

# LAW ON OWNERSHIP AND OTHER REAL RIGHTS

## BASIC PROVISIONS

### Article 1

This Law stipulates the right to ownership and other real rights in accordance with the Constitution.

### Article 2

The right to ownership can be acquired by all domestic and foreign natural persons and legal entities, including the state and the units of the local self-government, under conditions and in a manner stipulated by this and other laws.

### Article 3

The ownership creates rights and obligations and it should serve the good of the owner and the community.

### Article 4

An item for which there is a right to ownership can have limited real rights based on it, such as the right to servitude, the right to pledge, the right to real burden and other real rights (further in the text: other real rights) under conditions determined by law.

### Article 5

The right to ownership and other real rights are accomplished on the basis of a free disposition with necessary limitations stipulated by the Constitution and the laws.

### Article 6

The legal protection of ownership is guaranteed.

### Article 7

Acquiring, protection and ending of the right to ownership and other real rights are regulated by law.

## PART ONE

### THE RIGHT TO OWNERSHIP

#### CHAPTER I

#### **The content, legal action, limitations and the object of the right to ownership**

#### **The content and legal action of the right to ownership**

#### Article 8

The owner has the right to keep, fully use or manage at its own will the item in its possession, if this is not in collision with a law or with some right of some other person.

### **General limitations of the right to ownership**

#### Article 9

The owner accomplishes its right to property in accordance with the nature and purpose of the item, as well as the general interest established by law.

It is forbidden to exercise the right to ownership against the purpose for which it is recognised and established by law, or against the morale of the society.

The right to ownership can not be exercised with the purpose of causing harm to another person or with the purpose of preventing the other person to exercise its right.

#### Article 10

The right to ownership can be limited or taken away when it is a matter of public interest established by law.

### **Special limitations of the right to ownership**

#### Article 11

The owner of real estate is obliged when using the real estate to abstain from actions and to remove the causes that originate from its real estate, which lead to difficulties in using other real estates ( transmission of smoke, unpleasant odours, warmth, sooth, quake, noise, releasing waste waters etc.), above the usual measurements considering the nature and purpose of the real estate and local circumstances, or which cause significant damage, if it is not otherwise determined by law.

### **The object of the right to ownership**

#### Article 12

The object of the right to ownership are all items, which can belong to natural persons and legal entities, except those that based on their nature or based on a law can not be an object of this right.

An item, in the sense of this law, is a part of the material nature which can be governed by man and which can be individualised.

There are different kinds of items depending on their nature, position in space, composition, purpose and other characteristics over which the right to ownership is determined in various ways, taking into account the general nature of the right to ownership.

### **Movable and immovable items**

#### Article 13

With regards to their spatial position, items are movable and immovable.

Movable items are those that in their entirety can move or be moved from one place to another without, at the same time, damaging their essence.

Immovable items are those items that can not move or be moved from one place to another without damaging their essence at the same time.

Immovable items, in the sense of this law, are lands (agricultural, construction, forest and pasture) and buildings, as well as installations raised over them or under them and which are permanently connected to them, if it is not otherwise determined by law.

Items that are , according to their nature, movable can be considered in a legal sense immovable, if they are components of a certain immovable item or if the law equals them to immovable items.

In the case of a dispute over whether one item is movable or immovable, it is considered to be movable.

### **Simple and complex items**

#### Article 14

Items are simple if they are composed of one same or from different substances and represent a singular indelible physical whole.

Items are complex when they are composed of different physical parts united in one physical whole, as well as from several individual items which compose that whole( collective item). Items are also complex when they are composed of several items which individually themselves are object of the right to ownership, and which together may represent a separate subject of the right to ownership ( collection of items).

If certain parts of the item can not be separated from each other, i.e. from the whole of the item, without , at the same time, changing their essence, meaning changing or damaging it, they are essential parts of the item and can not be objects of separate rights, if it is not otherwise determined by law or legal act.

For the parts of the item which are not essential and can be separated from it without damaging the whole item, separate rights can exist in favour of another person.

If the item is physically indelible, it can be legally divided into parts the size of which is valuably determined in proportion with the value of each part in the total value of the item (ideal part), if it is not otherwise determined by law or legal act. Each ideal part of the whole is a value independent part.

Following the separation of a part of the item the previous rights over it do not end, if it is not otherwise determined by law or legal act.

### **Main and auxiliary item( belongings and attachments)**

#### Article 15

The parts of a complex item in relation to their purpose can be main and auxiliary.

Auxiliary items are those items which serve the main item and have the role of belongings and attachments.

The bearer of the right to ownership of an individually determined item has the right to ownership of all of its belongings and attachments, if it is not otherwise determined by law or legal act.

A belonging is a movable item which its owner uses as an auxiliary because it permanently serves the main item and is in a such a spatial relation to the main item which serves that purpose.

An attachment of an item is every part of it that is permanently connected to it.

Temporary use of an item for the purpose of serving a main item does not provide it with the characteristic of an attachment.

Temporary non-use of a item for the purpose of serving a main item does not lead to its losing the characteristic of a belonging, or an attachment.

## **Items of general interest for the Republic of Macedonia**

### Article 16

All natural treasures, the plant and animal world, items in general use, construction land, forest and agricultural land, pastures and waters, as well as items and objects of special cultural and historical importance determined by law are items(goods) of general interest for the Republic.

Items which on the basis of the Constitution or with special laws are proclaimed items of general interest for the Republic can be objects of the right to ownership of the state or of natural persons and legal entities.

The forms of ownership of construction, agricultural and forest land, pastures and waters are provided by special regulations.

Items in general use are items in state ownership which are used by all natural persons and legal entities.

The items in general use are cared and managed by the Republic of Macedonia, if it is not otherwise determined by law.

The items of general interest for the Republic enjoy special protection and the rights over them can be limited in accordance with law.

The manner and conditions under which certain items of general interest in state ownership can be given for use to natural persons and legal entities ( concession) are determined by law.

## CHAPTER II

### NEIGHBOUR RIGHTS

#### **Defining relations between neighbours as owners of real estate**

##### Article 17

The neighbour right is a mutual and considerate exercise of the right to ownership which is stipulated by the provisions of this or other law, in such a manner that they authorise the owner of one real estate, concerning the exercise of its right to ownership, to request from the person who is an owner of another neighbouring real estate, for its benefit to endure, let through or do something that is related to its real estate, as well as to request delineation from the neighbouring real estate, as is determined by law.

If with this or other law the owner is stipulated some type of enduring, letting through or doing, because of mutual and considerate exercising of the right to ownership, then the owners of the other neighbouring real estates for which they have a justified interest are authorised by it to request it as their right and to accomplish it in a procedure before a court, if no other way of protection is prescribed. Same as the owner, the persons who are in possessory of the real estate on the basis of the rights derived from its right are authorised to request this.

The neighbour right is allowed to be exercised only to an extent and in a manner that will limit, burden or in any other way disturb as little as possible the neighbour who has to endure, let through or do something.

That which is defined as neighbour right of the owners of land in an appropriate manner refers also to the owners of other real estates, including the buildings in floor ownership, if it is not against the law or the essence of the real estate.

#### **Boundaries**

##### Article 18

A boundary is a mutual border line which delineates neighbouring land lots.

If the signs which establish the boundaries between two or more real estates due to any kind of reason are damaged to such an extent that they are unrecognisable, or if the signs are disputed, then each of the neighbours has the right to request from the court in a procedure for establishing boundaries to establish, renew or correct the boundary.

The court corrects or renews the boundary in accordance with the provisions of the procedure for establishing boundaries.

## **Fences**

### **Article 19**

Fences between neighbouring real estates ( walls, wooden fences, fences, live fences and other fences or obstacles), as well as items that serve as signs of boundaries are considered to be joint fences and are co-owned by the neighbours on both sides of the boundary, unless it is proven that they are owned by one of the neighbours( with special signs, inscriptions or other proofs).

The co-ownership of items that serve as a joint fence or signs that are defined as a boundary is not divisible.

The joint fence can be used by each of the neighbours from its side up to the half of its width, but the neighbour must not do anything that would endanger the fence and which would prevent its neighbours to use it from their sides up to the half of the width.

The maintenance costs for the joint fence are borne by its co-owners in equal parts and they share solidarity responsibility for the damages that would be caused to a third person through the non-maintenance of the fence in its usual condition, considering the purpose of the fence, the purpose of the real estate and local customs.

### **Article 20**

A fence which is located exclusively on a real estate of one owner, and is established to separate one land from the land of the neighbours is not co-owned by the neighbours, but is owned by the person on whose land it is located.

Every owner can fence its land with a fence located exclusively on its land in a manner determined by a special regulation or if it is not in contrast with local customs.

The owner is obliged to maintain its fence in good condition in order to prevent causing damage to the neighbour, but in principle is not obliged to rebuild an own collapsed wall, unless it is in accordance with paragraph 2 of this Article.

## **Trees on boundaries**

### **Article 21**

The trunk of the tree belongs to the owner of the real estate from which land the tree grew, regardless of where the branches spread or where the roots of the tree spread.

A tree which has grown on the very boundary is co-owned by the neighbours on both sides of the land boundaries.

The provisions from paragraphs 1 and 2 of this Article are adequately applied also to other plants.

### **Article 22**

The owner is allowed to pull out tendons and roots of a third party's tree or plant on its own land, as well as to cut or trim branches from a third party's trees, as well as part of the trunk which is found in the air space above its real estate and to keep or use these parts of the third party's trees.

The owner of the neighbouring land has the right to seek compensation for damages caused by the tendons, roots or branches of a third party's trees which would not have happened if their owner acted with the necessary care.

If the owner is forbidden by a special regulation to act in accordance with paragraph 1 of this Article, he has the right to compensation for damages from paragraph 2 of this Article.

In case of mutual bordering of forests the provisions from paragraphs 1 and 2 of this Article do not apply.

### **Entering a third party's real estate**

#### Article 23

If a third party's animal, a swarm of bees or an item come to a third party's real estate, their owner or manager can in a reasonable period of time enter a third party's land and take them back.

The owner of the land can in the case of paragraph 1 of this Article ban access to its real estate, if it immediately hands over to their owner or manager the third party's animals, swarm of bees or items.

If the animals, flock of bees or the other items which are found on a third party's real estate or their movement caused damage to the owner of the real estate where those items were found or transferred, or if the owner of the real estate had necessary related costs, the owner has the right to compensation of damages and to keep the item until the damage or costs are fully compensated.

### **Use of a third party's real estate for carrying out work**

#### Article 24

The owner of the real estate on which it is necessary to carry out work needed for its use or utilization, at its request or following a proposal of a competent body, can temporarily use a third party's land to carry out work, set up scaffoldings and similar items, if it can not be done in any other way.

The person who has used a third party's real estate for the needs from paragraph 1 of this Article is obliged, as soon as the need for this use ends, to bring back the real estate to the condition it had previously been and to compensate the caused damage in accordance with the general principles for damage responsibility.

For the use of land from paragraph 1 of this Article, at the request of the owner of the real estate, which has been used temporarily, a just compensation is paid, which can not be lower than the one to which it would be entitled if incomplete expropriation of its land would be undertaken according to the Law on Expropriation.

### **Installment of a line and other devices**

#### Article 25

Installment of a line and other devices( electric, sewage, plumbing, gas, central heating, telecommunication and other ) on a third party's real estate without the consent of its owner is possible when it is in public interest defined by law, and in the interest of a specific person in accordance with the provisions of servitude.

## **Causing danger or damage to a neighbouring real estate**

### Article 26

It is not allowed for the owner to undermine its land or to undertake something on its real estate that would put into danger the stability of a third party's real estate.

If the required measures are not undertaken which would justify the expectations that the danger to the stability of its real estate will be removed, the owner of the real estate the stability of which is in danger can request that the work from paragraph 1 of this Article be stopped.

If it is not possible for the measures from paragraph 2 of this Article to be successfully carried out, and at the same time not to install special constructions on the real estate the stability of which is in danger, its owner can request a ban on the actions that cause the danger to the stability of its real estate.

The owner of the real estate who has installed a special construction in order to secure the stability of a third party's real estate is responsible for any damage that would occur in connection with it, and the neighbour whose real estate is in danger is authorised to request maintenance of these constructions in good condition in accordance with the purpose.

### Article 27

When there is a serious danger that someone's building or some other part of someone's real estate will completely or partly collapse which would cause danger to a neighbouring real estate, the owner whose real estate is in danger can request from the owner of the facility to undertake all necessary measures to prevent the causing of damage, as well as to request insurance against the occurrence of future damage.

### Article 28

The owner of a real estate is obliged to undertake all necessary measures for the rain that drains from its building not to fall on a third party's real estate, unless the owners have agreed otherwise or if that is in accordance with local customs.

## **Ban on changing natural water flows**

### Article 29

Owner of a land must not change at the expense of another land the direction or force of the natural water flow that runs across its land or flows through it as an underground water.

Owner of a land which is located alongside streams, rivers and lakes, is obliged to use the land in such a manner that it will not obstruct their natural flow, as well as not to endanger, pollute the riverbed, the bank and the objects on the bank or beside the bank and not to obstruct their maintenance.

Owner of a land in the lower flow of the water must not create or set up obstacles which would bring water to its land that naturally flows out in the upper flow of the water, neither the owner from the upper flow of the water is allowed on its own initiative to do



something which would to a great extent burden the land in the lower flow of the water, unless it is otherwise determined by law.

## CHAPTER III

### SUBFORMS OF THE RIGHT TO OWNERSHIP

#### Article 30

When a simple or complex item is an object of the right to ownership of multiple persons, this right appears in the form of co-ownership, joint ownership or floor ownership.

#### **Part 1**

#### **Co-ownership**

#### **Definition and subject of the right to co-ownership**

#### Article 31

Co-ownership is ownership by multiple persons who have the right to ownership of an undivided item for which the part of each of them is determined proportionally in accordance to the whole ( ideal, co-ownership part).

When an object of the right to ownership are fruit yielding items, the fruits and other incomes coming from them are allocated among the co-owners proportionately to the size of their parts, if it is not otherwise agreed.

If the co-ownership parts of the undivided item are not determined it is presumed that the co-owners have equal parts.

Co-ownership can be based on a item which is found in various forms of ownership (mixed ownership).

#### **Exercise of the right to co-ownership**

#### Article 32

The co-owner has the right to keep and use the item together with the other co-owners proportionately to its part, not violating at the same time the rights of the other co-owners.

All the co-owners are in possessory of the whole item, but they can decide among themselves to share the possessory over the item and the carrying out of all or some of the co-ownership authorisations over it.

The co-owner can manage its part without the consent of the other co-owners. In the case of selling its co-ownership part the other co-owners have the right to priority of purchase.

### **Right to priority of purchase**

#### Article 33

The co-owner who intends to sell its co-ownership part is obliged with a written application through a notary to offer to the other co-owners its part for sale and to inform them of the selling price and conditions .

If the co-owners of the item who are offered the co-ownership part of it do not say that they accept the offer within 30 days of the announcement in the written application from paragraph 1 of this Article, the co-owner can sell its co-ownership part to another person.

When according to the conditions of the offer the price should be completely or partially paid in cash, the statement of acceptance can have legal action only if the co-owners which have agreed to buy out the co-ownership part within the time frame stipulated in paragraph 2 of this Article pay the offerer the full amount which according to the offer is to be paid in cash or if the amount is deposited in the basic court or at a notary. If the item is movable, the amount is deposited in the place where the co-owner who is selling its co-ownership part( the seller) has a place of residence, and if the item is immovable the amount is deposited in the place where the real estate is located.

If multiple co-owners want to buy the ideal part of the item under the same conditions, than it will be given to that owner which the seller determines.

#### Article 34

If the co-owner who is selling its co-ownership part does not submit an offer to all the co-owners, in that case the co-owners who haven't received the offer can request in court that the sale is annulled and the co-owner who is selling its part to act according to the provisions of paragraphs 2 and 3 of Article 33 of this law.

The lawsuit for violation of the right to priority purchase can be submitted within 30 days of the day when each of the co-owners had found out about the sale and the conditions of the sale.

Regardless of when the co-owners found out about the sale and the conditions of the sale, the lawsuit for violation of the right to priority of purchase can not be submitted after the expiration of the six months deadline after the recording in the public records, if the item is immovable, and if the item is movable from the day of the signing of the agreement.

If the co-ownership part has been offered to the co-owners at a higher price than the one at which the sale was carried out or under more difficult conditions, or if the sale was hidden through a trade, gift or some other way, than the lawsuit for violation of the right to priority of purchase can be submitted within a year from the recording in the public records.

The plaintiff is obliged within the deadline for the submission of the lawsuit for violation of the right to priority of purchase to deposit the amount in the basic court or at

a notary for the purchase price, which according to the signed agreement was due to be paid up to the day of the submission of the lawsuit.

## **Management of the item**

### **Article 35**

Each co-owner together with the other co-owners has the right to participate in the decision making with regards to every item that concerns the item which is owned( right of management).

When a co-owner undertakes actions on the co-ownership item without the consent required from the other co-owners , the rules for work management without an warrant are applied.

### **Article 36**

In order to undertake matters for regular management of the item the consent is required of the co-owners whose parts represent more than half the value of the item.

If in the cases from paragraph 1 of this Article agreement is not achieved, and the undertaking of the matter is necessary for the regular maintenance of the item, then the court decides on the matter.

Each co-owner against whose will the majority of the co-owners decided to undertake some regular legal matter or when this was done by the court, has the right to request security against future damages. The majority of the co-owners are obliged to provide the security according to the rule for giving pledge, and to provide a personal guarantee , only if the court estimates that giving pledge is too much of a burden for it.

The court decides on the undertaking of certain legal matters in an non-contentious procedure if who are the co-owners and what is their co-ownership part is not disputed.

### **Article 37**

For the undertaking of matters which surpass the limits of the regular management of the item( the transfer of the whole item, change of the purpose of the item, leasing the item, establishment of collateral, establishment of real servitudes, major repairs and alterations) the consent of all the co-owners is required.

In the case when agreement can not be reached, the provision of article 36 paragraph 2 of this law is appropriately applied.

The court can also dissolve the co-ownership community if there is disagreement among the co-owners concerning matters pertaining to the extraordinary management.

## **Manager**

### **Article 38**

The co-owners can entrust the management of the item to one or more co-owners or to a third person (manager), for a definite or indefinite period of time.

#### Article 39

If the co-owners can not reach an agreement about the competences and obligations of the manager, they will be determined by the court at the request of one or more co-owners, during which the court will take into account the interests of all co-owners.

#### Article 40

The co-owner who holds the item or a part of it on the basis of a decision of the co-owners which have divided among themselves the rule of the item and the carrying out of the co-ownership competences, is considered to have been entrusted with the regular management of it, if all the co-owners have not agreed otherwise.

#### Article 41

When there are multiple managers, they decide with a majority of the votes, if all the co-owners have not agreed otherwise.

#### Article 42

The co-owner who does not participate in the management can request a periodical management report to be submitted to it.

#### Article 43

The manager is the representative of the co-owners and concerning its rights, duties and termination of the relationship with them the appropriate rules from the obligation law are applied, if it is not otherwise determined by this law.

#### Article 44

The manager has the right to a fee for carrying out management matters.

#### Article 45

In the case of regular management, the manager is obliged to carry out the decision of the co-owners whose parts together represent more than half of the value of the item, and during extraordinary management the decision of all the co-owners.

#### Article 46

If the manager performs its duties with utter negligence, the majority of the co-owners whose parts together represent more than half of the value of the item, can fire him.

If the co-owners each have one half of the value, in case of disagreement the court decides in a non-contentious procedure.

#### Article 47

Co-owners who have the majority of parts can cancel the competences of the manager hired for an indefinite period of time with a prior resignation notice of three months which starts the first day of the month following the resignation.

If the manager, who is hired for a period longer than five years, and its management is silently extended after the expiration of this period, the co-owners who have the majority of parts can fire the manager without a resignation notice and without the existence of reasons for this.

The manager who is hired for an indefinite period of time can resign from management with a resignation notice of three months, and the deadline starts from the first day of the following month.

#### Article 48

When the competences of the manager end with a decision of the majority co-owners, they are obliged to undertake all necessary actions until making a decision concerning the further management of the item.

### **Costs for using, managing and maintaining the item**

#### Article 49

Costs for using, managing and maintaining the item and the burdens concerning the whole item are covered by the co-owners proportionately to the size of their parts.

If the co-owner does not pay its part of the costs and the burden, the other co-owners can request the payment to be carried out from its part of the fruits and other incomes from the item, and in the case when this is not sufficient for the payment of the costs and the burdens or if the payment is accompanied with difficulties, they can request payment from the rest of its property.

Each co-owner has the right at any time to request from the manager and the other co-owners to be presented with the accounts.

### **Right to division**

#### Article 50

The co-owner has the right at any time to request division of the item, except at a time when that division would be at the expense of the other co-owners, if it is not otherwise determined by law.

The right from paragraph 1 of this Article does not expire.

The agreement with which the co-owner permanently gives up the right to division of the item is invalid.

The co-owners can unanimously agree not to be able to request division for a certain period of time.

The agreement produces legal action if the deadline during which they can not request division is not longer than five years.

The co-owners can renew this agreement.

The creditor of any of the co-owners can request division even before the expiration of the agreed period of time if it was not able to collect its claims from the other properties of the co-owner.

The agreement of the co-owners not to be able to request division for a certain period of time produces legal action also towards their legal successors.

The co-owners determine through agreement the manner of the division of the item, and in case an agreement can not be reached or if they can not agree on any of the issues concerning the division, any of them can request that the court decides on this matter.

The co-owners can choose through an agreement a person who will decide on the division instead of them.

## **Court division**

### **Article 51**

When the division is carried out by the court, it is governed by the legal provision, by the agreement of the co-owners concerning the manner of the division, if there is an agreement and if it is possible and allowed, as well as the right to division with payment in the sense of Article 52 of this law.

If the conditions are fulfilled from paragraph 1 of this Article, the court will divide the movable items physically if they are divisible, and the immovable with the use of numerical data of the real estate.

In the case of division of real estate, if this is necessary for the use of one or more parts of the real estate, the court can establish servitude or real burden on the other parts of the real estate.

With regards to division through a court procedure the court decides in a non-contentious procedure, if it is not otherwise determined by law.

### **Article 52**

The co-owner has the right to division with payment if it is specifically stipulated by law or a legal action, or if the co-owner shows that there are serious reasons for the item to belong to it as a whole. The court in that case will order the item to belong to that co-owner who will then pay the value of their parts to the other co-owners in a period of time which will be determined by the court in accordance with the circumstances.

In the case from paragraph 1 of this Article the co-owners have pledge right to the item until the payment which was awarded to the co-owner who requested the division with payment. If the co-owner from paragraph 1 of this Article does not pay the co-owners in the determined period of time, they can request the fulfillment of the court decision on the payment or collection of the value of the pledge.

### **Article 53**

When the co-owners have right to co-ownership of multiple items at the same time, the court can, at the request of any of them, to decide instead of dividing each item separately to each of them, to award each of them a certain item or collection of items, proportionate to their co-ownership parts, taking into account their needs.

If the items that had been awarded to the co-owner surpass the value of its co-ownership part, then it is obliged to pay the difference to the other co-owners.

The rules for the right to division with payment are appropriately applied to the payment of the difference ( Article 52).

#### Article 54

The co-owner, who had been awarded an item or a part of an item with the division, is guaranteed by the other co-owners with regards to the legal and physical faults of the item within the limits of the value of their co-ownership parts. This right expires after a period of three years from the division of the item.

#### Article 55

If the co-owners during the physical division can not receive equal parts which correspond to the ideal part, in that case the court can determine a payment of the difference in money based on the market price at the time of the court decision, at the expense of the other co-owners.

#### Article 56

When physical division is impossible or is possible only with a significant decrease in the value of the item, the court decides to carry out a division with a public sale.

The co-owner of an item that is an object of division with a public sale has the right of priority of purchase before the most favourable offerer, if it declares immediately following the end of the public sale that it is buying the item under the same conditions.

If the item is sold with a direct agreement, the court will summon the co-owners to declare on record in front of the court whether they want to use that right.

When multiple co-owners want to buy the whole item before the most favourable offerer in a public sale, the court will decide to award the item to the one who offers the best conditions.

In the case when multiple co-owners in a public sale propose the same conditions, the court will sell the item to one of them, taking into account the circumstances of the case.

In a public sale the provisions of the Law on Executive Procedure are appropriately applied.

#### Article 57

During physical division of apartments and apartment buildings which represent a physical whole, the court can decide, in accordance with building regulations, to perform internal and external alterations in order for each co-owner to receive an adequate separate part.

In the case from paragraph 1 of this Article the rules for floor ownership are applied.

The incurred alteration costs are paid by the co-owners proportionately to their parts.

#### Article 58

Division costs are paid by the co-owners proportionately to their co-ownership parts, if it is not otherwise determined by an agreement or by law.

## **Part II**

### **Joint ownership**

#### **General provisions**

##### Article 59

Joint ownership is ownership by multiple persons of an undivided item when its parts are determinable, but are not determined beforehand.

Joint ownership exists in the cases of acquiring property in a marital community, in an extra-marital community, in the case of receiving property in an inheritance community, in a family community and in other cases defined by law.

When the item is in joint ownership it is not affected in any way by the fact that the item is registered in the public record as the ownership of one of them, but that does not affect the right of third parties that were not aware of that and were not obliged to be aware of that.

##### Article 60

The joint owner can transfer its part in the joint ownership only to another joint owner of the same item, and can not validly transfer it to a third party outside of the joint owners.

The part that the joint owner owns in the joint ownership is transferred to its heirs.

The joint owner is accountable for debts also with its part in the joint ownership of the item.

##### Article 61

The joint owners carry out the competences concerning the joint ownership only together with the other joint owners, if it is not otherwise determined by an agreement among them or by this or other law.

The fruits and other benefits from the joint item belong equally to all the joint owners, if they haven't agreed otherwise.

Costs and burdens referring to the joint item are borne equally and with solidarity by the joint owners.

Each joint owner has the right to request that the right to ownership of the item in the benefit of all the joint owners as their joint ownership to be registered in a public record.

##### Article 62

Each joint owner has the right to participate in the decision making concerning all issues related to the item which is jointly owned (management of a joint item) together with the other joint owners.

The joint owner can entrust the management to a manager.



## **The right to determination of a part in a joint item**

### Article 63

Each joint owner can request determination of its part in the joint item, if such determination is allowed and possible. This right does not expire.

Each joint owner can request at any time for the parts to be determined in the joint item, in such a manner that it will be determined what part belongs to the joint owner for its part in the joint ownership. With the determination of its part, it becomes a co-owner with the others who remain joint owners until their parts are not determined.

If one or more of the joint owners want their part in the joint item to be determined, that can be done by an agreement or by a court decision in a non-contentious procedure. In such a case, the other joint owners keep the role of joint owners.

When the court decides on the size of the co-ownership part, it takes as its basis the criteria determined by law for the specific case of joint ownership. In the case of an arisen suspicion, the court will consider that all joint owners have equal parts.

During the determination of the parts those parts in the joint ownership which some joint owners have validly given to the others will also be taken into account.

### Article 64

The right to request the determination of what ownership part belongs to a specific joint owner as its part in the joint ownership of the item belongs to:

- the creditors with regards to the part of their debtor,
- the heirs with regards to the part of the inheritance and
- anyone with regards to the part of each joint owner, if it has legal interest for that.

### Article 65

The provisions of this law concerning co-ownership are appropriately applied to the joint ownership.

## **Section 1.**

### **Joint ownership in marital and extra-marital community**

#### **Acquiring property in a marital community**

### Article 66

The property of spouses can be joint and separate.

### Article 67

The property which the spouses acquire during marriage represents their joint property.

### Article 68

As separate property will be considered the property and the right over the property which the spouse will receive on the basis of inheritance, legate and gift, as well as the items acquired in marriage which exclusively serve to satisfy the personal needs of one of

the spouses, if they have disproportionately great value compared to the value of the total joint property.

Each spouse independently manages and uses the separate property, if the spouses do not otherwise agree in written form.

#### Article 69

The right to ownership by spouses over real estates which are their joint property in the sense of Article 67 of this law is registered in the public records in the name of the two spouses as their joint property.

If in the public records as the owner of the joint property is registered only one of the spouses it will be considered that the registering is carried out in the name of the two spouses.

If in the public records the two spouses are registered as co-owners of certain parts, it will be considered that that way they have determined the parts in the joint property.

#### Article 70

The spouses jointly and in agreement manage and use the joint property.

The spouse can not independently use or burden with a legal action among the living its part in the joint property before it is determined.

During the sale of a certain part of the joint property which belongs to one of the spouses the rules for priority of purchase of co-owners are applied.

#### Article 71

The spouses can agree in written form for the management and use of the joint property or part of it to be carried out by one of them.

The agreement can refer to all matters concerning management and use or just to the regular management or to exactly specified matters.

When it is not otherwise agreed, management covers also use within the regular work.

Each spouse can break the agreement for management or use of the joint property at any time, unless when obvious damage is inflicted on the other spouse with the breaking of the agreement.

#### Article 72

For carrying out matters which surpass the boundaries of regular management or use of the property, the consent of the other spouse is required expressed in a form required for an appropriate legal action.

#### Article 73

If on matters concerning the management of the joint property or for a separate matter concerning the management, the spouses can not agree, and neither of them requests determining of the parts in the joint property, the court in a non-contentious procedure can at the request of one of the spouses determine necessary measures related to the management.

#### Article 74

During the duration and following the end of the marriage the spouses can agree to divide the joint property.

With the division of the joint property of the spouses the regime of separate property comes into force.

#### Article 75

If an agreement is not reached, the division of the joint property, at the request of one of the spouses, is carried out by the court in an out of court procedure.

during the determining of the parts of the spouse in the joint property, the courts starts from the fact that the joint property of the spouses is divided into equal parts.

At the request of one of the spouses, the court can award a larger part of the joint property, if it proves that its contribution in the joint property is obviously and significantly larger than the contribution of the other spouse.

#### Article 76

During the division of the joint property, at the request of the spouse, its part will include primarily those items from the joint property which serve carrying out its activity.

Separated and given to the spouse from the joint property will be, besides its part also those items acquired through working in the duration of the marital community which exclusively for its personal use.

If the value of the items from paragraphs 1 and 2 of this Article is disproportionately large compared to the value of the total joint property, division will also be carried out to those items, unless the spouse who should receive these items does not compensate the other spouse with the appropriate value or give other items to the other spouse with its consent.

#### Article 77

The spouse who is entrusted to raise and educate the joint children, is awarded the ownership of, besides its part also the items that serve the children or are intended solely for their direct use.

During the division of the joint property, the spouse who is awarded the custody of the joint children is also awarded those objects for which there is obvious interest to remain in the property and to be owned by the spouse with the custody of the children.

#### Article 78

If during the division of the joint property it is determined that one of the spouses owns a significantly lesser part, the court can at the request of one of the spouses decide that this part is to be compensated in money.

#### Article 79

For the obligations which one of the spouses had before the marriage, as well as for the personal obligations which it will receive after the beginning of the marriage, the other spouse is not responsible.

The spouses have solidarity responsibility for the obligations that one spouse has received towards third parties for the fulfillment of the current needs of the marital community, as well as for the obligations that according to the general regulations burden both spouses.

The spouse who has fulfilled a solidarity obligation from its separate property has the right to request from the other spouse to compensate the part of the obligation that belongs to it.

#### Article 80

Gifts that the spouses had given to each other before or during the marriage are not be returned.

### **Acquiring property in an extra-marital community**

#### Article 81

The property that the extra-marital partners acquire in an extra-marital community is considered their joint property.

With regards to the management and use, the determination of the parts of the property acquired in an extra-marital community and during the division of property in an extra-marital community the provisions of this law related to the joint property of spouses are applied appropriately.

### **Section 2.**

### **Joint property in an inheritance community**

#### Article 83

Heirs who have not given up their inheritance, until the validity of the decision, are joint owners.

#### Article 83

The heir is responsible for the debts of the testator up to the amount of the value of the inherited property.

The heir who has given up its inheritance is not responsible for the debts of the testator.

When there are multiple heirs they have solidarity responsibility for the debts of the testator and each up to the amount of the value of its part of the inherited property, regardless of whether the division of the inheritance has been carried out or not.

Among the heirs the debts are divided proportionately to the value of the property that each one has inherited, if it is not otherwise determined by the will.

#### Article 84

Creditors of the testator can request the legacy to be separated from the property of the heir within three months of the opening of the inheritance.

In that case the heir can not use the objects and the rights of the testament, neither can its creditors be paid from them, until the creditors who requested the separation are paid.

The creditors of the testator who requested this separation can collect on their claims only from the assets of the legacy.

The court can appoint a custodian for the separated testament.

#### Article 85

Until the adoption of the decision for inheritance, the heirs are using and managing the inheritance together.

If there is no executor of the will, and the heirs do not agree about the management of the inheritance, the court at the request of one of them, will appoint a manager who on behalf of all of them will manage the inheritance or will award each of the heirs a part of the inheritance that the heir will manage.

The court can appoint as a manager one of the heirs.

The manager with the approval of the court can manage the items of the testament, if it is authorised for this by the will, or if it is needed for the payment of costs or for the removal of a certain damage.

#### Article 86

Each of the heirs during the duration of the inheritance community has the right to priority of purchase of the part of the other heirs.

#### Article 87

After the validity of the decision for inheritance, the rules of civic law concerning co-owner relations apply to the use and handling of the inheritance which is not physically divided.

#### Article 88

The division of the inheritance can be requested by each heir at any time. This right can not expire.

The agreement with which the heir is giving up the right to request division, as well as the provision of the will with which division is banned or limited is invalid.

#### Article 89

At the request of the heir who has lived or done business in a community with the testator the court, when there is a justified need for this, will decide to leave to it certain items, movable or immovable or a group of items which would otherwise belong to the part of the other heirs, and the value of those items should be paid to them by that heir in money, in a period of time that the court will determine according to the circumstances.

For this amount which has been determined in this manner, these heirs have legal pledge over the parts which are given to the heir from the testament until payment, and this heir is obliged to carry out the payment. This pledge can be registered in an appropriate pledge register.

If the payment is not carried out within the period of time, they have the right to request payment of the claims or handing over of the items that would otherwise belong to them in the name of an inherited part.

#### Article 90

To each heir its co-heirs are legally accountable if a third party, calling upon some right that was established before the division, would confiscate an item that was placed in its inheritance part, or if it would otherwise diminish its right.

The co-heirs guarantee that the items placed in its part do not have hidden faults.

The co-heirs, also, guarantee that the claim of the testator put in the part of one heir exists and that it can be collected from the heir up to the amount which is placed in its part.

The obligation for personal guarantee of the existence and collectibility of the claim lasts three years after the finalisation of the division, and for claims which arrive after the division three years after the arrival of the obligation.

In all cases of guarantee according to this Article, each heir guarantees and owes a compensation proportionate to its inherited part.

#### Article 91

Persons who have lived in a community with the testator and with their labour, earnings or another way helped it in its work, have the right to request that a part is separated from the legacy that will correspond to their contribution in the increasing of the value of the property of the testator.

The separated part from the testament from paragraph 1 of this Article does not belong to the legacy, is not taken into account during the calculation of the necessary part, nor is calculated to the heir in its inheritance part.

### Section 3

#### **Joint ownership in a family community**

#### Article 92

In a family community each member, except the spouse and extra-marital partners, acquire the right to ownership of the items for themselves ( separate property), unless they otherwise agree or if that does not derive from the circumstances of the case.

#### Article 93

When it is agreed the right to ownership of the items in a family community to be acquired by multiple members or when that is derived from the circumstances, the size of the part for each member is determined in accordance with the agreement.

If a special agreement concerning this does not exist, the size of the part for each member is determined on the basis of the contribution of the members who have participated in the acquiring of the right to ownership, depending in the invested labour,

earnings, running of household affairs, care for maintenance of the property and every other form of work and collaboration in its management, maintenance and increase.

#### Article 94

In a family community, as a rule, a child under 15 years of age can not acquire property.

### **Section 3**

#### FLOOR OWNERSHIP

#### **The right to ownership of separate parts of buildings ( objects and bearers)**

#### Article 95

Apartments, business facilities, cellars, garages and other separate parts of housing and business building which have two or more apartments, or business facilities and other separate parts can be owned by different natural persons and legal entities ( floor ownership).

Over a separate part of a building there can be co-ownership of ideal parts of the separate apartments and the other separate parts of a building.

#### **Rights and duties of owners of separate parts in relation to those parts**

#### Article 96

The owner of a separate part of a building has the right to use its separate part of a building according its own will and to handle it freely, as well as with the auxiliary parts which serve its part of the building ( cellar, garage , etc.)

#### Article 97

If the separate part of the building is co-owned by two or more persons( ideal parts), the co-owner who wants to sell its part is obliged to offer to the other co-owner or co-owners.

If the separate part of the building is a business facility, the right to priority of purchase together with the co-owner belongs also to the lease-holder.

In the case from paragraph 1 and 2 of this Article the seller is obliged to submit to the other co-owner or the lease-holder the offer for sale of its co-ownership part of the separate part of the building with a definition of the price and the conditions of sale. If the building has a tenant council, the offer is given through the building council which is obliged to inform the co-owners or the lease-holders of the separate part of the building of the offer within three days of receiving the offer.

The statement of acceptance of the offer is submitted directly to the seller within 30 days of the reception day or the expiration date of the offer.

If in the period of time from paragraph 4 of this Article the offer is not accepted by the co-owner or co-owners of the separate part of the building , the seller can sell its part to another party under the conditions given in the offer or at a higher selling price.

When according to the conditions of the offer the price should be paid fully or partially in cash, the statement of acceptance of the offer has legal force only if in the period of time from paragraph 3 of this article the full amount is paid or deposited which according to the offer is to be paid in cash to the offerer or the at the basic court or a notary in which region the building is located .

In case the offer for sale of the co-ownership part of the separate part of the building is accepted by multiple co-owners or lease-holders of that part, the sale will be carried out in accordance with Article 33 of this law.

In the case when the co-owner who is selling its part does not give an offer to the co-owners or the lease-holders, the sale will be annulled and it will be acted in accordance with the provisions of Article 34 of this law.

#### Article 98

The owner is obliged to take care of the maintenance of its part of the building.

If during the usage of its part of the building the owner had caused damage to other parts of the building that are owned by other persons or by this other obstructions are caused to the parts of the building that are serving it as a whole or parts of it that constitute a separate whole, the owner is obliged to compensate that damage or to remove other obstructions which are created.

The owner can not perform alteration of its part that might disturb the architectural image of the building or decrease its security(stability), or the stability of a joint part of the building or of another owner, as well as causing damage to those parts.

#### Article 99

The owner of a separate part is obliged to allow necessary interventions to be carried out in its part for the purpose of removal of obstructions during the use of the right to ownership of another part of the building or parts of the building which are in the function of the building as a whole under the condition that damages that are caused because of the intervention will be compensated to this owner.

#### Article 100

During the alienation of a garage which is a part of a building or a construction land which serves the building as a whole or just some parts of the building, in the case when the alienation is carried out separately from the alienation of the apartment, the priority right of purchase belongs to the co-owners of the apartments as separate part of the building, and following them the lease-holders of the apartments in the same building.

In the case from paragraph 1 of this Article the selling of a garage can not be carried out to a person who is not using an apartment in the same building under conditions that are more favourable than those offered to the owners of the apartments as separate parts of the building or the lease-holders of the apartments in that building.

The seller is obliged to submit the sale offer through the tenant council, if there is such a council, that is to say to publicly exhibit it to the owners of the apartments.



The statement of acceptance of the offer is submitted directly to the seller within 30 days of exhibiting the offer.

If the offer in the given period of time is not accepted by anyone, the seller can sell the garage to another party under the conditions listed in the offer or at a higher price.

The interested party which wants to buy the garage is obliged within the period of time in which its supposed to provide a statement of acceptance to pay the price in cash or deposit an amount in the court or at a notary.

In the case when the offer for sale of a garage is accepted by multiple co-owners or lease-holders of separate parts of the building, the seller decides independently to whom it will sell the garage.

If the owner sells the garage contrary to the provisions of this Article, the bearer of the right to priority of purchase has the right to request through a court procedure for the sale agreement to be annulled and the garage to be offered to it under the same conditions. The lawsuit should be submitted within 30 days of the information about the sale. The plaintiff is obliged with the submission of the lawsuit to deposit the amount of the purchase price in the court in which area the building is located. After the expiration of six months from the executed transfer of the ownership in the public records, the right to initiate a lawsuit for annulment of the sale ends.

#### Article 101

An apartment, a part of an apartment, an auxiliary housing and joint facility on the basis of project documentation can be altered for carrying out a business activity at the request of the owner of that part of the building, if this does not jeopardise the safety of the citizens in the building, if no damage is caused to the building and if other users are not obstructed in the peaceful usage of their apartments, following a previous consent of the majority of the owners of apartments or business facilities in the building or at the entrance of the building.

The permit for the alteration is issued by the competent body.

#### **The rights and duties of the owners of separate parts of the building in relation to the joint parts and the building as a whole**

#### Article 102

The building the parts of which are owned by multiple persons is managed by the owners of the separate parts in a manner defined by this law and in accordance with the agreement on mutual relations signed by them, if it is not otherwise determined by special regulations.

#### Article 103

The agreement on mutual relations contains specific provisions for:

- management of the building,
- the manner, conditions and order of using the joint facilities and devices in the building,

- the sizes of the amounts and manner of payment of costs for investment maintenance of the joint parts of the building which is under floor ownership and
- the house rules of the building.

#### Article 104

The agreement on mutual relations must be composed in written form and signed by all the owners of the separate parts of the building.

The agreement which is not composed in written form has no legal force.

The agreement from paragraph 1 of this Article which has been signed by more than half of the owners of the separate parts of the building is obligatorily applied to the other co-owners of the separate parts of the building, if the agreement is not disputed within 30 days.

Following the disputing from paragraph 3 of this Article , the court brings a decision in non-contentious procedure. The decision of the court replaces the agreement on mutual relations in the disputed part.

#### Article 105

The legal successor of the owner of the separate part of the building steps into the rights and obligations of its predecessor which are defined by the agreement on mutual relations.

#### Article 106

The agreement on mutual relations can be changed with the written consent of the owners of the separate parts of the building, to the rights of which the change is related.

In the case of changes and amendments of the agreement on mutual relations the provisions of Article 104 of this law are applied.

#### Article 107

The right of usage of the joint parts of a multi-apartment building which are part of the building as a whole ( foundations, main walls, facade, stairs, halls, apartment for the concierge, elevators, electrical, sewage, plumbing and television networks, television antennas, wells, facilities for laundering and drying of clothes, roof, cellar, heating devises, skylights, chimneys etc.) have all the owners of the separate parts.

The right of usage of the joint parts which are in function of only some separate parts of the building ( separate entrance, partition walls between two apartments or rooms etc.) have the owners of those separate parts.

The parts of an apartment building that are in the function of the building as a whole or some of its parts are used as joint and indivisible ownership of all the owners of the separate parts or the owners of the parts that are in their function.

#### Article 108

All the owners of the separate parts of the building have the right to restricted use of the land on which the building is constructed or which is part of the building.

The owner of a separate part of the building can not use the land which is part of the building as a whole or its separate parts in manner which would limit the other owners in the normal usage of that land.

#### Article 109

The owners of the separate parts of the building are obliged to participate in the regular and investment maintenance of the joint parts of the building proportionately to the value of their separate parts in accordance with the total value of the whole building, and if the joint parts are in the function only of some parts of the building proportionately to the value of this parts in accordance with the total value of that part of the building where the parts are located.

#### Article 110

The repairs and alterations to the parts of the of the building which are in the function of the building as a whole can be carried out on the basis of the agreement on mutual relations, and if such an agreement is not signed on the basis of a direct agreement of the majority of the owners of parts of the building. The repairs and alterations to the parts of the of the building which are only in the function of some parts of the building (entrances) are carried out on the basis of the consent of the majority of the owners of parts of the building.

If the owners can not reach consent, or if some of them do not agree with the need for the repairs or alterations, the competent court at the request of an interested owner or owners will decide in non-contentious procedure whether these repairs or alterations should be carried out taking into consideration their justification. In the case of a positive decision the court will decide in what proportion the owners will cover the costs, taking into account which separate parts and to what extent they need the repairs or alterations which are to be carried out.

#### Article 111

Owner of a separate part of a building whose permanent place of residence is not in the place where the apartment building is located is obliged to authorise a person with a power of attorney who has permanent place of residence in the place where the building is located in order to exercise the rights that are derived from this law.

The authorisation must be in written form.

The owner of the apartment is obliged to notify the building council, if it exists, about the person who it has authorised to be its representative.

The notification should be carried out within 30 days from the day of the authorisation of the power of attorney. If the owner does not appoint its power of attorney, the tenant council or the ownership community will appoint a person who will exercise the rights and obligations of the owner with relation to the management of the building.

## CHAPTER IV

### ACQUIRING, PROTECTION AND ENDING OF THE RIGHT TO OWNERSHIP

## **Acquiring the right to ownership**

### **Legal bases for acquiring**

#### Article 112

The right to ownership is acquired according to law on the basis of legal work and by inheritance.

The right to ownership is also acquired with a decision of a competent state body in a manner and under condition defined by law.

### **Section 1**

#### **Acquiring on the basis of law**

#### Article 113

According to law the right to ownership is acquired by creating a new item, by mixing and merging, by building on a land, by maintaining, by separating the fruits, by acquiring ownership from a non-owner, by occupation, by attachment and sedimentation, by changing the bed of a water flow and creating an island and in other cases defined by law.

#### **Creating a new item**

#### Article 114

Person who makes from its own material with its own labour a new item acquires the right to ownership of that item.

The right to ownership of the new item belongs to the owner from whose material, on the basis of legal work, the item was made by another person.

If someone has made from a third party's material with its own labour a new item, the item belongs to the person, if the person is conscientious and if the value of the labour is greater than the value of the material, but the person is obliged to compensate the value of the material, and if the values are equal than co-ownership is established.

#### **Mixing and merging**

#### Article 115

When the items that belong to different owners are mixed or merged in such a manner that they can not be separated without significant damage or without disproportionate costs, a right to co-ownership of the new item is established at the benefit of the previous owners proportionate to the values which the separate item had at the moment of mixing or merging.

If one of the owners was not conscientious, the conscientious owner can request, within a year of the day of the mixing or merging of the items, that the whole item is awarded into its ownership or the same thing to be given to the ownership of the unconscientious owner which would then compensate the value of its item.

If out of the two mixed or merged items one has insignificant value compared to the other, the owner of the other item acquires the right to ownership of the new item with the obligation to compensate the value to the person who has lost the right to ownership of the item with this action.

## **Building on land**

### **Building on own or someone else's land with the consent of the owner of the land**

#### Article 116

Owner of a land that is planned by law or on the basis of law for construction objects, acquires the right to ownership of the construction object that it has built on the land in accordance with building regulations and registering the right in the public records for registering real estate rights.

The builder of a construction object with the consent of the owner of the land acquires ownership of the object under the conditions from paragraph 1 of this Article.

### **Building on someone else' land without the consent of the owner**

#### **Conscientious builder, but the owner was informed of the construction**

#### Article 117

A person who on the basis of an approval by a competent body will build a building or another construction(construction object) on a land which is owned by a third party and without its consent, acquires also the right to ownership of the land on which the construction object was built, as well as the land which is in the function of the object for regular use, if it did not know or could not have known that it was building on a third party's land, and the owner of the land knew about the construction and did not oppose it immediately.

The provision from paragraph 1 of this Article will be applied to situations when it is established that the building permit was given on the basis of an invalid document about the right to ownership of land which will be later established.

In the case from paragraph 1 of this Article the owner of the land has the right within three years of the day of being informed about the carried out construction, but within ten years of the finished construction the latest, to request that the builder compensate to it the value of the land in the amount of the market price at the time of the court decision.

#### **Unconscientious builder and conscientious owner**

#### Article 118

If the builder, even though having a building permit, knew or could know that the document of the right to ownership of the land is invalid, that it is building on a third party's land, and the owner immediately opposed this, the owner of the land can request to be awarded the right of ownership of the construction object or the builder to tear

down the constructed object and to return the land to its previous state or the builder to pay the turnover price of the land.

As an exception to the provision of paragraph 1 of this Article, the court can decide that the constructed construction object not be torn down, if the tearing down of the construction object would not be socially justified considering the circumstances of the case, and especially the value of the object, the property circumstances of the owner of the land and the builder, as well as their behaviour during the construction.

In the cases from paragraph 1 of this Article the owner of the land also has the right to compensation of damages.

If the owner of the land requests to be awarded the right to ownership of the construction object, it is obliged to compensate the value of the object to the builder in the amount of the construction price of the object in the place where it is located at the time of the court decision.

The right to choice from paragraph 1 of this Article can be accomplished by the owner of the land within three years the latest of the day when the construction of the construction object was finished. After the expiration of this period of time the owner can request payment of the market price of the land at the time of the court decision, and ten years the latest since the finished construction.

### **The builder is conscientious, but the owner was not informed about the construction**

#### Article 119

If the builder is conscientious, in the sense of the provisions of Article 117 paragraphs 1 and 2 of this law, and the owner of the land did not know about the construction, in the case when the value of the construction object is significantly greater than the land, the construction object together with the land belongs to the builder, and it owes the owner of the land a compensation for the land in accordance with the market price of the land.

If the value of the land is significantly greater the court, at the request of the owner of the land, will award the construction object to the owner who will be obliged to compensate the builder for the construction value of the object in accordance with the construction price of the object in the place where it is located. This request can be submitted by the owner within three years of the day when the construction of the construction object was finished.

If the builder is conscientious, and the owner of the land did not know about the construction, in the case when the value of the construction object and the value of the land are approximately the same, the construction object or the construction object and the land will be awarded by the court to the owner of the land or the builder, taking into consideration their needs, and especially their housing circumstances.

The owner of the land or the builder is due compensation for the land or the construction object according to the provision from paragraph 1 of this Article.

### **Building on the basis of a third party's right to build**

#### Article 120

When the builder builds on a land for which the right to build belongs to a different person, then to the builder, or the owner of the right to build applicable are the provisions of Articles 117 to 119 of this law with relation to the acquiring of the right to ownership of the construction and the land.

### **Building without a building permit**

#### Article 121

The builder does not acquire ownership of a construction object built without a building permit by the fact of the construction itself, and until the legalisation or tearing down of that object on the basis of a competent body it enjoys appropriate court protection which belongs to an owner, if it is not otherwise defined by law.

The builder of the object from paragraph 1 of this Article who builds on its own or a third party's land under conditions determined by this law, can acquire ownership of such an object, or legalise the construction, if the object fits in the general city planning, and the construction is confirmed with an building permit issued by a competent body and is registered in the public record registering real estate rights.

If there is no general city plan for the land where the construction object has been built without a building permit, and the competent body determines that ten years have passed since the construction of the object and verifies the construction with a building permit, the builder acquires ownership by registering in the public record for registering real estate rights, if it is not otherwise stipulated by a special law.

### **Extensions and superstructures**

#### Article 122

Construction of extensions and superstructures on a building is carried out on the basis of a general city plan and city planning project.

The right to request construction of an extension or a superstructure has the owner or owners of an existing building. With the extension or superstructure the owner or owners also acquire the right to ownership over the extension or superstructure.

The right to construct an extension or superstructure on a building in floor ownership (building with two or more apartments which belong to two or more persons) belongs to the owners of the separate parts of the building. The extension or superstructure is decided on by the majority of the owners of the separate parts of the building which represent more than half of the value of the building. If there are more interested parties for the extension or superstructure than the number of new parts of the building that was planned and if agreement is not reached among them, the court decides at the request of each of the interested parties, taking into consideration the principle of fairness.

If the owners of the separate parts of the building are not interested in the construction of an extension or superstructure, they can give the right to build to third parties with the majority of votes of the separate parts of the building which value constitutes more than the half of the value of the building, under the condition that the builder or builders are obliged to pay an appropriate compensation for the right to build on a third party's land, as well as for the damages which can be caused as a result of the building.

## **Overstepping of a boundary during building**

### Article 123

If during the construction of a building a boundary is overstepped and part of the neighbouring land next to the boundary is taken, the owner of the land has the right to request re-establishment of the previous situation.

Until the previous situation is re-established, it is considered that the owner of the building until the revoking is allowed is given real servitude of the part of the building on the neighbouring land.

The owner of the land where the part of a third party's building is has a right to compensation in the form of monetary rent in the amount of the rent for the taken land which every owner of a building is obliged to pay to the owner of the service land until the part of the building in that land exists, and this does not hinder the right to compensation for endured damages.

The owner of the land where the part of a third party's building is built has the right to request that the owner of the building buy its entire land at market price. The owner of the building can also request that if it was a conscientious builder, if the owner of the land requested re-establishment of the previous situation, and that is not possible without significant damage to the rest of the building or without disproportionately large costs.

## **Acquiring the right to ownership with maintenance**

### Article 124

The conscientious and legal holder of a movable item, the right of ownership of which belongs to another, acquires the right to ownership of that item with maintenance after an expiration of a period of three years.

The conscientious and legal holder of an immovable item, the right of ownership of which belongs to another, acquires the right to ownership of that item with maintenance after an expiration of a period of ten years.

The conscientious holder of a movable item, the right of ownership of which belongs to another, acquires the right to ownership of that item with maintenance after an expiration of a period of ten years.

The conscientious holder of an immovable item, the right of ownership of which belongs to another, acquires the right to ownership of that item with maintenance after an expiration of a period of twenty years.

The heir becomes a conscientious holder from the moment of the opening of the inheritance and in the case when the testator was an unconscientious holder, and the heir did not know that nor could have known that, and the time for maintenance starts from the moment of the opening of the inheritance.

## **Calculation of the time for maintenance**



#### Article 125

The time required for maintenance starts the day when the holder came into in possessory of the item, and ends with the expiration of the last day of the time required for maintenance.

In the time required for maintenance the time is calculated for which the predecessors of the current holder held the item as conscientious and legal holders, or as conscientious holders.

For the stoppage, or delay of the maintenance, respectively are applied the provisions for the stoppage or the delay of the expiration of claims.

### **Sowing and planting plants**

#### **Article 126**

Sown or planted plants in some land which have grown roots are owned by the owner of the land, regardless who owns the seed or the nursery plant, and the relation between the owner of the land and the owner of the seed and the nursery plant will be defined in accordance with the rules of obligation law.

The stipulated items in paragraph 1 of this Article concerning plants which have grown roots refers also to those plants which can not be separated from the real estate without disproportionately high costs.

### **Ownership of fruits**

#### Article 127

The right to ownership of fruits which are yielded by the item belongs to the owner of the item.

The conscientious holder, the usufructuary and the lease-holder of the item that yields fruits acquire the right to ownership of the fruits on the basis of an appropriate legal basis at the moment of their separation.

The fruits from paragraph 2 of this Article, until their separation are an integral part of the item and belong to the owner.

### **Fruits of animals**

#### Article 128

The fruits of the animal and other benefits from it belong to its owner, or to other persons, in accordance to Article 127 of this law.

The owner of the animal that has inseminated a third party's animal does not have the right to the fruit nor the award, unless something else has been agreed or is common.

### **Attaching and sedimentation**

#### Article 129

When a water flow separates a piece of land and attaches to another land(carries it to a third party's land) the owner of the severed land has the right to return it within a year, if that is possible.

After the expiration of the period of one year, the severed piece of land remains an integral part of the land to which is attached and the former owner is not due compensation.

#### Article 130

When a water flow sediments land on a coast, the increased surface of the land belongs to the owner of the coastland and is not obliged to pay compensation for it.

### **The bed of a water flow**

#### Article 131

If because of natural actions the water flow moves the bed or abandons it, the owner of the coastland, whose land has decreased because of this has the right within three years at its own expense to bring back the water flow in its old bed, if this is not contrary to the plan for regulation of the water flow, nor with the provisions of a special law.

If in the period of time stipulated in paragraph 1 of this Article the former flow of the water flow has not been returned, the owner of the land who is enduring damage because of the new water flow, has the right to be awarded the abandoned bed in accordance with the rules for acquiring ownership of an island, if it is not otherwise determined with a special law.

### **Creating an island**

#### Article 132

An island created in the bed of a water flow with an severed or surrounded part of the land belongs to the owner of the land from which it was created.

If an island is created in the middle of a water flow, and is not a general good, and nothing otherwise is stipulated by a special law, than the island is attached to the lands which lie alongside the land, and in width up to the half of the water flow.

If in the case from paragraph 2 of this Article the island is created in one of the halves of the water flow, the owner of the closer coast has an exclusive right to it.

The provisions of acquiring with the attachment of an island created in a water flow do not apply in the cases when it is created with the drying up of the water or with the division of the water to multiple branches or in the cases when a land is flooded, because in those case the previous rights remain unchanged.

### **Acquiring ownership by appropriation of movable items (occupation)**

#### Article 133

The right of ownership of a movable item which its owner abandoned is acquired by the person which took that item to govern it with the intent to appropriate it, if it is not otherwise determined by law.

The item is considered abandoned when its owner in an undoubting manner expresses that it does not want to possess it. Ownership can not be acquired with the appropriation of movable items which with a special law can only be owned by the Republic of

Macedonia or by the units of local self-government, unless by law or with a special permit issued by an competent body the appropriation is carried out within the boundaries of this permit.

### **Abandoned items**

#### Article 134

The ownership of a third party's item can not be acquired with appropriation. In case of suspicion it is considered that the item is not abandoned.

A tamed animal is considered abandoned if it is missing 42 days, and a swarm of bees is abandoned if the owner has not seen it for two days.

The abandoned co-ownership part of a movable item is attached to the parts of the other co-owners proportionately to their co-ownership parts.

#### Article 135

A real estate is abandoned if on the basis of a statement of relinquishing ownership given in the form of a document valid for registering of the right in a public record for registering of real estate rights, that right is erased.

Those lands the tilling of which has completely been neglected and those ruined buildings which are not repaired it will be determined with special regulations when they are considered abandoned and they have gone into state ownership (ownership of the Republic of Macedonia). The abandoned real estate goes into state ownership the moment it is abandoned, if it is not otherwise determined by law.

### **Lost item and finder**

#### Article 136

The ownership of an item does not cease when the owner has lost it or it has been stolen, and so the finder is obliged to hand it over without any delay to the person that has lost it, if according to the signs of the item or from other circumstances is able to find out about it and if this person is easily accessible.

The finder who has not returned the found item to the person who had lost it, or to its owner, is obliged without any delay to personally deliver it to the competent service in the region of which the item had been found or through the person in whose facilities (transport or similar device) it was found, and who on behalf of the finder will deliver it to the competent service.

The finder is not obliged to deliver the item to the competent service only if its value is negligible according to the general belief.

The organisation of the competent service from paragraph 2 of this Article is established by the Minister of Internal Affairs with a sublegal act within six months of the coming into force of this law.

#### Article 137

The competent service is obliged to receive the found item, to undertake measures for its keeping and finding the person who has lost the item.

If the found item is susceptible to spoiling or is unsuitable for keeping or maintaining, the competent service will sell it in a public sale and will deposit the received money in the court or at a notary.

#### Article 138

If the person who has lost the item or its owner reports to the competent service within a year of its finding and proves that it has lost the item from its possessory, or that that it is its owner, the item will be given to it or the amount received from the sale, after the necessary costs are deducted related with the keeping of the found item, as well as the possible finder's fee, if the finder requested a fee.

In the case of suspicion, to which of the multiple persons should the found item be given to, if the circumstances do not point to some other person, the person who lost it from its direct possessory has the priority.

#### Article 139

The finder of the lost item has a right to compensation for the incurred necessary costs, as well as a fee of up to 15% of the value of the item.

The finder of the item is the one who has seen the item first and tried to reach it, even though someone else took it first. If multiple persons find a item together they have a right of a fee in equal parts.

The person who is obliged to pay the fee may request the amount to be justly decreased when the fee would represent disproportionately great benefit considering the circumstances of the finder and the person who is obliged to pay the fee, as well as the circumstances under which the item had been lost and found.

If the value of the found item can not be assessed or it exists only for its owner, or the person who lost it, then the finder can request a just amount of the fee to be determined.

The finder who has not reported the lost item, as well as the workers employed in public services( conductors, drivers, cleaners etc.) when they find a item during their official work, are not due a fee.

The person who is obliged to pay the fee and who has debts, can be freed from these obligations in such a manner that he will give up the item, so it will be considered that this person never reported it.

#### Article 140

If the person who has lost the item, nor the owner of the item, do not report within a year of the finding of the item, or do not prove their right to the item or refuse to receive it or relinquish it, then the found item, or the money received from its sale, are given to the in possessory of the finder.

If later the person who lost the item or its owner report, the finder must return the item together with the benefit acquired from it, or to return the money with interest after the necessary costs and the paid fee are deducted.

#### Article 141

The finder can acquire the right to ownership of the found item, or the money received for it under the conditions for acquiring a item through maintenance, under the conditions that its in possessory of the found item is conscientious.

The finder who has not acted according to the provisions of Article 136 paragraph 2 of this law, can not acquire the right to ownership through maintenance, nor does it have a right to receive a fee.

### **Acquiring ownership of a hidden treasure and a cultural good**

#### Article 142

A hidden treasure in the sense of this law is considered to be: money, gold, silver, jewelry, precious stones, items made of precious metals and other valuables which have laid hidden for such a long time that it can not be determined with certainty who their owner is.

A cultural good in the sense of this law is considered to be an item which has general cultural importance or is of public interest and as such is under special legal regime for its protection and usage( cultural monument, museum material, library material, archival data, natural rarity etc.)

#### Article 143

The hidden treasure and the cultural good, if the owner is not found, becomes the ownership of the Republic of Macedonia( state ownership).

A person who will discover a hidden treasure or a cultural good is obliged to immediately report and deliver it to the competent service in its government, and until the delivery to undertake measures which are necessary to prevent it from ruining or damage or alienation.

The competent service is obliged to immediately inform about the finding of the treasure or the cultural good the competent state body for protection of monuments of culture, or the archive, which are authorised to take into possessory those items and to keep them, if it is not otherwise determined by a special law.

The finder and the owner of the real estate where the treasure or cultural good was found have the right to an adequate award from the Republic of Macedonia which can not be lower than the award for finding someone else's item nor higher than the value of the found treasure or cultural good, and also have the right to a compensation of necessary costs.

Half of the award from paragraph 4 of this Article belongs to the finder, and the other half to the owner of the real estate where the treasure or the cultural good was found.

Is someone tries to hide or does not report the treasure immediately the treasure or cultural good , he does not have the right to an award or compensation.

The Republic of Macedonia can release itself from the obligation to give an award and compensation of costs for the hidden treasure or cultural good if it relinquishes the items and awards the found treasure or cultural good in the possessory of the finder and the owner of the real estate. In that case the provisions of this law for awarding an item to the finder and acquiring ownership of a found item will be appropriately applied.

The provisions concerning the right of the owner of the real estate to an award will be appropriately applied also to the bearer of the right to build, if the treasure or cultural good is found in the real estate on which it has the right to build.

## **Section 2**

### **Acquiring of ownership on the basis of a legal action**

#### **Article 144**

On the basis of an allowed legal action the purpose of which is acquiring ownership, the ownership is transferred from the previous owner to the acquirer in a manner defined by law.

The legal action with which an ownership of real estate is acquired, beside the essential elements which it should contain, should be signed in written form, if it is not otherwise determined by law.

Acquiring ownership on the basis of a legal action does not affect the rights of third parties to that item, unless if it is not otherwise determined by law.

### **Acquiring ownership of a movable item**

#### **Article 145**

The right to ownership of a movable item is transferred to the acquirer with the giving of the item in its possessory.

The giving of the movable item is considered carried out also with the giving of the document on the basis of which the acquirer can handle that item, as well as with the handing of some part of the item, or with the separation or other marking of the item which constitutes giving of the item.

When the movable item is in the possessory of the acquirer on some legal basis, the acquirer acquires the right to ownership of the item on another legal basis at the moment of the conclusion of the legal action with the owner of the item.

If the acquirer of the right to ownership of a movable item leaves the item still in the possessory of the transferor on some other basis, it acquires the right to ownership of the item at the moment of the conclusion of the legal action with the owner of the item, on the basis of which the right to ownership is acquired.

The right to ownership of a movable item which is held by a third party is transferred onto the acquirer at the moment of the conclusion of the legal action with which the transferor transferred the right to request the return of the item. The third party has the right to raise all the objections to the new owner which it had towards the former owner.

The giving of the movable item is also considered finished when it derives from the specific circumstances that the giving of the item has been carried out.

### **Multiple agreeing for the alienation of the same movable item**

#### Article 146

When multiple persons have concluded separate legal actions for the purpose of acquiring the right to ownership of the same movable item which is individually determined, that right is acquired by the person which was first given the item, if all the other prerequisites for acquiring ownership have been met.

In the case from paragraph 1 of this Article, the relations of the alienator with the persons with whom it concluded the legal actions, and they hadn't acquired ownership of the movable item, those are determined according to the rule of obligation law.

### **Acquiring right to ownership from a non-owner**

#### Article 147

A conscientious person acquires the right to ownership of a movable item which acquired through compensation from a non-owner which as part of its activity sells such items, from a non-owner to whom the owner has given the item into possessory on the basis of a legal action which is not a basis for acquiring the right to ownership, as well as at a public sale.

The acquirer is conscientious if in the moment of the conclusion of the legal action or in the moment of the reception into possessory did not know, nor considering the circumstances had sufficient reasons to suspect that the item does not belong to the alienator.

The former owner can request from the conscientious acquirer to return the item, with the fact that it is obliged to pay a compensation in accordance with the selling price, if that item has special significance to it.

The request from paragraph 3 of this Article can not be put forward after the expiration of the period of one year after the acquiring the right to ownership of the item.

The provision from paragraph 1 of this Article is not applied if the owner of the item or the person who was in possessory had it stolen or lost it, or neglected it, except during the acquiring of cash, valuable papers of a deliverer and at a public sale.

The rights of third parties which burden the item cease with the acquiring of ownership from the alienator to whom the item does not belong, however, these rights of third parties do not cease for which the acquirer knew that they existed or it had to know at the moment when it acquired ownership, as well as those rights which are registered in public records.

### **Acquiring real estate**

#### **Registering of ownership in a public record**

#### Article 148

The right to ownership of a real estate on the basis of a legal action is acquired by registering in a public record for registering the rights to real estate or in another suitable manner determined by law.

The establishment, registering and maintaining of the public record for registering the rights to real estates are carried out in a manner and procedure prescribed with a special law.

The legal action of registering occurs at the moment when the request or document for registering is received in the body that manages the public record.

The areas where the public records are not established in accordance with the law on registering the rights to real estates, the right to ownership of real estates is acquired with individual registering in the public records.

### **Acquiring with noting and recording**

#### Article 149

If all the prerequisites which are required for registering in a public record of the rights to real estates, and the registering of the right to ownership is requested, acquiring of the right will be noted.

With noting the right to ownership will be acquired under the condition that there should be additional justification of this noting.

If the noting is additionally justified, the right to ownership is acquired at the moment when the request for registering of the right in the public record was submitted.

In the case from paragraph 1 of this article, over a real estate which is not registered in public record the ownership is acquired, with submitting to the competent body a verified document of an influence for recording by which the rules for acquiring with recording are appropriately applied.

### **Trust in the public record**

#### Article 150

It is considered that the public record for registering the rights to real estates truly and accurately reflects the factual and legal situation of the real estate, so the person who in good faith relied on what is registered in the public record, without knowing that what is registered in it is incorrect or that is different from the situation outside the public record, has the right to protection in accordance with the provisions prescribed by law.

The acquirer was in good faith if at the time of the conclusion of the action and at the moment when it requested registering did not know, nor did it have sufficient reasons from the circumstances to suspect that the item does not belong to the alienator.

The lack of good faith can not be ascribed to anyone just because it did not examine the situation outside what was registered in the public record.

### **Accuracy of the public record**

#### Article 151

The acquirer with the registering acquires the right to ownership of the real estate as is from an owner, if on the basis of what is registered in the public record of the rights to real estates, in good faith acquired from a person who was registered as the owner of that real estate, even though it is not, the registered was not erased because of irregularities.

Erasing of the registered from paragraph 1 of this Article can be requested because of inaccuracy of the previous registering with a lawsuit for erasing within three years of the day of the registering.



## **Multiple agreement for alienating the same real estate**

### **Article 152**

When multiple persons have concluded with the alienator legal actions for acquiring ownership of the same real estate, ownership will be acquired by the person which in good faith requested first at the competent body the registering in the public record of real estates, if all the other prerequisites for acquiring ownership are fulfilled.

Erasing of the registered ownership from paragraph of this Article and registering in its own benefit can be requested by a person from whom the alienator has alienated a real estate and given to be governed, if it proves that the acquirer was not in good faith, because at the moment when it concluded the legal action with the alienator it knew that the real estate was properly alienated to someone else and given to be governed.

The request for erasing can be submitted within three years of the day of the registering.

The relation of the alienator and the persons with whom it concluded the legal actions, and who have not acquired ownership of the real estate is regulated in accordance with the provisions of obligation law.

## **Section 3**

### **Acquiring with inheriting**

#### **Article 153**

The right to ownership of a item is acquired with inheriting at the moment of the opening of the inheritance of the property of the deceased, if it is not otherwise determined by law.

After the validity of the decision for inheritance , the heir has the right to request registering of the right to ownership of a real estate in a public record.

With the acquiring of the right to ownership with inheriting the real rights which had belonged to other persons of the said item, except those for which it is determined by law or which according to the nature of the item can not continue to further exist.

The provisions of this Article refer in an appropriate manner also to other cases of universal succession.

## **Section 4**

### **Acquiring with a decision of a state body**

#### **Article 154**

With a decision of a court or other body ownership is acquired in the cases and under the conditions determined by law.

The right to ownership is acquired at the moment of the validity of the court decision, or the finality of a decision of another body, if it is not otherwise determined by law, neither does it is derived from the purpose for which the decision was brought.

With the acquiring of the right to ownership with a decision of a court or other body the real rights which had belonged to other persons of the said item, except those for which it is determined by that decision or by a special law or which according to the nature of the item can not continue to further exist.

#### Article 155

The right to request registering of the right to ownership in the public record belongs to any natural person and legal entity which with a decision of a court or other body will acquire the right to ownership of a real estate.

The ownership of a real estate acquired with a decision of a court or other body can not be opposed to the right of the person who, relying on what is registered in the public record, in good faith registered its right to the real estate while the right which is acquired with the decision of a court or other body was not still registered.

### Section 5

#### Protection of the right to ownership

##### Ownership lawsuit for the return of the item

#### Article 156

The owner can request with a lawsuit from the holder the return of an individually determined item.

The owner must prove that it has the right of ownership over the item which return it requests, as well as that the item is in the factual possessory of the defendant.

The right to submitting a lawsuit from paragraph 1 of this Article does not expire.

#### Article 157

The conscientious holder is not obliged to pay compensation for the use of the item, nor to be accountable for the worsening and destruction of the item during its conscientious holding.

The conscientious holder has a right to compensation for the necessary costs to the extent to which the value of the item has been increased.

The conscientious holder has a right to request compensation for the useful costs to the extent to which the value of the item has been increased.

The necessary and useful costs from paragraphs 2 and 3 of this Article the owner is obliged to compensate to the conscientious holder to the extent to which the value of the item has been increased.

The conscientious holder has a right to compensation for the costs that it incurred for its pleasure or beautifying the item only if the value of the item has been increased. If what had been done for pleasure or beautifying the item can be separated from the item without damaging it, the conscientious holder has the right to separate that and keep it for itself.

The conscientious holder has the right to keep the item until the amount is compensated for the necessary and useful costs that it had concerning the maintenance of the item.

The request for compensation of necessary and useful costs expires three years from the day of the delivery of the item.

#### Article 158

The unconscientious holder is obliged to deliver to the owner of the item all the fruits.

The unconscientious holder is obliged to compensate the value of the gathered fruits that it spent, alienated or destroyed as well as the value of the fruits it failed to gather.

The unconscientious holder is obliged to compensate the damages incurred with the worsening or destruction of the item, unless if that damage would occur even when the item would be in possession of the owner.

The unconscientious holder has the right to request compensation for the necessary costs which the owner would have if the item was its possession.

The unconscientious holder has the right to compensation of useful costs only if they are personally useful for the owner.

The unconscientious holder does not have the right to compensation of costs that incurred for its own pleasure or for beautifying the item, but it can take the item that was installed for its own pleasure or beautifying the item when it can be separated without damaging the main item.

The conscientious holder becomes unconscientious from the moment when the lawsuit is delivered, but the owner can prove that the conscientious holder has become unconscientious even before delivery of the lawsuit.

#### Article 159

The right of the owner to request from the unconscientious holder to deliver the gathered fruits and a compensation for the value of the fruits which it had spent, alienated, failed to gather or destroyed, expires three years from the delivery of the item.

The claim of the unconscientious holder of the item in relation to the compensation of costs expires three years from the delivery of the item.

### **Lawsuit by the presumed owner**

#### Article 160

The person who has acquired an individually determined item on a legal basis and in a legal manner, and did not know and could not have known that it had not become owner of the item (presumed owner), has the right to request its return from the conscientious holder who has the item without legal basis or on a weaker basis.

When two persons consider themselves presumed owners of a same item, the stronger legal basis belongs to the person who has acquired the item as burden compared to the person who has acquired the item not as burden. If the legal basis of these persons are of same strength, the person who has the item has the priority.

The right to submit a lawsuit from paragraph 1 of this Article does not expire.

### **Lawsuit because of disturbance of ownership**

#### Article 161

If a third party disturbs the owner or the presumed owner in the accomplishment of the right in a different manner, and not by confiscating the item, the owner or the presumed owner can request for this disturbance to stop by a lawsuit.

When with the disturbance from paragraph 1 of this Article damage is caused, the owner has the right to request compensation of damage in accordance with the general rules for compensation of damage.

The right to submit a lawsuit from paragraph 1 of this article does not expire.

### **Lawsuit for protection of co-ownership, or joint ownership**

#### Article 162

The co-owner, or joint owner, has the right to a lawsuit for protection of the right to ownership of the whole object.

### **Declarative and secured lawsuit**

#### Article 163

The right to ownership is protected with a lawsuit for determination of the right(declarative) and with a secured lawsuit which are determined by special laws.

## **Section 6**

### **Ending of the right to ownership**

#### Article 164

The right to ownership ends with the destruction of the item.

The owner keeps the right to ownership of the remains of the item.

#### Article 165

The right to ownership which a certain person has of a certain item, ends( for the person) when another person acquires that right.

#### Article 166

The right of ownership ends with the abandoning of the item.

The item is considered abandoned when its owner expresses its will in an undoubted manner that it does not want to hold it any more.

The abandoned real estate goes into state ownership.

## **PART TWO**

### **IN POSSESSORY**

#### **Definition and types**

## **Section 1**

### **Direct and indirect in possessory**

#### Article 167

Every person who directly or indirectly through a representative, exercises factual authority over the item is in possessory of a specific item ( direct possessory).

In possessory of the item also is the person who exercises the factual authority over the item through another person to whom, on the basis of usufruct, on the basis of a pledge agreement, lease agreement, service agreement or some other legal action, it has given the item in direct possessory ( indirect possessory).

In the case when the possessor from paragraph 2 of this Article is in such a relation with a third person, the third person is a direct possessor , and it is the indirect possessor.

### **Simple holder ( detainer)**

#### Article 168

The person who on the basis of a work or similar relation, or in a household, acts with the items on the basis of someone else's orders and exercises a third party's factual authority, and does not make a profit for itself, has not in possessory , but is only a simple holder ( detainer).

### **In possessory of items**

#### Article 169

The object of in possessory are items.

In possessory over a certain item refers also to its integral parts- incorporated and not incorporated in that item.

A possessor is considered to also be a person with factual authority over a certain part of a certain item, even though that part can not be considered an independent object of real rights( room or other facilities in an apartment etc.).

The possessor of a main item is also a possessor of the auxiliary item, only if it has factual authority over it.

The possessor of a collective item, or collection of items is the possessor only of those items over which it has factual authority.

### **In possessory of a right**

#### Article 170

The possessory of a item is equaled to the factual carrying out of the content of the real servitude in relation to the real estate ( in possessory of a right).

To the possessory of a right from paragraph 1 of this Article the provisions concerning in possessory of a item are appropriately applied, unless this is contrary to the nature of the right or the legal provisions.

#### Article 171

A possessor can be any natural person and legal entity.

### **Co-in possessory and joint in possessory**

#### Article 172

Multiple persons can govern a item or a part of a item or a right.

The co-possessors can simultaneously or consecutively exercise factual authority over the item or right.

Multiple possessors which can not exercise individually the factual authority have joint possessory.

## **Section 2**

### **Acquiring, protection and ending**

#### **Original and derived acquiring**

#### Article 173

In possessory is acquired when the acquirer has established factual authority over an item, regardless of the fact whether it was established with an unilateral act (original acquiring of in possessory ) or it was transferred with a legal action (derived acquiring of in possessory-derivative).

With an unilateral act in possessory is acquired regardless of the will of the previous owner, with a frivolous confiscation of the item with which originally the owner is acquiring the right to ownership.

### **Handing over**

#### Article 174

In possessory is transferred by handing over of the item on the basis of a legal action. The handing over is executed at the moment when the acquirer with the will of the transferor will be in the position to exercise authority over a certain item.

When the in possessory is transferred to an absent person, the transfer is executed when the item is received by the person who at its own will or according to law represents the absent person, and with handing over to a transporter only if the transporter works for the acquirer.

When for the item which is handed over to a transporter or storage worker securities are issued which substitute the item in legal trading, the handing over of such securities means the handing over of that item-good. In the case when one person in good faith conscientiously has received such a security, and another person conscientiously received the item-good, the in possessory of the item-good was acquired by the second person.

## **Handing over with a statement of will**

### Article 175

By stating the will the in possessory is transferred to the acquirer, and it will acquire direct in possessory only if it exercises its authority over the item.

The handing over of in possessory which is executed only by stated will that the in possessory is being handed over, will have influence towards third parties only if they have been informed about it or if they were acquainted with it in another manner.

## **Acquiring original in possessory of a right**

### Article 176

When the possessor of a favoured real estate will unilaterally commit something against a service real estate which is governed by another person which that person should not endure, and yet it endures it, the possessor of the favoured real estate has originally acquired in possessory of the right to real servitude of the service real estate.

When the possessor of a favoured real estate unilaterally bans the possessor of a service real estate to do something that it would normally be able to do in that real estate, and it (the possessor of the service real estate) failed to that, the possessor of the favoured real estate originally acquired the in possessory of the right to real servitude of the service real estate.

## **Acquiring of derived in possessory of a right**

### Article 177

When the possessor of a favoured real estate in agreement with the possessor of a service real estate is carrying out an action concerning the service real estate, which its possessor was not obliged to endure, the in possessory of the right to real servitude for that to be carried out concerning the service real estate occurred in favour of the favoured real estate on the basis of a derived in possessory from the service real estate ( in a derivative manner).

When the possessor of the service real estate, on the basis of an agreement with the possessor of the favoured real estate, begins to fail to do something on the real estate which it governs which otherwise could do( if the agreement does not exist), the in possessory of the right to real servitude for that to be failed to be done on the service real estate, occurred in favour of the favoured real estate with a derived in possessory from another real estate ( in a derivative manner).

The in possessory of the right to real servitude established in favour of a certain real estate which is favoured, is transferred together with the favoured real estate of the acquirer when it is given to it to be governed. However, the one that originally acquires the in possessory of a real estate does not acquire by that the in possessory of the right to real servitude which exists in its favour.

## **Inheritance of in possessory**

#### Article 178

The heir becomes a possessor at the moment of the death of the testator, unless it is otherwise determined by law.

The in possessory of items rights of the testator is transferred to the heir as it was at the moment of its death.

When because of the death of the testator its in possessory of items and rights was transferred onto one or more co-heirs, all of them have become with that co-possessors of each of those individual in possessories and thus they will exercise them, unless if based on the will of the testator or a decision of the inheritance court the exercise is given to one of the heirs or to someone else.

With the transfer of the in possessory of the testator to its heirs it is not interfered in the other in possessory of the same item or right, unless it is otherwise determined by law.

### **Legal and conscientious in possessory**

#### Article 179

The in possessory is legal if the possessor has valid legal basis for in possessory.

A special type of legal in possessory is the real in possessory. The real or peaceful in possessory is the one which is not acquired by force, deception or abuse of trust. The in possessory which was acquired by force, deception or abuse of trust becomes peaceful when the right to protect the in possessory ends for the person from which it was acquired and confiscated in such a manner.

The in possessory is conscientious if the holder does not know or could not have known that there is no legal basis to exercise factual authority over the items.

The conscientiousness of in possessory is presumed.

The conscientiousness ends at the moment when the possessor finds out that the in possessory does not belong to it.

The conscientiousness of a person that has a legal representative is determined according to the conscientiousness and actions of that representative, and conscientiousness of the in possessory of a legal entity is determined according to the conscientiousness and actions of that natural person which is authorised for that legal entity to undertake actions of acquiring or exercising of its in possessory.

### **Permanence and protection**

#### **Principle of permanence**

#### Article 180

The in possessory lasts until the factual authority of the possessor over the item lasts, but it does not end nor is interrupted if the obstruction or failure to exercise the in possessory authority was temporary in its nature.

After the in possessory is acquired, it continues to last without interruption, and the person that claims that it has ended or that it has been interrupted, should prove that circumstances have occurred that caused the in possessory to end.



## **Interruption and confiscation**

### Article 181

Regardless of what the in possessory is , no one has the right without authorisation to interrupt it or confiscate it when it thinks that it has stronger right to in possessory.

The person from whom the in possessory is acquired by force, deception or abuse of trust, also can not confiscate independently the in possessory, after the right of protection of its in possessory ends.

The obstruction of in possessory is not considered unauthorised, if the act of obstruction or confiscation of in possessory is permitted by law or decision by a court or other body brought on the basis of a law that permits it.

## **Protection of in possessory**

### Article 182

The right to protection of in possessory is accomplished within 30 days of the day of the finding out of the obstruction or confiscation and of the perpetrator, and within a year the latest from the occurred obstruction or confiscation.

The right to protection of in possessory is accomplished in a special procedure before a court( procedure because of obstruction or confiscation of in possessory) or with self-help.

The in possessory, which was confiscated from the possessor, did not end nor it was interrupted if the possessor, using its right to protection of in possessory re-established it or forced its re-establishment.

## **Court protection**

### Article 184

The possessor who has had its in possessory obstructed or confiscated, is authorised to request from the court to establish the act of obstruction or confiscation, to order establishment of the in possessory situation as it was at the moment of obstruction or confiscation and to ban such, or similar obstruction or confiscation in the future.

The court provides this protection of in possessory in a special procedure according to the last peaceful situation of in possessory and the occurred obstruction or confiscation, regardless of the legality of the in possessory, conscientiousness of the possessor, as well regardless of how much is the obstruction or confiscation is in certain public interest.

## **Protection of indirect in possessory**

### Article 185

Protection of in possessory can be requested by the indirect possessor, when the direct possessor does not undertake legal protection of the in possessory.

The indirect possessor is not authorised to submit a request for protection of its indirect in possessory from obstruction which was committed by the direct possessor, if in order to decide upon that request it would be necessary to discuss their legal relation.

## **Court protection of co-in possessory**

### Article 186

Each co-possessor is authorised to protect the co-in possessory before a court from the unauthorised obstruction or confiscation by a third party, and from the other co-possessors only if they excluded it completely from the previous co-in possessory or significantly limited the previous manner of exercising factual authority.

The co-possessor is not authorised to submit a request for protection of its co-in possessory from obstruction or confiscation which was committed by its co-possessor, if in order to decide upon that request it would be necessary to discuss their legal relation.

## **Protection of in possessory of heirs**

### Article 187

Each heir is authorised to protect the in possessory which was transferred from the testator to the heirs, from the unauthorised obstruction or confiscation by a third party.

When the object of in possessory is managed on the basis of an authorisation by the executor of the will or the manager of the legacy, then it is authorised to request protection of the in possessory which was transferred from the testator to the heir, or heirs.

With the provision from paragraph 2 of this Article, the right of each of the heirs or co-heirs is not affected, but with the possibility that it can request return of the confiscated in possessory only from the executor of the will or manager of the legacy.

## **Establishment of the right to in possessory**

### Article 188

The right to in possessory can be established and accomplished in court, or other competent body independently of the duration and the result of the procedure for protection of in possessory because of obstruction.

## **Permitted self-help**

### Article 189

The holder has the right to self-help against the person that is disturbing or confiscating its in possessory without authorisation, under the condition that the danger is direct, the self-help is necessary and the manner of its execution to be suitable to the circumstances in which the danger exists.

## **End of in possessory**

### Article 190

The in possessory of an item ends when the item is destroyed, when it is lost or when it is evident that it will not be returned and when the possessor abandons it of its own will.

The in possessory of the previous owner ended when the item was confiscated by another person, if the owner did not exercise protection of its in possessory.

#### Article 191

The in possessory of the right ends when the real estate was destroyed or the possessor gave up its in possessory of the right.

The in possessory of the right does not end with the very non-exercise of the right of real servitude as long as its possessor can exercise it, if it is so desires. The in possessory of the right ends if the possessor of the service real estate stops doing what it has been doing until that time, stops enduring the continuation of the exercise of the content of the right to real servitude of its real estate, or stops failing what it has been failing up to that time if the possessor of the right to real servitude does not exercise protection of its in possessory.

The in possessory of the right to real servitude ends for the previous possessor with the end of its in possessory of the real estate for the benefit of which it was exercising it.

### PART THREE

#### OTHER REAL RIGHTS

##### CHAPTER I

#### RIGHT TO SERVITUDE

##### **Section 1**

#### Article 192

Servitude is a real right of a third party's item, which is consisted of authorising its bearer to a certain extent and in a certain manner to use that item, and the owner of the item is obliged to endure it or do nothing about it.

Real servitude is a right of the owner of a real estate ( privileged item) for the needs of that real estate to carry out certain actions on the real estate of another owner( service item) or to request from the owner of the service item to refrain from carrying out certain actions, which otherwise it would have the right to carry out on its real estate.

Personal servitude is a real right to a third party's item with which a certain person is authorised, which is in a special relation to the owner of the service item to use its item in a certain manner, and the owner of the item must endure that.

##### **Real servitudes**

#### Article 193

Real servitude can be established as a permanent right, for a certain period of time or for a certain season of the year.

#### Article 194

Real servitudes are field, house and communal-technical.

Field servitudes are those where the privileged item is of agricultural nature, house servitudes are those where the privileged item is an apartment or a business building, and the communal-technical servitudes are those where the privileged item is of communal-technical nature.

#### Article 195

Field servitudes are the right to a pedestrian crossing, eviction of cattle, passage with an animal drawn vehicle, motor vehicles and other vehicles, the right to draw water, the right to have inflow and outflow of water through a third party's land and others.

House servitudes are the right to necessary passage through a third party's land, the right to utilise a third party's wall, the right to convey smoke through the neighbour's chimney, the right of outflow of atmospheric and other water through the neighbour's land, the right to install a television antenna on a third party's building and others.

Communal-technical servitudes are the right to convey gas, oil, water and other pipes through third party's land, the right to convey television cables on a third party's land and others.

#### Article 196

Necessary passage can be requested by the owner of the privileged item which does not have an exit to a public road or it can be accessed only by excessive circling.

The right to necessary passage can occur as a field and house servitude.

Necessary passage is based on a decision by a court or state body at the request of the owner of the privileged item.

#### Article 197

The servitude must have a reasonable purpose.

The real servitude is carried out in a manner which burdens the service item in the least possible extent.

The owner of the service item must not do(act) anything that would prevent or significantly encumber the carrying out of the servitude, but is not obliged itself to do anything, if it is not otherwise determined.

If the carrying out of the real servitude requires the usage of a certain device or the undertaking of some action, the costs for maintenance of that device or for undertaking that action are covered by the owner of the privileged item.

If the device or the action also serves the interest of the owner of the service item, the costs are covered by both the owners of the privileged and the service item proportionate to their benefit.

#### Article 198

For the same real estate multiple real servitudes can be established which are different in type.

With the establishment of a new real servitude the existing real servitude can not be limited.

If change of circumstances occurs, due to natural or other causes, in such a manner that all ( or part ) of the real servitudes can not be carried out at the same time in the full extent, the priority belongs to the real servitudes which have been established earlier, and the later servitudes are decreased according to their extent, taking into account all the circumstances.

#### Article 199

The real servitude is based with a legal action( agreement, will), with the decision of a state body and with maintenance.

#### Article 200

On the basis of a legal action, the real servitude is acquired by making an agreement verified in court or before a notary and with registering in an appropriate public record or in another appropriate manner determined by law.

#### Article 201

With the decision of the court or with the decision of another state body, the real servitude is established when the owner of the privileged item, in full or in part, can not use that item without the appropriate use of the service item, as well as in other cases determined by law.

The servitude from paragraph 1 of this article is acquired the day of the validity of the decision, if it is not otherwise determined by law.

#### Article 202

The real servitude is acquired with maintenance when the owner of the privileged item has factually exercised the servitude for a period of 20 years, and the owner of the service item did not oppose that.

The real servitude can not be acquired with maintenance if abuse was committed of the trust of the owner or holder of the service item by force, deception or if the servitude is conceded until the recall.

#### Article 203

The owner of the service item has the right to compensation for the established servitude.

If the owner of the service item and the owner of the privileged item do not agree on the compensation, the amount of the compensation will be determined by the court at the request of the owner of the service item, taking into consideration all the circumstances.

#### Article 204

The owner of the privileged item can request fro the court to establish against the owner of the service item, the existence of a real servitude.

Concerning the lawsuit from paragraph 1 of this Article the provisions of this law concerning the protection of the right to ownership are appropriately applied.

#### Article 205

If the owner of the privileged item is obstructed without basis in the carrying out of the real servitude, it can request with a lawsuit for the obstruction to stop.

#### Article 206

The real servitude ends if the owner of the service item opposes its exercise, and the owner of the privileged item has not exercised its right for three consecutive years.

The owner of the service item can request for the right to real servitude to end when it becomes unnecessary for the use of the privileged item, when the established period of time expires, if it is based on an established period of time or when the cause because of which it was established ends.

The real servitude ends if it is not carried out during the period of time required for it to be acquired with maintenance, when the same person becomes the owner of both the service and the privileged item or with the destruction of the privileged or service item.

#### Article 207

If the privileged item is divided, the real servitude remains in the benefit of all its parts.

The owner of the service item can request for the real servitude to end for the owner of a certain part of the privileged item if the real servitude does not serve the needs of that part.

If the service item is divided, the real servitude remains only on those part on which it was exercised.

### **Personal servitudes**

#### Article 208

Personal servitudes are the right to usufruct, the right to use and the right to housing.

#### Article 209

Personal servitudes lasts only as long as the time for which they are established and end with the death of their bearer the latest, if it is not otherwise determined by law.

Personal servitudes can not be transferred.

Personal servitudes are not inherited, except the servitudes that are explicitly established for the heirs of the bearer of the servitude.

#### Article 210

The right to usufruct is a personal servitude which gives authorisation to its bearer( usufructuary) without compensation to use some item( usufruct item) in accordance with its purpose, keeping its essence.

The right to usufruct can exist also for a service item which is not expendable, whether movable or immovable, as well as of multiple movable items together, as well as of a right which yields fruits or other benefits.

#### Article 211

The owner of a service item must endure the usufruct, and can exercise its right to ownership if this does not violate the right of the usufructuary.

#### Article 212

The usufructuary is obliged to exercise its right to usufruct with the consideration of a good host, or a good businessman, or a good expert, in accordance with the nature and the purpose of the service item.

The usufructuary is not accountable for the decrease in value of the service item which occurs because of its regular use.

#### Article 213

The right to usufruct is acquired on the basis of a legal action( agreement, will) and with maintenance.

The right to usufruct of an immovable item is acquired through making an agreement verified in court or before a notary and with the registering in an appropriate public record, and the right to usufruct of a movable item is acquired through making an agreement and with handing the item over to the usufructuary.

The provisions concerning acquiring the right to ownership with maintenance are appropriately applied to the acquiring of the right to usufruct.

The provisions for acquiring legate are appropriately applied to the acquiring of the right to usufruct with a will.

#### Article 214

The right to ownership of natural fruits is acquired by the usufructuary with their separation from the service item.

The civil incomes ( interests, leases, etc.) as fruits belong to the usufructuary proportionate to the duration of the right to usufruct, regardless of whether they arrived after the time of acquiring, or the end of that right and regardless of whether those fruits were collected at that time.

#### Article 215

The usufructuary, or the owner of the service item has the right to request for the state of the service item to be established in a minute.

#### Article 216

The usufructuary covers the costs for regular maintenance of the service item.

Concerning the costs that the usufructuary was not obliged to make the rules for work management without a warrant are appropriately applied.

#### Article 217

If the right to usufructuary is based on an item which is expendable or a right which does not yield fruits, it is an improper usufruct.

In the case from paragraph 1 of this Article the service item is a monetary value of the item which will be returned to the owner after the usufruct ends.

The money (cash), until the usufruct last, the usufructuary can freely use, but if the usufruct is based on an already invested capital, the usufruct can only ask for interests.

The provisions concerning the right to usufruct are appropriately applied to the improper usufruct, if it is not otherwise determined by law.

#### Article 218

After the end of the right to usufruct, the usufructuary is obliged to return the service item to the owner.

The usufructuary, after the end of the right to usufruct, has the right to separate what it has installed in the service item for the purpose of increasing its functionality or value, if that separation can be carried out without causing damage to the service item and if the owner of the service item refused to compensate those costs of the usufruct.

#### Article 219

The right to usufruct ends:

- with the expiration of a certain period of time, if it is established for a certain period of time;
- with the death or stopping of the usufructuary;
- with the passing of the service item into the ownership of the usufructuary (uniting);
- with the giving up of the usufructuary and
- with the destruction of the service item.

#### Article 220

The provisions concerning the usufruct of an item are appropriately applied to the right to usufruct of a right.

#### Article 221

The right to use is the right to use a third party's item within the needs of the bearer of that right and the members of its family, without changing the essence and the purpose of that item and without extracting other property benefits from it.

#### Article 222

The provisions which regulate the right to usufruct are appropriately applied to the right to use , if it is not otherwise regulated by special laws.

#### Article 223

The right to housing is the right to use for living a third party's housing building, apartment or a separate part of a building or apartment for the needs of the bearer of that right and the members of its family, as well as other persons it supports.

#### Article 224

The provisions which regulate the right to usufruct are appropriately applied to the right to housing , if it is not otherwise regulated by a special law.

## CHAPTER II

### **Right to pledge**



#### Article 225

The right to pledge is a real right over a third party's item with which the claim of the pledge creditor is secured. by giving as a pledge( pledging) a certain item or right to the benefit of the pledge creditor ,who is authorised to use the third party's item in a manner that after the expiration of the deadline of the arrival is able to request the collection of its claim from the value of that item or right ( by selling the pledged item), before the creditors who have not established the right to pledge of that item or right, as well as before the pledge creditors which have acquired the right to pledge of that item after it, regardless of the change of the owner of the pledged item.

The collection of the claim from paragraph 1 of this Article under conditions, in a manner and procedure stipulated by law can be carried out by acquiring the right to ownership of the pledged item or right, if it is stipulated by the pledge agreement.

The provisions which regulate the right to pledge will be appropriately applied also to the transfer of ownership because of securing the collection of claims, if it is not otherwise determined by law.

#### Article 226

The right to pledge can be established on the basis of an agreement (agreement pledge right), court decision ( court pledge right) and law ( legal pledge right) in a manner determined by law.

The agreement pledge is acquired with the making of an agreement for pledge and by registering in the appropriate public records when the pledge item is a real estate, and when the pledge items are movable items or rights, the agreement pledge is acquired by making an agreement for pledge and by handing over the item in the in possessory of the pledge creditor ( unregistered pledge), or by making an agreement for pledge and by making an inventory of the pledge item, without handing over the item in the possessory of the pledge creditor ( registered pledge).

The court pledge is acquired with a court decision brought in the procedure for forcible securing of claims and by registering in appropriate public records. The legal provisions with which the court procedure for securing monetary claims are regulated are determined by the conditions under which the court can decide to establish a court pledge right.

The legal; pledge is acquired with the fulfillment of the conditions stipulated in the special laws.

#### Article 227

The pledge creditor and the pledge debtor can be all the natural persons and legal entities within their legal and business capacity.

#### Article 228

The right to pledge can exist for movable items, real estates and rights.

The provisions concerning pledge contained in special laws are applied to the right to pledge from paragraph 1 of this Article.

#### Article 229

With the right to pledge one or more items can be burdened.

The items from paragraph 1 of this Article should be in the legal transfers.

#### Article 230

The right to pledge refers to the whole item, to an ideal part of an item, to its fruits until they are separated, as well as its integral parts and belongings.

The right to pledge can be established for a future, restricted as well as for a conditional obligation.

The pledge creditor can establish right to pledge on the existing pledge to the benefit of a third party without the consent of the pledge debtor ( subpledge).

#### Article 231

The pledged item secures the claim of the pledge creditor until the full collection of its claim, regardless of the later division of the item ( indivisibility of the pledge).

#### Article 232

When for the same item there are multiple pledge rights, the order in which they are collected is determined in accordance with the date of the registering in the appropriate public record.

If for one and the same item multiple pledge rights are registered in one day, the order in which the collection will be done will be determined according to the hour of receiving the request for registering in the appropriate public record.

The requests submitted at the same moment( day and hour) have equal treatment concerning the collection of the claim, unless it is otherwise determined by law.

#### Article 233

The right to pledge can be transferred to another together only with the transfer of the claim which is secured by the pledge right ( accessory of the pledge).

#### Article 234

The right to pledge ends under conditions and in a manner stipulated by law.

#### Article 235

The right to pledge is registered in appropriate registries under conditions and in a manner stipulated by law.

## CHAPTER III

### REAL BURDEN

#### Article 236

Real burdens are specific givings and expenses which to the benefit of a specific real estate or a person should be carried out successively by the existing owner of a specific real estate (burdened real estate) on the burden of that real estate.

#### Article 237

Part of a real estate can be burdened with real burden only if the burden is based on a part of the real estate that is co-owned, which belongs to one of the co-owners.

#### Article 238

The provisions of the law on obligation relations for fulfillment of outstanding individual claims among specific sides are appropriately applied to the outstanding individual payments and expenses which are derived from the real burdens.

#### Article 239

Concerning the protection and end of the real burdens the provisions covering protection and end of real rights stipulated by this law are analogously applied.

Concerning real burdens that are regulated with other laws, the provisions of this law covering issues which are not regulated by these laws are applied.

Real burdens are noted in a public record for registering the rights to real estate.

## PART FOUR

### REAL RIGHTS OF FOREIGNERS

#### Article 240

The provisions of this law are also applied to foreign natural persons and legal entities, unless it is otherwise determined by law or international agreement.

#### Article 241

A foreign natural person, according to this law is considered to be a natural person which does not have the citizenship of the Republic of Macedonia, unless it is otherwise determined by law.

A foreign legal entity, according to this law, is considered to be a legal entity which has a registered headquarters outside the territory of the Republic of Macedonia, unless it is otherwise determined by law.

### **Ownership of movable items**

#### Article 242

Foreign natural persons and legal entities can acquire right to ownership of movable items in the same manner as domestic persons.

### **Ownership of immovable items**

#### Article 243

Foreign natural persons can through inheritance acquire the right to ownership of immovable items in the territory of the Republic of Macedonia under conditions of reciprocity, in the same manner as the citizens of the Republic of Macedonia, if it is not otherwise determined by an international agreement.

Foreign legal entities can under the conditions of reciprocity acquire the right to ownership of immovable items in the territory of the Republic of Macedonia through inheritance on the basis of a will.

#### Article 244

A foreign natural person can under the conditions of reciprocity acquire the right to ownership an apartment or a housing building in the Republic of Macedonia in the same manner as a citizen of the Republic of Macedonia.

A foreign natural person can under the conditions of reciprocity acquire the right to ownership and the right to a long term pledge of a business facility in the territory of the Republic of Macedonia, if it is not otherwise determined by law.

A foreign legal entity can under the conditions of reciprocity acquire the right to ownership of an apartment or a housing building in the Republic of Macedonia, if it is not otherwise determined by law.

#### Article 245

Foreign natural persons and legal entities can, under the conditions of reciprocity, acquire the right to a long term lease of construction land for building of business buildings and business facilities and housing buildings and apartments on the territory of the Republic of Macedonia, on the basis of a consent of the Minister of Justice, after previously acquired opinion of the Minister competent for city planning and construction and the Minister of Finance.

#### Article 246

Foreign natural persons and legal entities can, under the conditions of reciprocity, acquire the right to a long term lease of agricultural land on the territory of the Republic of Macedonia, on the basis of a consent of the Minister of Justice, after previously acquired opinion of the Minister of Agriculture, Forestry and Waters and the Minister of Finance.

#### Article 247

The existence of reciprocity stipulated by this law, is determined by the Minister of Justice, under conditions and in a procedure stipulated by law.

#### Article 248

Foreign states for the needs of its diplomatic and consular offices, as well as the organisations and the specialised agencies of the United Nations and the Council of Europe, with previous permission of the Minister of Foreign Affairs, can acquire the right to ownership of buildings and apartments, as well as of construction land for the construction of such buildings.

#### Article 249

If for acquiring the right to ownership of a real estate the permission of the Minister of Justice is required, the legal action for acquiring of this right to ownership does not produce legal action without this permission.

The foreign person which has not acquired the necessary permission for acquiring the right to ownership of the real estate, can not repeat its request for getting permission before the expiration of the period of one year from the day of the submission of the denied request.

#### Article 250

A foreign person can not be an owner of a real estate, which because of the protection of the interests and safety of the Republic of Macedonia is proclaimed by law as a territory on which foreign persons do not have right to ownership, unless it is determined otherwise by law.

#### Article 251

Foreign natural persons and legal entities can transfer with legal actions the right to ownership to domestic persons, as well as to a foreign person who can acquire the right to ownership.

#### Article 252

The provisions of this law and other laws are appropriately applied in relation to the other real rights of foreigners (pledge, servitude and others).

### TRANSITIONAL AND FINAL PROVISIONS

#### Article 253

The gradual dissolving of the social ownership, or its transformation into other ownership forms in the sense of the Law on Transformation of enterprises with Social Capital and other related laws is regulated by special regulations.

#### Article 254

The transformation of the former right to use socially owned construction land to the right to ownership, or to the right to long term lease or similar legal basis is stipulated

with the Law on Construction Land and other laws from the area of city planning and construction.

#### Article 255

The distinguishing between the ownership of the state and the ownership of the units of local self-government is stipulated on the basis of special regulations.

#### Article 256

The record keeping of the right to ownership and other rights to real estates in the areas where the legal provisions are still not applied from the Law on Surveying, Cadastre and Registering of the Rights to Real Estate, until special rules for it( the record keeping in such areas) are not stipulated in this law, it will be carried out on the basis of the former legal rules.

#### Article 257

With the day of the start of the implementation of this law the following cease to be valid : the provisions of the Law on Basic Ownership Legal Relations (“ Official Paper of SFRJ” no. 6/80 and 36/90); Articles 48 and 50 of the Law on Housing (“ Official Gazette of the Republic of Macedonia” no. 21/98); Article 688 paragraph 2 of the Law on Trade Companies (“ Official Gazette of the Republic of Macedonia” no. 28/96, 7/97,21/98, 37/98, 63/98 and 39/99);Articles 27,28,29 of the Law on Trading with Buildings and Lands (“ Official Gazette of the Republic of Macedonia” no. 36/75, 10/79, 7/86 and 51/88); Article 35 of the Law on Inheritance (“ Official Gazette of the Republic of Macedonia” no. 80/92 and 9/96) and Articles 137 to 143 of the Law on Inheritance (“ Official Gazette of the Republic of Macedonia” no. 476).

#### Article 258

Until the passing of the sublegal act from Article 136 paragraph 4 of this law, the work of the competent service will be carried out by the bodies in charge affairs in accordance with previous regulations.

#### Article 259

This law comes into force the eighth day from the day it is published in the “ Official Gazette of the Republic of Macedonia”, and begins to be implemented after the expiration of six months from the day of its coming into force.

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