

## **Real Estate Registration**

### **It became easier to ease the burden of real properties -New provisions subject to ranking**

In the real estate registration process, the ranking of cases submitted to a topographical lot number is determined by the date of receipt of the application submitted to the land registry, also known as the date of registration. Previously, it was a problem when an application for registration of ownership was filed in the case of a mortgaged real property, followed by a request for the cancellation of a mortgage on the real property. The Land Registry will examine the applications received in the order of the registration date. In such a case, the cancellation of the mortgage had to be brought forward, which was possible only through a change of ranking. The procedure is not simple, because the ranking can only be modified upon the consent of all interested recorded on the basis of public documents, private documents of full probative force.

Section 7 paragraph 5 of Act CXLI of 1997 on Real Estate Registration (hereinafter: the “Act”) brought a significant change regarding the easing of the burden of real properties. According to the new provisions, the decision on the lien, the prohibition on alienation or the right of cancellation, or the cancellation of the enforcement right, should be transferred to the real estate register regardless of the ranking indicated on the title deed. This means that the cancellation of the lien and enforcement right can be initiated in the real estate registration procedure regardless of the date of registration of each application, so there will be no need to modify the ranking in such a case.

### **Eliminating loophole in procedural legislation in connection with the cancellation of registration**

With regard to the amendment of the Act, we would like to draw attention to another important change, which is particularly relevant from a procedural point of view. The previous text of the Act did not contain any appropriate procedural rules for the procedure to be followed in the case of the cancellation of already registered rights, whether the Land Registry will examine further entries based on the canceled right. The amendment of the Act will eliminate this loophole by extending the procedural rules already established in the reviewed procedures. Thus, it provides that the scope of the decision subject to cancellation shall apply for further entries based on registration in case cancellation of entry of right occurred in need for the registration of title of the real property and the decision was withdrawn in its own competent and/or upon invitation of the prosecutor, or the decision was annulled or changed by the Court. It is important to note, that the cancellation of the registration of the real property may take place on the basis of a final and binding court decision establishing the invalidity of the legal transaction or the subsequent invalidation of the registration and a request for cancellation, or if it is jointly requested by the contracting parties included in the document of registration. Nevertheless, for these two cases, the above new rule does not apply, and in these cases, the Court will have to provide in its decision or the parties concerned the fate of subsequent entries based on the entry to be canceled.