

## **KRS: New Security Register May Enhance Security of Transactions**

**The new Internet-based lien regulation and security register is free of charge, clear-cut and publicly available, the expert of Kovács Réti Szegheő Attorneys at Law informs origo. With the new Civil Code taking effect from 15 March, 2014, the security registration is to constitute a new element of the regulation of lien registers and is expected to enhance the security of transactions, dr. Beáta Szegi pointed out.**

The security register includes liens created on unlisted chattels, rights and claims as well as the new security elements pertaining to financing structures set out by the new Civil Code, in particular those of leasing, factoring or retention of title, elaborated the expert of Kovács Réti Szegheő Attorneys at Law.

An extremely significant change is the emergence of the so called ‘specific to person’ principle. This means, compared with the earlier practice, in the registration of the land registry, instead of registration being connected to the real properties, that is, the asset of the lien, the security register shall contain registrations connected to the obligor of the lien i.e. the person.

### **Advantages, Disadvantages and Declarations**

The registration is planned to be public, its content may be viewed by anybody via the Internet without verification of identity. Unfortunately, the registration will not be authentic as such data shall comprise the basis of registration that the obligor and the lien-holder have provided by filling out forms without having the content of such declarations controlled.

It is very important to examine the question as to who may issue a declaration on registration, modification or deletion of lien, dr. Beáta Szegi emphasised.

Such persons are entitled to file declarations who have registered as users; such natural person may act on behalf of legal persons or organisations, who have been designated to do so at the registration of the legal person or organisation or subsequent thereto. De facto or actual declaration may be issued following the electronic verification of identity of the natural or designated person.

### **Registration and Deletion of Lien**

A declaration seeking registration or deletion of lien may be filed by both the obligor and the lien-holder. In case the lien-holder files such declaration, registration may only take place if the obligor files his/her declaration of consent therewith in an electronic form. In case the declaration seeking registration of lien is filed by the obligor, it is not required to be confirmed by the lien-holder is required but will be registered without such.

A declaration for deletion of lien may be filed by both the lien-holder and the obligor. In case the declaration for deletion of lien is filed by the obligor, deletion may only take place in case the lien-holder has consented to the deletion of the lien or does not file a declaration for retention of the lien within 30 days from the filing of the declaration for deletion of lien by the lien-holder, evidently in electronic form.



If the lien-holder files the declaration for deletion of the lien logically, its confirmation by the obligor is not required but shall be deleted without that, the expert of Kovács Réti Szegheő explained.

The register includes, in terms of all registered lien, the contents of the declarations for lien registration that is, the lien-holder's and the obligor's names and particulars stipulated in a separate legal rule – i.e. in case of a natural person, his/her surname and first name, previous name, date of birth and if he/she consents, his/her address while in case of a legal person, the name of company, trade registry number or in absence of that, its tax number.

Further contained shall be the definition of the asset of lien individually or by description and the amount up to which the lien-holder may seek satisfaction from the asset of lien, the date of registration of the lien and serial number thereof.

### **Detailed Provisions Yet Unknown**

Dr. Beáta Szegi highlighted the fact that the detailed provisions relating to the security register are not known yet. Missing are the definition as to who the central system of operation shall be operated by or how it will be connected – if connected – to the lien registers held by the National Chamber of Public Notaries.

The rules on security lien registers have not determined what costs may be incurred and who shall bear these in the course of registration, modification and deletion of lien as the new Civil Code only assures that the queries from the system be free of charge. Also, there is a loophole in regulation as to– irrespective of whether the actual liens are registered or deleted – in what timeline do lien registry references appear on the internet website.

It is a mystery why the legal title of lien registration on the basis of which the lien-holder has created the lien was omitted from the essential components of registration – dr. Beáta Szegi points certain deficiencies out. She indicated that the legal practice shall also provide for how the filing of the lien-holder's declaration of confirmation may be enforced in case of certain legal transactions – establishment of lien – or during actual performance as in absence of such, no lien may be registered.

If you have any question, please do not hesitate to contact us.