

## 1 Which are the rights in rem that could arise from a succession under the law of this Member State?

### A – Property rights (Sections 123 to 151 of the Civil Code):

1/ sole ownership

2/ co-ownership (divisible and indivisible matrimonial property)

### B- Rights over property of other persons (Sections 151a to 151v of the Civil Code)

1/ liens (establishment of claims, sub-lien)

2/ easements

3/ rights of retention

The right of ownership is transferred by inheritance from the testator to the inheritor(s) at the date of the death of the testator. The **transfer of ownership** of immovable property must **always** be registered in the property register.

**Liens** are used to secure claims and associated charges by entitling the pledgee to obtain or seek satisfaction of debt from the lien ('pledge') if the debt is not fully settled in due time.

A lien is established by a written contract, by an agreement to settle the succession concluded by the inheritors, by a ruling of a court or an administrative authority or by an act of law and usually takes effect on registration in the register.

**Easements** restrict the owners of immovable properties in favour of other persons by obliging them to tolerate, refrain from or perform certain actions. Rights corresponding to easements are associated either with ownership of a particular immovable property (such as the right to cross a piece of land) or with a particular person (life tenancy).

Easements associated with ownership of an immovable property (easements in rem) are passed onto the acquiring party together with the ownership of the property. Easements linked to an individual (easements in personam) expire upon the death of the person on whose behalf they had been established.

The **right of retention** entitles a person to retain a movable property they are obliged to surrender in order to secure their due pecuniary claim against a person to whom they are otherwise obliged to surrender the property. However, property obtained by arbitrary or fraudulent means may not be retained. On the basis of the right of retention, when a judicial decision is being enforced the creditor is entitled to preferential satisfaction from the proceeds of the retained property ahead of other creditors, including lien creditors.

## 2 Are these rights in rem recorded in a register of rights in immovable or movable property and, if so, is such recording compulsory? In which register(s) are they recorded and what are the registration requirements and procedure?

A – **Property rights** to immovable property, residential property and non-residential premises must always be entered in the property register, which has generally binding effect. For property transfer contracts, ownership rights do not take effect until these contracts are entered in that register. In other words, register entry has a constitutive effect. In the event of death the effects of the entry are different, since it is not until that entry is made that the transfer of ownership to the inheritor is declared retroactively on the date of death under the succession proceedings. This procedure is governed by Property Register Act 162/1995 and the registration of the transfer of ownership upon completion of succession proceedings is obligatory. The application for registration in the property register is submitted by a notary charged by the court with the succession proceedings or by another authorised person (inheritor). The application is submitted to the Cadastral Department of the territorially competent District Office.

The right of ownership in certain movable properties must be entered in the relevant registers. These registers include: The Business Register (Act No 530 /2003 on the Business Register) -the registry courts are the district courts at the seat of the Regional Court.

The Register of Motor Vehicles, for which the district road traffic inspectorate of the Police is responsible.

The Industrial Property Office in Banská Bystrica, which is competent for the whole of Slovakia, registers patents, trade marks, designs and other proprietary data.

The Central Securities Depository - transfer of book-entry securities - the Central Securities Depository of the Slovak Republic, a.s. is competent for the whole of Slovakia.

The Maritime Register - registration of recreational craft - the Maritime Register of the Slovak Republic, maintained by the Slovak Ministry of Transport and Construction, is competent for the whole of Slovakia.

### B – Rights to another person's property

The registers also record rights over other persons' property that restrict how the owner can dispose of the property. In general, liens in respect of immovable property, residential property and non-residential property **are established** when entered in the property register.

1/ The right of retention in respect of a movable property is established on entry in the Central Notarial Register of Retention Rights (Sections 73d – 73i of Act No 323/1992 on notaries and notarial activities (Notary Code) and internal rules of the Chamber of Notaries), which is maintained by the Chamber of Notaries; where a separate register for the property in question exists, the entry is made in that register (as stated under point A above). Right of retention, amendments to information on a right of retention, and commencement of enforcement of the right are registered by a notary on the basis of a request from an authorised person as laid down in the relevant legislation. The same applies to deletion of a right of retention from the Register of Retention Rights.

Persons applying for registration must prove their identity to the notary; or, if applying on behalf of someone else, they must produce proof that they are authorised to do so. Persons applying to register a lien must provide the notary with all the information required by law, which is then entered in the lien register. Where the lien is established by a succession agreement concluded by the inheritors or by a ruling of a court or an administrative authority, the person applying to register the lien must provide the notary with the ruling establishing the lien.

2/ Easements in rem are established on entry in the property register.

3/ Rights of retention admissible only in respect of movable properties are not subject to registration.

## 3 Which effects are linked to the registration of the rights in rem?

In the event of the death of the testator the right of ownership is transferred to the inheritor on the date of the death of the testator. Entry in the register has a merely declaratory effect.

**4 Are there specific rules and procedures in place for the adaptation of a right in rem to which a person is entitled under the law applicable to the successions in case the law of the Member State in which the right is invoked does not know such right in rem?**

*On 1 December 2015, Section 67a of Act No 97/1963 on International Private Law and Rules of Procedure entered into effect, making it possible to adapt a right in rem, measure or order stated in a foreign decision. When a decision is made on the declaration of enforceability of a foreign succession ruling involving a right in rem, the Act governs the adaptation of the unknown right in rem under those proceedings.*

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