land registers shall be transferred, together with all auxiliary lists and document collections, to the competent court.

(3) The provision in para. 2 of this Article refers to the already concluded land register folios.

Article 12

Territorial Jurisdiction

The court sitting in the district in which the real estate is located shall have jurisdiction for maintaining the land

register.

Article 13

Change of Jurisdiction

(1) If pursuant to Article 12 there is a change to the districts of the courts, the responsibility for maintaining the land register shall then be transferred to the locally competent court.

(2) The previous part of the land register shall be closed and transferred to the now competent land register. Deleted registrations shall be transferred insofar as they are necessary for comprehension of the non-deleted registrations. Reference shall be made to the previous land register folio in the label of the new land register part.

(3) The conformity of the new land register folio with the previous part shall be confirmed by the land register clerk who maintains the new land register.

(4) A notation shall be made with regard to the transfer of the file in the label of the previous land register folio.

Article 14

Land Register Clerk

(1) Land registers shall be kept in the courts having jurisdiction over the subject matter and territorial jurisdiction by individual land register offices. The responsible employee for maintaining the land registers shall be named the land register clerk who shall act under the supervision of the land register judge.

(2) The land register clerk must complete professional training and take a specialist examination. Full details concerning the type of education and the content of the specialist examination shall be determined by the RS Minister

of Justice (hereinafter referred to as “Minister of Justice”). Land Registry clerks who have qualified pursuant to this provision (including the required specialist examination) in the Republika Srpska shall not be required to take further examinations in the Federation of Bosnia and Herzegovina in order to work as a land register clerk in the latter territory.

(3) The Minister of Justice can determine a transition regulation concerning the requirements.

(4) Land register clerks and land register judges shall be responsible for registrations in the land register. They shall make decisions with regard to registration in the land register independently and in conformity with the law and other provisions.

II – Content of the Land Register

Article 15

Subject Matter of the Land Register

The land register shall be comprised of the main land register ledger, the document collection and auxiliary lists. The main land register ledger shall be comprised of land register folios. The main land register ledger shall be kept for a cadastral community.

Article 16

Land Register Folio

(1) Registrations shall be made in the land register folios.

(2) A land register unit shall be registered in the land register folio.

(3) The land register unit is the number of plots of land which are located in the same cadastral community and exist in

the same legal relationship. The determination of the territory and the description of the cadastral community shall be regulated by the provisions concerning the cadastral land survey of the real estate so that a cadastral community can only include real estate which is located in the local district of a land register court, whereby the real estate can be separated in the field of jurisdiction of a land register court in several cadastral communities.

(4) The land register folio shall be comprised of the label (heading) and three sections (A, B and C).

Article 17

Label on a Land Register Folio

The following shall be stated in the label of a land register folio:

1) designation of the court maintaining the land register

2) the cadastral community;

3) the land register folio number.

Article 18

First Section of the Land Register Folio

“Holdings” shall be registered in the first section (A) of the land register folio:

1) Number of the plot;

2) description and improvement culture of the plot;

3) size (surface area) of the plot;

4) combination and partition of real estate units;

5) in rem rights made in favor of the land register unit.

Article 19

Second Section of the Land Register Folio

”Owner” shall be registered in the second section (B):

1) the legal basis of the registration;

2) name of the owner of the land register unit;

3) in the case of the ownership by several persons, details concerning the owners within the meaning of point 2 and whether the land register unit exists in joint ownership or co-ownership. For co-ownership, the details of the co-owners and the amount of the share;

4) restrictions to the right of disposal of the owner of the land register unit as well as the notations concerning the ownership.

Article 20

Third Section of the Land Register Folio

(1) Encumbrances and restrictions shall be registered in the third section (C) “Encumbrances”:

1) the legal basis of the registration;

2) the restricted in rem rights encumbering the land register unit and the notations with regard to these encumbrances as well as details concerning the holder(s) of the right. Art. 19, para 3 hereof shall apply accordingly.

(2) With regard to mortgages and land charges, in addition, the following shall be registered:

1) mortgage or land charge in cash value (mortgage or land charge amount);

2) rate of interest;

3) cash value of other incidental claims;

4) comments concerning the mortgage and the land charge;

5) details concerning the submission to immediate enforceability by execution;

6) insofar as a land charge certificate has been established, this is to be noted in the land register.

Article 21

Numbering

(1) With the framework of the same cadastral community, land registers shall be numbered consecutively.

(2) Within a land register, land register folios shall be numbered consecutively.

Article 22

Auxiliary Lists

In addition to the land register, also the following auxiliary lists shall be kept:

1) list of owner;

2) list of plots;

3) journal.

Article 23

List of Owners

(1) The list of owners shall include the surname, name, post address, birth name and date of birth of the owner as well as the land register district and the land register folio number of the real estate owned by the respective owner.

(2) For legal persons, within the meaning of para. 1 of this Article, the company names and registered offices are to be registered.

Article 24

List of Plots

The list of plots shall include the plot pursuant to the registration in section A with the reference to the land register folio(s) in which the plot is registered. The list of plots shall be kept for each district of a main land register. The list of plots can also be kept by computer.

Article 25

Journal

(1) The registration applications shall be registered and register reference numbers shall be assigned in the journal.

(2) The register reference number shall be noted with each registration. This shall apply for registrations in all columns.

(3) The conclusion of an application by Decision concerning the consent to or refusal of the registration applied for shall be noted with the Decision date in the journal.

Article 26

Registration of Rights of Use

(1) Separate land register folios (building land register folios) shall be set up for rights of use pursuant to Article 29 of this Law.

(2) The following is foreseen for registration:

1) a description of the right of use as well as details concerning the encumbered real estate pursuant to the details

of section A,

2) content of the right of use,

3) otherwise, the respective provisions of the present Law shall be applied.

Article 27

Land Register Archives

(1) The land registers shall be continually kept in the archives of the court. It shall be prohibited to transport the land registers to any other location if not otherwise stated by law.

(2) The Minister of Justice shall determine the arrangement of maintaining the archives and the requirements placed on the archives.

(3) The archives may be kept on microfilm or other technical storage medium as an additional means of securing the land register registrations and shall require a respective order by the President of the court.

III – Rights to be Registered in the Land Register

Article 28

Rights to be Registered in the Land Register

(1) The following rights can be registered in the land register:

1) ownership also fractional share ownership and joint ownership

2) mortgage and land charge

3) attachment and pledge

4) long term leasehold rights, pre-emption and resale

rights

5) easements

6) usufrucht

7) land charges

8) rights of use.

(2) All registrations of rights with the exception of ownership shall be made in the land register folio of the encumbered real estate.

(3) Subjective in rem rights to which the respective owner of the land register unit is entitled shall, upon the application of the owner of the land register unit, also be registered in the land register folio of his land register unit.

(4) Should the in rem right mentioned in para. 3 hereof be amended or deleted, the land register office shall correct the registration upon application.

Article 29

Rights of Use to be Registered in the Land Register

(1) Real estate can be encumbered in a manner to the effect that the party in whose favor the encumbrance is made has the right to sell and pass on by means of inheritance a building on or under the surface area of the real estate (right of use).

(2) The right of use can be extended to a part of the real estate not necessary for the building or the plant insofar as the building or the plant economically remains the main element.

(3) The building or plant constructed on the basis of the right of use is a substantial component part of the right of

use (building or plant ownership).

(4) The restriction of the right of use to a part of the building, in particular, only to individual rooms, shall not be permitted insofar as the entire building is not affected by such rights.

(5) The subject matter of an encumbrance can only be a plot of real estate and not a partial surface area thereof.

(6) With registration of the right of use as an encumbrance to the real estate, an ex officio building land register folio is to be established. In section A, next to the description of the encumbered real estate, after the details of the cadastral land survey, reference is to be made to the encumbered land register folio and the right of use. The building is to be described in detail.

(7) Should independent building ownership exist at the date of the coming into force of this Law, then the right of use of the real estate shall be registered as an encumbrance of the real estate land register folio – section C.

(8) Otherwise, the provisions concerning real estate and co-ownership share shall apply accordingly.

Article 30

Apartment Ownership to be Registered in the Land Register

(1) Separate land register folios shall be set up for each apartment ownership. The land register folio of the real estate shall be closed ex officio. Registered herein is the special ownership belonging to the co-ownership share and, as restriction of the co-ownership, the grant of the special ownership rights belonging to the other co-ownership share. Reference shall be made to the land register folios otherwise belonging to this apartment ownership association.

(2) The more detailed description of the co-ownership share

and the apartment ownership shall be made in section A.

(3) With regard to the more detailed description of the object and the content of the special ownership, reference can be made to the declaration of partition, the partition agreement and the partition plan.

(4) The following documents should be submitted with the registration application:

1) a drawing with signature or stamp of the competent authority from which the partition of the building as well as the location and size of the special ownership and the building parts existing in co-ownership are shown (partition plan); all of the individual rooms belonging to the same apartment ownership are to marked with the same number which should correspond to the numbers given in the grant of consent of the entry for registration;

2) a certification of the competent authority that such concerns a self-contained unit (certificate of completeness).

IV – Registration Procedure in the Land Register

Article 31

Registration Decision

The registration shall be made on the basis of a registration Decision which is made by the land register clerk. The registration Decision refers to the registration application pursuant to Art. 3, para. 1 of this Law.

Article 32

Language of the Land Register Registration

The land register shall be maintained in one of the official languages of Bosnia and Herzegovina.

Article 33

Receipt of Applications for Registration

(1) The application is deemed to be received by the land register office if it is received by the responsible land register clerk and corresponds to the requirements which are named in Art. 3 of this Law.

(2) The responsible land register clerk shall immediately note the date and time of the receipt of this application on the submitted application and sign it.

(3) The receipt of the registration application does not constitute any guarantee of rank.

(4) Applications received on the same date shall be understood as having been received simultaneously and shall be registered in the journal as the last of the applications received on this date. The time of the completion of the receipt of the registration applications shall be noted as the time of the receipt.

Article 34

Registration of Applications for Registration

The application for registration received by the land register office shall be registered without undue delay in the journal and numbered in accordance with the time of receipt. The applicant shall be stated in the registration. The Minister of Justice shall issue instructions concerning the proceeding of the receipt and registration of the applications for registration.

Article 35

Certification of Receipt of Applications for Registration

Upon the demand of the applicant, the land register office shall make out a certificate concerning the receipt of the application.

Article 36

Processing of Applications for Registration

(1) If more than one application is filed which concern the same right, no registration of later made applications may be made prior to the applications made earlier.

(2) Paragraph 1 hereof shall not apply if the application filed earlier is rejected or withdrawn or a deviating processing order is determined by the applicant.

Article 37

Priority Ranking Land Register Registration

Applications or petitions for registration or correction of the land register which serve investments shall be processed in a summary proceeding if a certificate of the responsible privatization authority is submitted and in which the urgency of the investment is explained. The decision of the privatization authority is binding. The decision does not affect a change in the processing order.

Article 38

Application Subject to Condition

(1) An application for registration which is subject to a condition for processing shall be rejected.

(2) If several registration applications are made, the applicant can, in deviation from para. 1 hereof, impose the condition that a registration not occur without the others.

Article 39

Application Supplement

Up until the completion of the processing, the applicant can submit supplementary documents to the land register office.

The supplementary documents shall be received and registered in the order determined in this Law.

Article 40

Elimination of Disruption

(1) Should a disruption capable of elimination stand in the way of the registration applied for, then the responsible land register clerk shall fix a deadline of at least 15 days for elimination of the disruption. Should the elimination of the disruption by the applicant not occur within the mentioned deadline, then the responsible land register clerk shall resolve on the rejection of the application.

(2) The determination of a deadline for the elimination of the disruption shall be noted in the land register folio. The notation shall apply up until completed processing of the respective application pursuant to Art. 36, para. 1 hereof. The notation shall be deleted with the Decision of completion of processing of the respective application.

Article 41

Affected Persons

(1) Registrations in the land register shall only be permitted with the approval of the person who is registered as the owner of the ownership right or another in rem right in the land register at the time of the filing of the application which shall be transferred, amended, restricted or deleted.

(2) The consent pursuant to para. 1 hereof must be notarially certified unless a notarial recording is necessary for a contract underlying the legal change.

(3) The consent pursuant to para. 1 hereof can be replaced by a court decision or a court settlement.

(4) The consent pursuant to para. 1 hereof shall not be

necessary for the correction of the land register if the incorrectness is proved. This shall apply, in particular, for the registration or deletion of a restriction to a right of disposal.

(5) A right which is limited to the lifetime of the entitled person may only be deleted after this person's death, in the case that outstanding performances are not precluded, only with the consent of the legal successor if the deletion should take place prior to expiration of one year after the death of the entitled person or if the legal successor has objected to the deletion with the land register office; the objection is to be registered ex officio in the land register. If the entitled person is declared dead, then the one-year deadline shall begin with the date of the legal validity of the Decision with which the missing person has been declared dead or the Decision proving death.

(6) The consent of the legal successor foreseen in para. 4 hereof shall not be necessary if it is registered in the land register that the proof of death of the entitled person should be sufficient for the deletion of the right.

Article 42

Examination of Application for Registration

Upon examination of the registration application, the responsible land register clerk shall determine:

1) whether the necessary documents in the proper form are submitted,

2) whether the application conforms with the location of the land register

3) the existence of consent pursuant to Art. 41, para. 1 of this Law.

Article 43

Decision Concerning the Registration

(1) After the examination of the registration application, the land register clerk shall decide whether the application is to be completely or partially accepted.

(2) The land register clerk shall decide to reject the registration application if :

1) the land register unit is not located in the land register district of the respective land register;

2) the person is not entitled to demand the registration;

3) the legal basis of the registration cannot be determined from the submitted documentation;

4) a hindrance exists which stands in the way of the registration.

Article 44

Content of the Decision Concerning Registration or Registration Refusal

The registration or refusal Decision shall contain:

1) designation and address of the court;

2) number of the Decision, place and date of the Decision;

3) the text of the registration as well as an indication of the land register folio, the department and column where the registration is made;

4) the reason and legal basis of the Decision;

5) instructions regarding legal redress;

6) signature of the land register clerk.

Article 45

Registration in the Land Register

(1) A registration shall be made in the land register on the basis of the registration Decision.

(2) The ranking of the registration shall be determined in accordance with the consecutive order of the registration, insofar as no other order of precedence is registered in the land register.

Article 46

Service of the Registration Decision

(1) The registration Decision shall be served to the applicant or his representative, the person for whose real estate a right is transferred, amended, restricted or deleted as well as the person against whom notation has been registered.

(2) The registration Decision shall be served first after completion.

Article 47

Return of Documents

The documents which the applicant has submitted shall, upon demand, be returned with the refusal or withdrawal as soon as the Decision has final legal effect.

V – Registration in the Land Register Folio

Article 48

Content of the Registration Entry

A registration in the land register folio comprises:

1) the date of the registration;

2) the text of the registration;

3) the signature of the land register clerk who made the registration Decision.

Article 49

Text of the Registration Entry

The text of the registration entry comprises:

(1) reference to documents and materials which should prove in detail the content of the in rem right;

(2) the content of the registered in rem right, the name of the holder of the right and other details concerning the person as required by law;

(3) reference to the ranking if several registrations are made on the same day in the same land register folio.

Article 50

Numbering of the Registration Entries in the Land Register Folio

Registrations in the land register folio shall be numbered in the consecutive order of their consummation. Amendments and deletions of registrations shall receive their own numbers with a reciprocal reference in the notations.

Article 51

Form of Registration Entry

(1) Registrations are to be made clearly and without abbreviations with the exception of generally used abbreviations.

(2) An amendment to a registration completed shall not be permitted.

Article 52

Registration Entry of a Priority Notice

The registration of a priority notice shall be made in the location where the priority notice right is to be registered with final effect.

Article 53

Ranking of the Registration Entry and its Description

(1) Should several registrations be made in one section of a land register folio, then these shall have the ranking of the consecutive order of their registration.

(2) Should several registrations be registered at different times in different sections on the same day, then they shall have the same ranking, insofar as no contrary notation is registered.

(3) The parties can determine another order of precedence. Another determination is to be registered in the land register.

Article 54

Registration of Co-Ownership and Joint Ownership

(1) Co-ownership shall be registered in accordance with the respective shares which are determined with reference to the whole and expressed in fractional numbers.

(2) If the documents for the registration do not show which share each person is entitled to, it shall be presumed that the persons are entitled to the same share of the right.

(3) Joint ownership shall be registered in favor of and in the names of all joint holders of the property with the notation that such concerns joint ownership property.

Article 55

Registration of the Joint Encumbrance

(1) Should several land register units be encumbered with the same in rem right, then the jointly encumbered land register unit shall be noted in each land register folio. The same shall apply if a right existing in a land register unit later encumbers another land register unit or if, with the transfer of a part of a land register unit in another part of the land register, an in rem right encumbering it is also transferred.

(2) If a joint encumbrance with regard to a land register unit designated in para. 1 hereof is deleted, then this fact shall be noted in the other land registers.

VI – Partition, Removal From and Additions to Land Register

Article 56

Changes to Registration Entry

(1) The contents of the land register unit shall be amended by partition, additions and removals.

(2) With a removal, a new land register folio shall be opened if the addition does not occur in an already existing land register folio. The remaining area of the land register unit as a consequence of the partition and the number of the new land register unit shall be stated in the previous land register folio.

(3) With an addition, the number of the previous land register folio shall be noted in the land register folios.

Article 57

Encumbrance of a Land Register Unit Part

(1) Should an encumbrance of a land register part with an in

rem right be desired, then this part of the land register unit shall be deleted in accordance with Art. 56 of the Law.

(2) In the exceptional case, the manner of proceeding pursuant to Art. 57, para. 1 of this Law shall not be applied if a part of the land register unit is encumbered with an easement.

Article 58

Transfer of Rights with Removal from the Land Register

Insofar as land register units are broken down into parts, registrations concerning encumbered in rem rights in third party real estate shall remain in effect in land register folios continuing in effect and shall, at the same time, be transferred to the new parts. This shall not apply if a notarially recorded agreement between the owner of the land register unit and the affected party states otherwise.

Article 59

Transfer of the Notation

(1) With the partition of a land register unit, the notation shall remain in effect in the previous land register folio and shall also be transferred into the new land register folio.

(2) Should the notation concern a part of the land register unit, then with the partition of the land register unit, it shall be registered in the respective part of the land register folio and deleted from the other parts of the land registry folio.

VII – Notation Claiming Incorrectness and Correction of the Registration Entry in the Land Register

Article 60

Incorrect Registration

(1) Should it be discovered that the registration in the land register folio is incorrect due to the responsibility of the land register office, then the land register office shall register a notation in the respective registration of the land register folio without undue delay.

(2) Should it be discovered that the registration in the land register folio is incorrect for reasons other than those mentioned in para. 1 hereof, then the land register office, upon consent of the registering party, shall register a notation in the respective land register folio at the respective registration.

(3) Should the registering party of the registration mentioned in para. 2 hereof not so consent, then the interested party can initiate a lawsuit for the grant of the consent.

(4) The correction of the land register shall occur with the consent of the registering party or on the basis of a court decision.

(5) Should a case of incorrect registration pursuant to para. 1 hereof become known to the land register office, it shall inform the Minister of Justice.

Article 61

Manner of Correction of the Registration Entry

(1) For the correction of the registration entry, the incorrect part of the registration shall be underlined in red and the correcting registration shall be undertaken as a notation.

(2) It shall be noted in the new registration that it supplements or replaces the previous registration.

(3) A correction in any other manner shall be prohibited.

Article 62

Deletion of In Rem Rights with Extinguishment of Legal Significance

If the registration has lost all legal significance due to deletion of the in rem right, then the land register office shall make a Decision with regard to the dissolution of the registration on the basis of the application of the owner of the encumbered real estate and a legally effective documentation which proves the dissolution of the in rem right in the matter.

VIII – New Establishment, Replacement and Proceeding with the Set-Up of Land Registers

Article 63

New Establishment and Replacement of Land Registers

(1) Insofar as a land register has not yet been established or a previously existing land register is destroyed, lost or ruined, the land register shall be officially established by the land register clerk in accordance with the provisions of this Law including those set out in Article 65.

(2) Should a part of the land register be destroyed, lost or ruined or should a part of the land register be missing for other reasons, then the land register clerk shall establish such pursuant to para. 1 of this Article.

(3) The determination of ownership, other rights and restrictions to the real estate shall be made by Decision.

(4) The specification of the real estate description shall be taken from the official list (cadastral survey plan). Real estate should be taken over with the specification of the new survey and designated.

Article 64

Principle of Official Investigation

For the determination of ownership, other rights and restrictions to real estate, the land register office shall undertake the ex officio necessary investigations and shall impose the appropriate proof. *Amongst others*, the following proof could be called upon:

1) the copy of the actual cadastral survey plans

2) the elaboration of the new land survey

3) details concerning persons for whom, on the basis of the existing information, it is presumed they are the holders of the rights

4) details of the land register

5) old cadastral survey plans and operations

6) court Decisions and Decisions of other competent authorities concerning rights to real estate

7) non-executed Decisions of agrarian commissions which have real estate as its subject matter

8) details concerning rights determined in consolidation of land proceedings (proceeding concerning new regulation of land)

9) legally valid Decisions of responsible organs

10) concluded contracts and other documents which can serve as the basis for the registration

11) details of the cadastral survey plan operations, which corresponds to the factual situation

12) witness testimony, last factual ownership situation, statements of the parties and similar information

13) decisions of the Commission for Real Property Claims ("CRPC") and all other evidence which are accessible to the CRPC

14) other documents and evidence.

Article 65

Jurisdiction

The new establishment and replacement as well as the performance of the register set-up procedure shall be made by the court with local jurisdiction.

Article 66

New Establishment of a Land Register Folio

(1) The new establishment of a land register folio shall be made ex officio or upon application of an interested person.

(2) If a new land register folio should be established, then the land register office shall demand transfer of a certified extract from the cadastral survey register from the community administrative organ maintaining the cadastral survey register.

Article 67

Notification of the Establishment Proceeding

(1) The land register office shall give notice by public notification that the establishment of the land register folio is pending.

(2) The notification shall be made public by publication on the notice board of the court and by publication in the Official Gazette of Bosnia and Herzegovina and Official Gazette of Republika Srpska, and at least two daily newspapers which can be obtained within the territory of Bosnia and Herzegovina.

(3) The notification should include:

1) the notification of the pending establishment of the land register folio;

2) the description of the real estate, its location, details concerning the condition and size pursuant to the cadastral survey or the new survey;

3) the designation of the owner(s) insofar as such is known to the land register office or is to be determined;

4) the demand to the persons who claim ownership or other rights in the real estate to file and prove their rights within 60 days of the date of the notification by pleading in two copies or otherwise their rights shall not be taken into account with the establishment of the land register folio. Upon application of the persons who state a right on the basis of the aforementioned sentence, to be able make such claim, the deadline shall be extended by at least an additional 90 days in order to provide the opportunity to acquire the necessary documents.

(4) Persons who had no possibility of obtaining knowledge of the notification of the establishment procedure shall have the right, within 60 days after the date of obtaining knowledge of the establishment procedure but however for a maximum period of one year after commencement of the establishment procedure, to file their ownership or other rights to the real estate. Para. 3 point 4 of this Article shall apply accordingly.

(5) If interested person(s) do not file within the deadline, then the establishment by the land register shall occur on the basis of the existing evidence pursuant to Art. 64 of this Act.

Article 68

Legal Recourse after Expiration of Deadline

After the stated deadlines have expired, the interested person can claim his rights in an ordinary court of law.

Article 69

Registration Entries in the Establishment Proceeding

(1) The following are to be registered in the land register as the owner or holder of other rights:

1) the owner or holder of other rights in real estate determined by the land register clerk in accordance with the provisions of this Law;

2) that person whose ownership or other rights, according to the circumstances of the matter, appears probable to the land register office.

(2) With establishment of a land register folio, restrictions to ownership and in rem rights to third party objects shall be registered

1) if they are filed with the land register office

2) and proved either by public documents or publicly certified private documents.

(3) If the owner or holder of other rights to the real estate disputes the registered restriction or the in rem right or any other rights, such shall be noted in the land register insofar as such denial is credibly made. If this does not occur, then the appeal procedure is possible.

(4) The land register establishment proceeding is to be registered in the journal.

Article 70

Subject Matter of Appeals in the Establishment Proceeding

By means of an appeal, interested persons can only demand that the land register office be instructed to take action to register a notation claiming incorrectness of the land register or to undertake a deletion.

Article 71

Notification, Objection

(1) The competent court for the establishment of the land register shall notify all persons known to it who have a right or a legal interest in the real estate in this cadastral survey plan community that they have the obligation to file their rights with submission of documents to the responsible authority and to file necessary details concerning the real estate and real estate rights. A deadline of 60 days exists herefor as of the date of knowledge of the public establishment proceeding but a maximum period, however, of one year as of commencement of the establishment proceeding.

(2) The notification shall contain a description of the affected real estate and the wording of the intended land register registration.

(3) The notification shall be transferred to the known participants. In addition, the notification shall be made public in the customary manner (in the local community, in the location of residence, in the cadastral system plan community and other public media).

(4) Should an objection be made within the deadline fixed in para. 1 against the intended land register registration, then an objection claiming incorrectness in favor of the objecting party, insofar as the objection is not taken into account with the establishment, shall be registered in the land register.

Article 72

Assignment of a Provisional Representative

(1) The person whose domicile or residence is unknown and who has not filed for participation in the establishment proceeding shall be ex officio assigned a provisional representative.

(2) In the case of the determination of the rights of a refugee or displaced person, a provisional representative shall be assigned from the list which is suggested by the Association of Refugees and Displaced Persons of the Respective Territory, by CRPC or the ombudsman of the Republika Srpska.

IX – Closure of a Land Register

Article 73

Foundation for the Closure of Land Register Folios

(1) A land register folio shall be closed:

1) with the property addition of the land register unit with another land register unit;

2) with a change of the cadastral community;

3) if the land register unit cannot be proved to be in the location;

4) in other cases determined by law.

(2) In the case of a change pursuant to para. 1 point 2 hereof, the no longer responsible land register office shall make available all documents to the newly responsible land register office. This shall also apply for the related auxiliary lists and the documents thereto from the document collection.

Article 74

Closure of Apartment Land Register Folios

(1) The apartment land register folio shall be closed:

1) by official action if the apartment property is cancelled by a declaration of cancellation or by cancellation contract;

2) upon application of all apartment owners if all self-contained units of the building are completely destroyed and the proof herefor is produced by a certification of the competent authority;

3) by application of the owner if all apartment ownership rights are united in one person.

(2) If an apartment ownership be independently encumbered with rights of third parties, then the general provisions according to which the approval of the third party is necessary for the cancellation of special ownership shall not be affected by para. 1 hereof.

(3) Should the apartment land register folio be closed, then a land register folio shall be established for the real estate pursuant to the general provisions; the special ownership rights are dissolved insofar as they are not already cancelled with the establishment of the land register folio.

Article 75

Form of Closure

With the closure of a land register, all sides of the land register folio are to be crossed in red and a closure notation is to be made in the label heading in which the reason for the closure and the date is stated. The closure notation shall be signed by the land register clerk.

X – Appeals

Article 76

Appeals against a Decision or Action of the Land Register Clerk

(1) An interested party can file an appeal to the competent court against a decision or action of the land register clerk, with the exception of cases of incorrect registration pursuant to Article 60, para. 1 and 2 hereof, within 15 days. The deadline shall commence with the receipt of the copy of the decision or knowledge of the action concerning which the appeal is made.

(2) An appeal can also be filed with the land register office which shall be obligated to transfer such without undue delay to the competent court.

(3) The competent court shall decide with regard to the appeal in an appeals proceeding pursuant to the provisions of the Law on Civil Procedure.

XI – Land Register Examinations and Extracts

Article 77

Examination

The examination of the land register, files, documents and auxiliary lists belonging thereto shall be allowed in the presence of the official employee from the land register office, unless otherwise stated for certain information by a separate law.

Article 78

Right to Land Register Folio Extracts

(1) Every person can obtain land register extracts pursuant to Art. 77 hereof upon payment of a respective fee herefor.

(2) The extract pursuant to para. 1 of this Article is a

public document.

Article 79

Preparation of an Extract

(1) The land register folio extract must contain all applicable registrations of the respective section of the land register folio. The grant of extracts from individual registrations shall require a reference thereof proved by stamp. The subject matter of the individual registration shall be stated in the reference and it shall be certified that no other registrations are contained in the land register folio related thereto.

(2) At the request of the applicant or, if the extract is made by means of a photocopy, the extract can also contain deleted registrations.

(3) Upon application, the extract is to be stamped by the land register clerk, stamped with the date of the making of the extract and signed.

Article 80

Reference to the Application Made

Land register extracts must contain a reference to the registration application which is registered in the journal but with regard to which no registration Decision has yet been made or for which no registration has yet been made in the land register.

XII – Maintaining the Land Register in Electronic Form

Article 81

Maintaining the Land Register in Electronic Form

(1) The land register shall be maintained as soon as possible in electronic form.

(2) The Minister of Justice shall order a respective Ordinance for the Introduction of the Land Register in Electronic Form for the electronic form of the land register processing within a deadline of six months after the date of the coming into effect of this Law.

(3) It must be guaranteed that

1) the principles of a proper data processing be maintained, in particular, precautionary measures against data loss as well as the necessary copies of the data set at least be maintained on a current daily basis and the original data set as well as the copies be securely stored;

2) the registrations to be undertaken shall be made in a data storage unit and its content can be reproduced permanently without change in a readable form;

3) the measures foreseen in the Ordinance for the Introduction of a Land Register in Electronic Form are undertaken.

Article 82

Particular Regulations for the Electronic Land Register

(1) The provisions of Chapters II – X of this Law shall apply accordingly insofar as not otherwise regulated by para. 2 to para. 5 of this Article:

(2) Registration in the land register shall have legal effect upon being entered into the storage medium and the possibility of unchanged readable reproduction.

(3) The date of registration is the date of being entered into the data memory stated in par. 2.

(4) The name of the land register clerk undertaking the registration shall be added to the registration.

(5) The registration, the date and the name of the registering land register clerk shall be marked with the electronic signature of the registering land register clerk.

XIII – Application of the Provisions Governing Non-Contentious Proceedings

Article 83

Application of the Provisions Governing Non-Contentious Proceedings

The general provisions of the Law Governing Non-Contentious Proceedings shall apply to questions of procedure which are not regulated by this Law.

XIV – Transition and Final Provisions

Article 84

Transfer of the Real Estate Cadastral Land Surveys to the Court

(1) The transfer of the real estate cadastral land surveys pursuant to Article 11, paragraph 2 of this Law shall take place within one year after the coming into force of the Law. Up until the transfer, land register matters shall continue to be maintained by the administrative organ of the community responsible for cadastral land survey matters.

(2) The date of the transfer shall be determined by the President of the Court in agreement with the head of the administrative authority.

(3) The transfer proceeding shall take a maximum period of four weeks. During this time period, the processing of applications shall be suspended.

(4) Within the framework of the transfer proceeding, the real estate cadastral land survey as well as the land

registers, including all auxiliary lists and the document collection shall be transferred to the now responsible court which shall confirm receipt thereof. This shall also apply for closed land registers.

(5) Insofar as the transfer of the real estate cadastral land survey is not possible without affecting the functioning of the remaining part of the real estate cadastral land survey which shall not be transferred, then a copy shall be transferred instead of the original. The copy shall contain the confirmation of the transferring authority that the copy literally conforms with the original.

Article 85

Transfer from Land Register to Land Register

(1) In the event that, within the framework of the change of court jurisdiction, the transfer of land registers, auxiliary lists, document collections or other documents should be necessary, the transfer shall occur in accordance with the regulation of Article 84, paragraph 4 of this Law.

(2) Should a change of the district of a court refer only to a partial territory of a prior land register district, then the procedure shall follow with consideration of the provisions of Article 84 (in particular para. 5) and Article 13 of this Law.

Article 86

Branch Offices of the Land Register Office

The court which has the responsibility to maintain land register matters can have branch offices of the Land Register Office.

Article 87

Basic Features of the Legal Transfer

(1) The land registers maintained according to the legal regulations of the land register law shall not become invalid as a result of this Law, and all provisions of this Law are applicable thereto including the provisions concerning the notation claiming incorrectness and correction of the registration in the Land Register, new establishment, the replacement and closing of a land register as well as the establishment procedure.

(2) The registrations existing in the land registers shall retain their legal content upon the coming into force of this Law.

(3) After the coming into force of this Law, registrations in the Land Register shall be undertaken pursuant to the rules of this Law. Registration applications which are filed prior to the coming into force of this Law shall be processed pursuant to the prior Land Register Law, insofar as the negatively affected party does not object to the processing pursuant to the prior law.

Article 88

New Survey

(1) Insofar as applications refer to real estate which does not reflect the current survey results with regard to its property details or has not even been surveyed at all, then the real estate should be so described pursuant to other criteria in Section A so that a third party is placed in a position to identify the real estate on site according to this description. Insofar as an exact survey and an exact determination of the border, size and description and culture improvement of the plots exist, these shall be taken over, upon notification of the cadastral land survey authorities without a separate application in Section A, as the current property details. The change to the description and the assumption of the survey result shall not change the legal

relationships to the real estate.

(2) Insofar as an allocation of legal relationships to previous real estate is not possible due to a new survey, these land register folios shall be closed and newly established by means of the establishment proceeding pursuant to the regulations of this Law.

Article 89

Acquisition by Adverse Possession (Prescription)

(1) Insofar as the acquisition of ownership has occurred by adverse possession (prescription) pursuant to the previous law and already prior to the coming into force of this Law, then the acquisition of ownership shall remain in effect. The proof of the acquisition of ownership achieved by adverse possession (prescription) shall occur pursuant to Article 3, para. 2, point 2 of this Law by court determination or by analogous application of the provisions of Article 63 et seq. of this Law.

(2) The possessor who has first fulfilled the factual requirements establishing adverse possession (prescription) after the coming into effect of this Law shall first acquire ownership title upon registration.

Article 90

Rights of Use and Special Real Estate Ownership Prior to the Coming into Force of the Law

Insofar as a special building ownership exists on the basis of a right of use prior to the coming into force of this Law and a building land register folio has not been established and the right of use is not registered as an encumbrance to the real estate, the establishment of a building land register folio and the notation of the right of use in the real estate land register folio shall occur pursuant to Article 26 and 29

of this Law upon the application of the building owner or the real estate owner.

Article 91

Commissioned Land Register Clerk for the Transitional Period

Those persons who to date have undertaken land register registrations independently or on behalf of a land register judge shall be deemed to be Land Register Clerks pursuant to Article 14 of this Law for a transition period of four years. More details shall be regulated by the instructions and specialist examination of the Land Register Clerk pursuant to Article 14, para. 2 of this Law.

Article 92

Implementing Ordinances

(1) The provisions concerning the training and specialist examination of the Land Register Clerk (Article 14, para. 2), shall be issued by the Minister of Justice six months after the date of the coming into force of this Law.

(2) The Minister of Justice shall prescribe the procedure of Article 27, para. 2 and Article 34 of this Law within 60 days after the date of the coming into force of this Law.

(3) Pending adoption of the Law on Notaries current certification practice will remain valid.

Article 93

Application of the Previous Provisions of the Real Estate Cadastral Land Survey

Upon the date of the coming into force of this Law, the provisions of the Law Concerning the Survey and the Real Estate Cadastral Land Survey shall remain in effect except for the part which refers to the evidence and registration of the

ownership rights and other in rem and obligation rights in the real estate. The registrations undertaken pursuant to the provisions of the Law Concerning the Survey and Real Estate Cadastral Land Survey for the areas of the communities in which the real estate cadastral land survey is in effect pursuant to the provisions of the law shall be taken over in the respective land register of the responsible Land Register Office if such action does not violate this Law.

Article 94

Application of the Provisions Concerning the Ledger of Deposited Contracts

The ledger of deposited contracts pursuant to the provisions concerning the establishment and maintaining of this ledger shall remain in effect until the prerequisites for the registration of ownership of the separate parts of the building pursuant to this Law occur.

Article 95

Coming into Force

This Law shall come into force eight days after its publication in the Official Gazette of the Republika Srpska and its application shall commence after expiration of six months after its coming into effect.