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ACT ON OWNERSHIP AND OTHER PROPERTY RIGHTS

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ACT ON

OWNERSHIP AND OTHER PROPERTY RIGHTS

Part One GENERAL PROVISIONS ON THINGS AND PROPERTY RIGHTS

Ownership and Other Property Rights

Article 1

- (1) Any natural or legal person may be holder of the right of ownership and other property rights: servitudes, rentcharges, building rights, and security interests on anything that may be the subject matter of such rights, unless otherwise provided by law.
- (2) There is but a single type of right of ownership.
- (3) The right of ownership and other property rights may be taken or limited against the owner's will only subject to the conditions and in the manner provided by law.
- (4) When the owner must suffer or forbear from something with respect to their thing, the holder of another property right over the same thing deriving their right from the owner's must do the same, unless otherwise provided by law.
- (5) This Act establishes a general framework of attribution of things to persons; the rules of this Act shall also apply to the attribution of things subject to a special legal regime, unless inconsistent therewith.
- (6) Whatever is provided by law for the right of ownership and owners shall apply accordingly to all other property rights, unless otherwise provided by law for such property rights or otherwise following from their legal nature.

Subject Matter of Ownership and Other Property Rights

Article 2

- (1) Any movable or immovable thing may be the subject matter of the right of ownership and other property rights, except for those not having the necessary capacity.
- (2) For the purposes of this Act, things are the tangible parts of nature, distinct from humans, which serve human use. Anything else granted equal status by law is also deemed to be a thing.
- (3) Immovables are parcels of the earth's surface, together with everything that is permanently affixed to land on or below the earth's surface, unless otherwise provided by law.

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(4) Movable things are things that can be moved from one location to another without damaging their substance. Things movable by their very nature are considered immovable in a legal sense if they are an appurtenance to an immovable or if granted equal status by law.

(5) For the purposes of this Act, the forces of nature are considered things if they are subject to human control.

(6) Certain types of rights or anything else may be granted equal status as things by law; in such case, they are considered movable things, and immovable only if they are attached to the ownership of immovables, or are an encumbrance thereon, or are declared to be immovable by law.

(7) In case of doubt whether a thing is movable or immovable, it is presumed movable.

Capacity of Things

Article 3

(1) All things are capable of being the subject matter of the right of ownership and other property rights, except those whose natural characteristics or statutory provisions prevent them from belonging to an individual.

(2) Parts of nature that by virtue of their characteristics cannot be under the control of any natural or legal person individually, but are used by everyone, such as atmospheric air and water in rivers, lakes and the sea, as well as the seashore (common goods), are not capable of being the subject matter of the right of ownership and other property rights.

(3) The Republic of Croatia is responsible for the care and management of common goods, unless otherwise provided by special regulations.

(4) Legally, buildings and other structures erected on a common good under a concession are not part of such common good, and they constitute a separate immovable for the duration of the concession.

Things of Interest to the Republic of Croatia

Article 4

(1) Things designated as things of interest to the Republic of Croatia by the Constitution of the Republic of Croatia, enjoying its special protection, and which are not common goods, are capable of being the subject matter of ownership and other property rights.

(2) Owners and holders of other rights over things under paragraph 1 of this Article may exercise their rights in the manner of use and exploitation prescribed by law, and shall be entitled to compensation, as determined by law, for any limitation imposed thereon.

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Thing and Its Components

Article 5

- (1) The subject matter of the right of ownership is an individually specified thing.
- (2) Anyone holding the right of ownership or any of the property rights to a thing also has such right to its components, unless otherwise provided by law.
- (3) A component of a thing is each of its parts, everything relatively permanently joined with it (accretion), as well as each of its fruits until detached from it. A component of a thing is also everything appurtenant to it (appurtenances).

Parts of a Thing

Article 6

- (1) A part of a thing which cannot be physically separated from it without being destroyed itself or without destroying the thing (essential part) may not be an independent subject matter of property rights, unless otherwise provided by law.
- (2) Parts of a thing which are not essential (separable parts) are subject to the same rights as the whole thing, unless one of the parts is subject to a right in favour of another person under a special legal basis. Anyone claiming such a right on a separable part must prove it.
- (3) Irrespective of a thing being physically divisible or not, it may be legally partitioned into materially equal parts, the size of which is calculated by their proportion to the whole thing (proportional shares), unless otherwise provided. Each proportional share of a thing is its separate part.
- (4) The transferee of an whole thing or property rights over such thing who did not know and should not have known there exists another's right over one of its separable parts different from the right over the whole thing shall be deemed to have acquired the whole thing or the right thereto, regardless of the right of such other person. In such case, the other person's right is extinguished, and whether such person may seek compensation from the transferor shall be governed by the rules of the law of obligations.
- (5) The separation of a part of a thing does not extinguish existing rights, unless otherwise provided.

Appurtenances

Article 7

- (1) An appurtenance is a movable whose owner has designated it to permanently serve the purpose of a principal thing, and that stands in such spatial relationship to the principal thing

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that corresponds to such purpose. A thing not considered as an appurtenance under commercial usage shall not be an appurtenance.

(2) Transitory use of one thing for the purpose of another does not qualify it as an appurtenance.

(3) Transitory cessation of use of an appurtenance for the purposes of the principal thing, as well as transitory cessation of the spatial relationship to it, does not remove its status of an appurtenance.

(4) Machines and similar devices intended for the purpose of a building permanently designated for a certain industrial or trade activity (commercial building), as the main thing, are presumed intended to permanently serve that purpose.

(5) Machines and livestock intended for further agricultural production, agricultural products and seeds needed for further agricultural production, for the period during which it may be expected that such or similar products will be obtained by such production, as well as existing fertilisers and fuel, are presumed intended to permanently serve the purpose of an immovable permanently designated for agricultural production as the principal thing.

Benefits

Article 8

(1) Benefits are the fruits of a thing or a right, as well as other advantages resulting from the use of a thing or a right.

(2) Fruits of things are products that it yields naturally or as the result of someone's labour, as well as anything else it yields based on its intended use.

(3) Fruits of a right are the returns it yields based on its intended use, as with rights authorising the acquisition of fruits or other parts of a thing – obtained parts of a thing.

(4) Fruits are also returns that a thing or a right yields through a legal relationship, such as rent, lease, and interest payments.

(5) Benefits belong to whomever the thing or right that yields them belongs, unless they belong to someone else under a special legal basis. Anyone invoking the existence of such legal basis must prove it.

(6) Anyone obligated to surrender the fruits of a thing or a right is entitled to seek compensation for the costs incurred in obtaining such fruits, if they would have been incurred by a prudent manager, but never more than the value of the fruits they are obligated to surrender.

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Of Immovables in Particular

Article 9

- (1) A single immovable consists of a land parcel, including everything that is reasonably permanently affixed to it on the surface or below it; but when several land parcels are recorded in the land register in the same folio, they are legally united into a single unit (land registration unit), which is a single immovable as such.
- (2) Grass, trees, fruits and all usable things produced by the land on its surface are parts of the immovable until they are separated from the land.
- (3) Anything that is erected on, above or below the surface, and is intended to remain there permanently, or anything that is incorporated into the immovable, added to it or built onto it, or otherwise permanently joined with it, is part of such immovable as long as it is not separated from it. However, buildings and other structures joined with the land for only transitory purposes are not part of the land.
- (4) Buildings and other structures permanently affixed to the land are not part of the land if they are legally separated from it by a property right which authorises the holder to own such a building or other structure on another's land; the same applies accordingly to buildings and other structures that are legally separated from the land or a common good by a lawful concession authorising its holder to own such a building or other structure thereon.
- (5) Machines and similar devices that would otherwise be part of an immovable are not considered part of it, but independent things if it has been annotated in the land register, with the owner's consent, that they are owned by another person. The annotation is effective until deleted from the land register but its effect expires even without deletion five years after registration, but the term is stayed during bankruptcy and enforcement proceedings.
- (6) Rights for the benefit of an immovable are deemed its components.

Part Two POSSESSION

Title 1 GENERAL PROVISIONS

Possessor

Article 10

- (1) A person exercising factual control over a thing is its possessor.
- (2) Anyone exercising factual control either personally or through a servant in possession is a direct possessor.
- (3) When a person has a thing in possession as a usufructuary, secured creditor, lessee, tenant, custodian, borrower or in any other similar relationship where they are authorised against or

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obligated to another to possess it for a certain time, then such other person is also the possessor (indirect possessor). If the indirect possessor is in such a relationship with a third party, the third party is also an indirect possessor.

(4) A person having factual control over only a part of a thing, even though such part could not be an independent subject matter of property rights, such as a room or other space in an apartment and similar, is also considered a possessor.

(5) A factual exercise of predial servitudes over an immovable (possession of a right) equals possession of a thing, hence the provisions on possession of a thing apply accordingly to such possession of a right, unless contrary to the nature of the right or statutory provisions.

(6) When multiple persons have possession of the same thing or right, they are co-possessors.

Independent Possessor

Article 11

(1) Anyone holding a thing or right in possession while recognising the superior authority of an indirect possessor is a dependent possessor; anyone holding a thing in possession as if they were its owner or holding a right in possession as if they were the holder of such right is an independent possessor.

(2) Possession is presumed independent unless proven otherwise.

(3) Anyone may validly act in juridical acts relying that an independent possessor of a movable thing is its owner, unless they know or should have known that this is not the case.

Servant in Possession

Article 12

(1) A person not exercising any control of their own over a thing does not have possession.

(2) As long as a person within an employment or similar relationship, or within a household acts in compliance with someone else's instructions regarding a thing or a right, and exclusively exercises someone else's factual control, they do not have possession, but are only the possessor's servant in possession.

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Title 2 ACQUISITION

Original and Derivative Acquisition

Article 13

Possession is acquired when the transferee establishes factual control over a thing, whether by a unilateral act (original acquisition of possession) or by having it transferred to them (derivative acquisition of possession).

Delivery

Article 14

- (1) Possession is transferred by delivery of the thing itself or the means used by the transferee to exercise control over the thing, and delivery is effected as soon as the transferee, by will of the transferor, is in the position to exercise control over the thing.
- (2) When possession is transferred to a person not present, delivery is effected when the thing is received by the transferee himself or by the person authorised by will or by operation of law to represent them, and delivery to a carrier is effective only if the carrier acts for the transferee's account.
- (3) When negotiable instruments have been issued for goods delivered to a carrier or warehouseman such that substitute for the goods in juridical acts, delivery of such instruments constitutes delivery of goods; but when one party receives such instrument in good faith, and the other party receives the goods in good faith – the latter acquires possession of the goods.

Delivery by Declaration of Will

Article 15

- (1) A transferee acquires direct possession by mere declaration of will to deliver possession to the transferee only if they are already in the position to exercise control over the thing.
- (2) A mere declaration of will to deliver possession of a thing to a transferee, may transfer possession to them such that the former possessor retains the thing, and transferee is transferred or granted the right against the former possessor to deliver the thing to them; similarly, such that the thing is delivered to a third party, and the transferee is given the right against such third party to deliver the thing to them.
- (3) Delivery of possession by a declaration of will that possession is delivered to the transferee will be effective against third parties only if they have been notified about it or if they are otherwise aware of it.

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Acquiring Possession of a Right

Article 16

(1) If the possessor of an immovable does unilaterally does something with respect to the immovable of another that they should not have to suffer, and the latter suffers it nonetheless, the possessor of the first immovable thereby originally acquires possession of the right of a predial servitude for the benefit of the dominant estate against the other immovable as the servient estate.

(2) If the possessor of an immovable unilaterally prohibits the possessor of another immovable from doing something the latter could otherwise do, and the latter consequently forbears from doing so, the possessor of the first immovable thereby originally acquires possession of the right of a predial servitude of such forbearance for the benefit of the dominant estate against the other immovable as the servient estate.

(3) If the possessor of an immovable agrees with the possessor of another immovable to do something with respect to the latter immovable that its possessor should otherwise not have to suffer, and they suffer it nonetheless, the possession of the right of a predial servitude against the latter immovable as the servient estate is acquired for the benefit of the former immovable as the dominant estate by derivation from the possession of the latter immovable.

(4) If the possessor of an immovable agrees with the possessor of another immovable to forbear from something with respect to the immovable in their possession that they could otherwise do, possession of the right of a predial servitude against the other immovable as the servient estate is acquired for the benefit of the former immovable as the dominant estate by derivation from the possession of the other immovable.

(5) In the cases referred to in paragraphs 3 and 4 of this Article, possession of the right of a predial servitude is deemed delivered to the transferee.

(6) Possession of the rights of predial servitudes established for the benefit of particular immovable as dominant is transferred to the transferee along with the possession of such dominant estate when it is delivered into to the possession of another; however, one who originally acquires possession of an immovable does not by that fact alone acquire possession of the right of a predial servitude existing in its favour.

Inheriting Possession

Article 17

(1) The decedent's possessions of things and rights pass to their heir upon and by reason of their death, as they exist at the moment of the decedent's death.

(2) When following the decedent's death their possessions are transferred to two or more of their successors, they all become co-possessors of each individual possession, and they shall

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exercise the possessions as such, unless execution was entrusted to someone else by the will of the decedent or an order of the succession court.

(3) The transmission of the decedent's possessions to their heir or heirs do not impair other possessions of the same thing or right.

Title 3 QUALITY OF POSSESSION

Lawful, Peaceable and Good Faith Possession

Article 18

(1) Possession is lawful if the possessor has a valid legal title for possession (the right to possession).

(2) Possession is peaceable if it was not obtained by violence, clandestinely or by fraud, or by abusing someone's trust. Possession obtained by violence, clandestinely or by fraud, or by abusing someone's trust, becomes quiet when the person from whom it was so taken loses the right to protect the possession thus taken.

(3) Possession is in good faith if at the time of acquisition, the possessor did not know and under the circumstances did not have any reason to suspect that they did not have the right to possession; however, their good faith ceases as soon as the possessor learns that they do not have the right to possession.

(4) If, in a dispute concerning the right to possession, a final judgment rules that no right to possession belongs to the possessor, their possession is in bad faith as of the moment of receiving the complaint; the same applies accordingly where the right to possess is definitively determined by another competent authority or court in another proceeding.

(5) Possession is presumed to be in good faith unless proven otherwise.

(6) Good faith and peaceability of possession by a legal person are determined according to good faith and conduct of the natural person authorised to perform actions for acquiring or exercising possession on its behalf, whereas good faith and peaceability of possession by persons having a legal representative are determined according to the good faith and conduct of such representative.

Title 4 CONTINUITY AND PROTECTION

Principle of Continuity

Article 19

(1) Possession continues as long as the possessor maintains factual control over the thing but, it neither ceases nor is interrupted if the nature of the disturbance or failure to exercise possessor's control was only temporary.

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(2) Possession is presumed to continue uninterrupted once acquired, and anyone claiming that possession ceased or was interrupted must prove the occurrence of circumstances resulting in termination.

Unlawful Disturbance of Possession

Article 20

(1) Unlawful enforcement is prohibited; regardless of the type of possession, no one has the right to unlawfully disturb it, even if they believe to have a better right to possession.

(2) Anyone who deprives the possessor of possession against their will or interferes with their possession is committing an unlawful disturbance of their possession.

(3) No more can a person whose possession was taken from them by violence, clandestinely or by fraud, or by abuse of trust, unlawfully repossess once their right to protect possession lapses.

(4) If an act of dispossession or disturbing possession is permitted by law or an order of a court or other authority, rendered pursuant to a statute permitting such action, it is not unlawful disturbance of possession. However, an act of dispossession or disturbing possession in the name of a social, public or similar interest is unlawful disturbance of possession unless permitted by statute or other law.

Right to Protect Possession

Article 21

(1) Anyone whose possession was unlawfully disturbed by another, whether by disturbance of their possession or by dispossession, has the right to protect their possession.

(2) Even a possessor who acquired possession unlawfully disturbing another by violence, clandestinely, by fraud or abuse of trust, has the right to protect their possession; they have no right to protect it against the person they unlawfully dispossessed, but after their possession becomes quiet, they may do so against such person as well.

(3) The right to protect possession lapses thirty days after the day the disturbed possessor learns of the act of disturbance and the perpetrator, but no later than one year from the date of disturbance.

(4) The right to protect possession is exercised either through special judicial proceedings (possessory proceedings) or by self-help.

(5) Possession taken from a possessor shall be deemed not to have ceased or been interrupted if the possessor re-established it or had it re-established by exercising the right to protect their possession.

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Judicial Protection

Article 22

- (1) A possessor whose possession was unlawfully disturbed is entitled to seek judicial protection, requesting the it be declared that the act of disturbance of their possession occurred, ordered that the state of possession as it existed at the time of disturbance be restored, and such or similar disturbance be prohibited in the future.
- (2) The court grants this protection in a special summary proceeding (possessory proceeding) based on the last state of possession and the committed disturbance, regardless of the right to possession, the title of possession, the possessor's good faith, and the extent to which the disturbance would serve a social, public, or similar interest.
- (3) The right to perform possessory acts may be argued and discussed only in connection with a defence that the deprivation or disturbance of possession was not unlawful.

Article 23

- (1) An indirect possessor is also entitled to seek protection of possession, but if the direct possessor is unable or unwilling to re-take direct possession taken from them, the indirect possessor may request delivery of the thing for themselves.
- (2) An indirect possessor is not entitled to seek protection of their indirect possession against a disturbance committed by the direct possessor if adjudicating the claim would require discussing their legal relationship.

Article 24

- (1) Each co-possessor is entitled to protect their co-possession in court in case of unlawful disturbance by a third party, and as against other co-possessors only if they completely excluded them from their former co-possession or if they materially restricted their former way of exercising factual control.
- (2) A co-possessor is not entitled to seek protection of their co-possession against a disturbance committed by another co-possessor if adjudicating the claim would require discussing their legal relationship.

Article 25

- (1) Possession transmitted from decedent to heirs may be protected against third-party unlawful disturbance by any heir or coheir.
- (2) When the property subject to possession is administered by an executor of the will or a curator of the succession under their authority to do so, such person is entitled to seek protection of the possession transmitted from the decedent to the heir or heirs.

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(3) The provision of paragraph 2 of this Article does not affect the right to protection of each individual heir or coheir; but they may seek recovery of what was taken only against the executor or custodian of the succession.

Article 26

The right to possession may be established and exercised before a court or other competent authority, irrespective of the duration or outcome of possessory proceedings.

Permissible Self-Help

Article 27

(1) Anyone having the right to protect their possession may protect their possession by force within the terms provided in Article 21 paragraph 3 of this Act against such person who unlawfully deprives him of possession or disturbs him in the exercise thereof, if that is necessary because judicial relief would be provided too late, and the danger is imminent, provided they do not employ force of greater intensity than appropriate under the circumstances (permissible self-help).

(2) The possessor's servant in possession may resort to permissible self-help in lieu of the possessor.

(3) If the possessor exercises their right to protect possession by using self-help where the conditions provided in paragraph 1 of this Article are not met, they shall have protected their possession, but they are liable for any resulting damages.

Title 5 TERMINATION

Termination of Possession of a Thing

Article 28

(1) Possession of a thing terminates when the thing perishes, is lost with no prospect of recovery, and when the possessor voluntarily abandons the thing.

(2) Possession by a former possessor terminates when possession is acquired by a person who is not willing to exercise their control over the thing or when the thing was taken by another person, and the former possessor did not exercise their right to protection of possession.

Termination of Possession of a Right

Article 29

(1) Possession of a right terminates when the immovable over which the incidents of the right were exercised is destroyed or when the possessor renounces possession of such right.

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(2) Possession of a right does not terminate merely by failure to exercise the incidents of the right of a predial servitude as long as the possessor may exercise it if they so choose; it does terminate, however, when the possessor of a servient estate ceases to do as they did until such time, ceases to suffer the continued exercise of the incidents of the right of a predial servitude on their immovable, or ceases to forbear as they forbore unless the possessor of the right obtains protection of their possession.

(3) Possession of a right of a predial servitude also terminates for former possessor upon termination of possession of the immovable for the benefit of which they exercised it.

Part Three RIGHT OF OWNERSHIP

Title 1 OF OWNERSHIP IN GENERAL

Rights of the Owner

Article 30

(1) The right of ownership is a property right over a particular thing authorising the holder to do with the thing and any of its benefits as they wish, and to exclude all others from it, unless that is contrary to the rights of others or statutory limitations.

(2) Within the limits set in paragraph 1 of this Article, the owner has, among others, the right to possess, use, enjoy, and dispose of their thing.

General Limitations

Article 31

Ownership carries obligations, and the owner is obligated to contribute to the common good, so they generally must, in exercising their right, act with regard for the general and other's interests that do not conflict with their right, in particular:

- the owner nor anyone else may exercise their right solely for the purpose of harming or disturbing another,
- the owner is not authorised to prohibit another's intervention with their thing if such intervention is necessary to prevent harm that is an imminent threat to another, and which would be disproportionately greater than the damage the owner would suffer as the result of the intervention, but they are only entitled to seek compensation for the damages sustained,
- the owner of an immovable is not authorised to prohibit interventions by another at such height or depth where they have no legitimate interest to exclude them.

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Special Limitations

Article 32

- (1) The owner of a thing may not exercise their right of ownership beyond the limits set for all owners of such things by this Act or particular statutes with the aim of protecting the interests and security of the State, nature, human environment and human health.
- (2) The owner of a thing that was declared to be of interest to the Republic by a particular statute pursuant to the Constitution, and that is subject to a specific manner of use and exploitation by its owner or other right-holders, is obligated to exercise their right of ownership accordingly, but they are entitled to compensation for the limitations thereby imposed.
- (3) If it a statute requires the owner takes certain action with respect to the thing they own to protect the interests and security of the State, nature, cultural monuments, human environment, or human health, and they may not be compelled to do so, the head of municipality, city mayor, or county prefect are authorised to take temporary control of the thing (sequestration) by application of the rules on temporary curatorship of an estate with heirs whose identity or domicile is unknown, unless otherwise provided by special statute.
- (4) In the exercise of temporary control, the head of municipality, city mayor or county prefect may lease the thing.
- (5) The lease agreement is concluded for a fixed term.
- (6) In the event referred to in paragraph 4 of this Article, the rent may be used only for the maintenance of the thing or satisfying another obligation for which temporary control was established.
- (7) The owner is entitled to reclaim possession of the thing prior to the expiration of the contractual term if they pay the full amount of invested funds or satisfies another obligation for which temporary control was established.

Compensation

Article 33

- (1) Ownership may be taken in the interest of the Republic of Croatia (full expropriation) or restricted by establishing a right over the owner's thing for the benefit of another person (partial expropriation), in which case the owner is entitled to compensation pursuant to regulation governing expropriation.
- (2) If the law deprives a certain category of things of the capacity to be owned, this shall have the same legal effect for the former owners of such things as if there had been a full expropriation of such things.

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(3) If the owner is subject to such limitations for the protection of the interests and security of the Republic of Croatia, nature, human environment or human health with respect to a thing they own, which subject them, but not all other owners of such things, to a greater hardship, or otherwise place them in a position akin to that which would have resulted from expropriation - they are entitled to the same compensation as for expropriation.

(4) If the purpose of expropriation is not achieved within the prescribed, or reasonable period, the expropriated owner has the right to seek restoration of the prior legal and factual state to the greatest possible extent, but in such case, they may retain only the portion of the received compensation commensurate with the actual loss suffered as compared with the state of affairs that would have existed absent the expropriation.

Restrictions under a Juridical Act

Article 34

(1) Unless otherwise provided, the owner may impose restrictions, conditions or terms on their right for any purpose unless prohibited, and they may also encumber it.

(2) If the owner, by juridical act, prohibits the alienation or encumbrance of their thing this is binding on him. Such prohibition shall have effect against third parties if it is for the benefit of a spouse, child, parent, adopted child or adoptive parent, and is also registered in the land register or in such public register, without which the thing subject to the prohibition may not be acquired.

(3) If the owner, by juridical act subjects their ownership to a condition or a term they are bound by it. The restrictive condition or term shall have effect against third parties if it is registered in the land register or such public register, without which the thing subject to the prohibition may not be acquired.

(4) An owner whose ownership is to terminate on fulfilment of a condition or expiration of a term (owner precedent) must act with due regard for the person awaiting to become owner thereby (owner subsequent), and transfer ownership to them upon fulfilment of the condition or expiration of the term, where their mutual relationship shall be treated as if the owner precedent had been an usufructuary. Where ownership is subject to a condition or term against third parties, ownership shall pass to the owner subsequent upon fulfilment of the condition or expiration of the term, unless otherwise provided by law, and any legal disposition of the thing made by the owner precedent shall cease to have effect.

(5) An owner who receives or retains ownership of a certain thing to secure the satisfaction of a claim must refrain from using and disposing of the thing except to satisfy the claim; if the claim is not satisfied upon its maturity, they are authorised to satisfy it out of the thing according to the rules extrajudicial satisfactions of secured claims. Restrictions of ownership for security purposes shall have effect against third parties if they are registered in the land register or in such public register, without which a thing subject to the prohibition may not be acquired.

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(6) The owner's restrictions, conditions, terms and encumbrances, even when effective against third parties, have no effect on other's existing rights over the thing, unless their holders expressly consent to that effect in writing, and they have no effect on the rights that third parties could acquire in the course of business, who did not know and could not have known about the restrictions, conditions, terms and encumbrances.

Of Ownership of the Republic of Croatia and Other Public Persons in Particular

Article 35

(1) The Republic of Croatia and other public law persons that hold ownership have as owners the same status in legal relations as private owners, unless otherwise provided by law.

(2) The Government of the Republic of Croatia or any body authorised by the Government of the Republic of Croatia disposes of, administers, and uses things owned by the Republic of Croatia, unless otherwise provided by a specific statute. The powers to dispose of, administer, and use things owned by the local and regional self-government units shall be held by the organs of local and regional self-government units designated by statute governing the organisation of local and regional self-government, unless otherwise provided by a specific statute.

(3) The intended use of things owned by the Republic of Croatia is designated by statute or by the competent state body under statute.

(4) Everyone has the right to use things owned by the Republic of Croatia that are intended to be used by the general public (public things in public use) in a manner designated for achieving such use by the body or institution entrusted with their administration, or the body that directly manages them authorised to designate such use. Unless otherwise provided by law, public things in public use shall be governed by the rules applicable to common goods.

(5) Things owned by the Republic of Croatia that are intended for direct exercise of the rights and duties of the Republic of Croatia, its organs or institutions (public things used for public service) shall be used for such purpose by the organs and institutions entrusted with their management by the body authorised to designate their use, unless that body has retained them for its own direct use.

(6) The right of ownership of things owned by the Republic of Croatia that are not designated for public use or public service shall be exercised by the body authorised to designate their intended use, unless such authority has been delegated to another body, institution or person, and the net income derived from such things shall accrue to the state budget.

(7) Any person who decides on common goods or things owned by the Republic of Croatia or who manages them is bound to act as a prudent manager and is liable therefor.

(8) The rules governing ownership of the Republic of Croatia shall apply accordingly to the ownership held by the units of local and regional self-government, unless otherwise provided

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by law or is otherwise implied by the nature of such persons. The same applies to the right of ownership held by institutions and legal persons treated as such.

Title 2 CO-OWNERSHIP

Section 1 General Provisions

Co-Ownership Shares

Article 36

(1) If several persons own a thing, in a manner such that to each belongs a share of the right of ownership, arithmetically determined in proportion to the whole right of ownership of such thing, they are all co-owners of the thing, and the shares of the right of ownership that belong to them are their co-ownership shares.

(2) In case of doubt as to the size of the co-ownership shares, they are presumed to be equal.

Undivided Share of a Thing

Article 37

(1) If a thing is held in co-ownership, it is deemed to be legally divided into materially equal portions (undivided shares) the size of which is determined by the size of the co-ownership shares.

(2) An undivided share of a thing is inseparable from the co-ownership share determining it.

(3) In juridical acts, the undivided share of a thing is deemed a distinct thing; everything provided for things applies likewise to undivided shares, unless otherwise provided by law.

(4) Each co-owner is the owner of the undivided share of the thing corresponding to their co-ownership share, and with respect to such share they hold powers vested in the owner, insofar they may exercise them given the nature of an undivided share.

(5) A co-owner may independently dispose of their undivided share of a thing and their co-ownership share, in accordance with the rules governing an owner's legal dispositions of things, provided such dispositions do not prejudice the rights of others. If a co-owner sells their share, other co-owners do not have a right of preemption, unless such right arises under a specific legal basis.

(6) Each co-owner has the right to assert against anyone including other co-owners all claims arising from their ownership.

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Exercise of Ownership Over the Thing as a Whole

Article 38

- (1) Unless otherwise provided, each co-owner may exercise with respect thing as a whole all powers they hold by virtue of an ownership share without consent of the other co-owners, provided this does not violate the rights of other co-owners.
- (2) Fruits and other benefits derived from the whole thing, as well as expenses and burdens, shall be divided among the co-owners in proportion to the size of their co-ownership shares, unless otherwise agreed.
- (3) Each co-owner has the right to request at any time that accounts be settled and all benefits be distributed.
- (4) Each co-owner of an immovable who has an adequate co-ownership share has the right to request at any time that condominium be established for the benefit of their co-ownership share of the immovable provided the conditions for its establishment are satisfied.

Section 2 Management of the Thing

Right to Manage

Article 39

- (1) Each co-owner has the right to participate in decision-making concerning all matters relating to the co-owned thing (management of the thing) together with the other co-owners.
- (2) If a co-owner carries out an act concerning the co-owned thing without the required consent of the other co-owners, the rules governing management of the affairs of another shall apply.

Acts of Ordinary Administration

Article 40

- (1) Co-owners decide on acts concerning only ordinary administration of the thing by a majority vote.
- (2) The majority is calculated according to co-ownership shares, not the number of co-owners.
- (3) If a majority vote cannot be reached, and undertaking of an act of ordinary administration is necessary for the maintenance of the thing, the court shall decide at the request of any co-owner.
- (3) Any co-owner against whose will the majority decided to undertake an act, or if this was done by the court, has the right to request collateral for future damages. A person obligated to

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provide such collateral shall perform such obligation by way of pledge, and by suretyship only if the court finds that furnishing a pledge would impose an excessive burden.

(5) The court shall decide in non-contentious proceedings provided there is no dispute as to the identity of co-owners or the size of their co-ownership shares.

Extraordinary Acts

Article 41

(1) For the undertaking of acts that exceed the scope of ordinary administration (notably a change of intended use of the thing, major repairs, horizontal and vertical extensions, remodelling, alienation of the whole thing, leasing of the whole thing exceeding one year, a mortgaging the whole thing or pledging a movable, granting real and personal servitudes, rentcharges or the right of superficies over the whole thing, the consent of all co-owners is required.

(2) In case of doubt an act is presumed to exceed the scope of ordinary administration.

(3) If the co-owners cannot agree, the co-owner who had proposed an act foreseeably beneficial to all may require partition of co-ownership even if they were not entitled not request it otherwise at that time.

Decision on the Exercise of Possession and Ownership Powers

Article 42

(1) All co-owners have the right to co-possess the thing, but they may decide to divide possession of the thing among themselves and/or the exercise of all or some of the ownership powers in respect thereof.

(2) The adoption of a decision under paragraph 1 of this Article is an act of ordinary administration, and so is a decision to amend or revoke a prior decision.

Decision Establishing Condominium

Article 43

(1) If an immovable consists of land with a building, a co-owner whose co-ownership share in such immovable is sufficiently large is entitled, with the consent of the other co-owners and subject to further conditions under Title 4 of Part 3 of this Act, to establish and link the ownership of a unit of such immovable to their co-ownership share (condominium).

(2) The establishment of ownership of a unit in an immovable does not affect co-ownership; but the exercise of powers and duties of a co-owner whose co-ownership share has been linked to condominium focuses primarily on such unit in an immovable, while limiting the

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exercise of powers by other co-owners of the immovable over such unit, in accordance with the provisions of Title 4 of Part Three of this Act.

(3) If condominium is established over at least one unit in an immovable, the immovable co-owners' legal relations, both among themselves and against third parties, are primarily governed by the special provisions of Title 4 of Part Three of this Act and regulation adopted thereunder, and only subsidiarily by the general rules on co-ownership under this Title of the Act, unless otherwise provided.

(4) The co-owners of an immovable may unanimously agree to limit their co-ownership rights by linking the ownership of a unit in an immovable to a particular co-ownership share (condominium) of the co-owned immovable, even if that co-ownership share is not as large as otherwise required for an adequate co-ownership share according to the provisions of Article 74 paragraphs 1 and 2 of this Act.

(5) A unanimous declaration of will by all co-owners to establish ownership of a specific unit in an immovable for the benefit of a co-ownership share is, until such unit ownership is established, deemed their agreement on the division of possession of the thing and the exercise of co-ownership powers.

(6) The same rules that apply to land with a building apply accordingly to the right of superficies when a building is constructed.

Manager

Article 44

(1) Co-owners may agree to entrust the management of the thing to a particular person as the manager who shall act as their mandatary. They may appoint one or several among themselves as manager, and they may also entrust the management to any other natural or legal person having capacity to act.

(2) A co-owner who possesses a co-owned thing or its independent part pursuant to a decision of the co-owners to divide possession of the thing and the exercise of co-ownership powers is deemed to have been entrusted with the ordinary administration of the thing, unless all co-owners agreed otherwise.

(3) If there are several managers, they make decisions by a majority vote, unless all co-owners agreed otherwise.

(4) The appointment of a manager and the determination of the scope their powers is an act of extraordinary administration, but if co-owners cannot agree thereon, each of them may petition the court make the decision on the matter in a non-contentious proceeding.

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Legal Position of the Manager

Article 45

(1) The manager acts as mandatary of the co-owners, hence with respect to their rights, duties, and termination of relationship with him the relevant rules on mandate apply, unless otherwise provided, where:

- co-owners who jointly hold a majority of co-ownership shares may terminate a manager appointed for an indefinite term, subject to a three-month notice period, which shall commence on the first day of the month following such notice.

- co-owners who jointly hold a majority of co-ownership shares may terminate a manager appointed for a term exceeding five years after the expiration five years, without stating a reason for the termination,

- for good cause, co-owners jointly holding a majority of co-ownership shares may remove the manager at any time,

- if the manager grossly neglects their duties, the court shall remove him at the request of any co-owner and appoint another manager; a removed person may never again be appointed manager of the same thing,

- a manager appointed for an indefinite term may resign subject to a three-month notice period, which shall commence on the first day of the month following such notice.

(2) If the manager's mandate terminates pursuant to a decision by co-owners who did not have the consent of all co-owners, such co-owners are obligated to take necessary action to ensure, pending a decision on further administration of the thing, administration proceeds in accordance with the presumed will of all co-owners, for which they are liable to the other co-owners.

Section 3 Protection

Article 46

(1) Each co-owner has the right, with respect to the whole thing, to assert any claim arising from their co-ownership against their co-owners.

(2) Each co-owner has the right, with respect to the whole thing, to assert against any person such claims that may be asserted by the owner of a thing, where they may claim delivery of possession of the whole thing against a third party only in accordance with the law rules on indivisible obligations.

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Section 4 Partition

Right to Partition

Article 47

- (1) A co-owner has the right to partition co-ownership if it is possible and permissible; such right does not prescribe.
- (2) A co-owner may demand partition at any time, except when such partition would be detrimental to the other co-owners; however, such a demand is available even at such time if considering the circumstances it cannot be reasonably expected that the circumstances will change soon such that partition would not be detrimental to the other co-owners. The court having jurisdiction over the partition proceedings shall decide on any objection that partition may not be demanded.
- (3) A co-owner may not validly waive the right to partition in advance but may validly contractually agree to limitations on the right to partition.
- (4) A contract limiting the right to partition shall not bind successors but if such limitations on the right to partition are registered in the land register - they shall bind everyone.

Exercising the Right to Partition

Article 48

- (1) Any co-owner may exercise their right to partition by demanding it either in full or partially be it with respect to the co-owners with whom the right is partitioned or with respect to things and rights subject to partition.
- (2) A co-owner shall exercise the right to partition either by agreement with all co-owners with whom co-ownership is to be partitioned (voluntary partition) or by way of court proceedings (judicial partition), unless otherwise provided by law.
- (3) In the case of judicial partition, the court shall decide in a non-contentious proceeding, unless otherwise provided by law.

Method of Partition

Article 49

- (1) Co-owners determine the method of partition by agreement, within the limits of what is possible and permissible.
- (2) When a statutory provision prohibits the partition of a co-owned thing, such prohibition does not extend to partition by sale or buyout, unless expressly so extended.

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(3) Co-owners may by agreement designate a person who is to decide upon the method of partition in their stead.

(4) If co-owners cannot agree on any matter relating to partition, each of them may request the court to decide such matter.

Method of Judicial Partition

Article 50

(1) When partition is conducted by a court, the court is primarily bound by strict statutory provisions, and secondarily by a valid agreement between the parties on the method of partition, if extant, and if possible and permissible, as well as by the right to a buyout that a co-owner may have under a juridical act or statute.

(2) If the court is not bound regarding the method of partition within the meaning of paragraph 1 of this Article, the court shall partition divisible movables physically, and immovables geometrically.

(3) In the course of geometric partition of immovables, the court may establish servitudes and rentcharges on its other parts, if this is necessary for the use or exploitation of the part separated by such partition.

(4) If the partition under paragraph 2 of this Article is not possible without a material diminution of value, the court shall order the thing be sold at public auction or by other appropriate method, and the proceeds distributed proportionally to the co-ownership shares (partition by sale).

Right to Partition by Buyout

Article 51

(1) A co-owner has the right to partition by buyout if specifically provided by law or a juridical act, or if they make probable the existence of a particularly serious reason, hence, the court shall order the whole thing be transferred to them and that they pay the other co-owners the value of their shares within a time period determined by the court depending on the circumstances.

(2) In the case of paragraph 1 of this Article, the other co-owners shall hold a lien on the thing allocated to the partition claimant until payment. If they fail to pay within the such period, they may demand performance or satisfaction from the value of the encumbered asset, and may also request annulment of the decision ordering partition by buyout.

(3) Co-owners whose co-ownership shares together amount to at least nine tenths are not required to make probable a particularly serious reason under paragraph 1 of this Article.

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Partition of Co-Ownership of Several Things

Article 52

(1) When co-owners partition co-ownership of several things simultaneously, the court may, upon request of any of them, order that each one of them is allotted a particular thing or a group of things, in proportion to their co-ownership shares and taking into account their needs, instead of dividing each thing separately.

(2) The court shall grant a request to partition referred to in paragraph 1 of this Article that is justified in view of the circumstances.

(3) If the things allotted to a particular co-owner in such partition exceed the value of their co-ownership share, that co-owner is obligated to pay the difference to the other co-owners. The payment of such difference is governed accordingly by the rules on the right to partition by buyout.

Partition by Establishment of Condominium

Article 53

If co-owners unanimously agree to limit their co-ownership rights instead of partitioning the immovable by linking the ownership of a unit of the co-owned immovable to a particular undivided share (establishment of condominium), it is deemed that such decision is their decision on the method of partition, and the rules on partition apply accordingly.

Partition Costs

Article 54

Partition costs are borne by the co-owners in proportion to their co-ownership shares, unless otherwise provided by law or their agreement.

Legal Effects of Partition

Article 55

(1) Each co-owner who participated in the partition acquires the right of ownership and/or other right pursuant to a partition agreement or a final court order on partition, and in a mode provided by law, by derivation from their co-ownership share with which they participated in the partition, and which simultaneously ceases.

(2) The legally prescribed mode of acquisition and termination of the right of ownership co-ownership or other property rights pursuant to an agreement or a court order referred to in paragraph 1 of this Article shall be the delivery of movables into independent possession, or the registration of rights over immovables in the land register, unless otherwise provided by law.

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(3) In the case of judicial partition, any co-owner who participated in such partition may request enforcement of the partition order, irrespective of whose motion the court adjudicated.

(4) After the partition, all co-owners who participated in the partition are jointly and severally liable for material and legal defects of what each of them acquired or should have acquired under paragraph 1 of this Article.

Rights of Third Parties

Article 56

(1) Partition may not be prejudicial to the rights of third parties, the rights of co-owners who did not participate in the partition, and where partition was not complete, to the things and rights with which the participants did not participate in the partition.

(2) All security interests, servitudes and other property rights encumbering the divided thing before partition may continue to be enforced as before. However, if the enforcement of a predial servitude relates only to a part of the thing, such right ceases with respect to other parts.

(3) If a servitude or rentcharge grants a right to benefits, the beneficiary for the dominant estate or the obligor for the servient estate may request that the court regulate the exercise of rights fairly.

Title 3 Joint Ownership

Indeterminacy of Shares in Ownership

Article 57

(1) A thing is jointly owned if there is ownership of two or more persons (joint owners) of an undivided thing who all have a share in it, the size of which is not determined, albeit determinable.

(2) A thing may be jointly owned only by operation of law.

(3) Where a thing is jointly owned by operation of law by two or more joint owners, the fact that such thing is registered in the land register or elsewhere as owned by only one of them shall have no effect, except against third parties whose commercial reliance is protected.

(4) In case of doubt whether persons are co-owners or joint owners of a thing, they are presumed to be co-owners.

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Joint Owners' Shares

Article 58

- (1) A joint owner may transfer their share in joint ownership either in whole or in part only to another joint owner of the same thing, otherwise they may not validly dispose of their share by way of lifetime transactions.
- (2) The share of a joint owner in joint ownership passes to their heirs.
- (3) The person's liability for debts includes their share in joint ownership.

Exercise of Joint Ownership

Article 59

- (1) A joint owner is authorised to exercise all ownership powers over a jointly-owned thing only together with all other joint owners, unless otherwise provided by this or other statute or agreement of the joint owners.
- (2) Fruits and other benefits of a jointly owned thing belong to the joint owners of the thing as does the thing itself.
- (3) Joint owners are jointly and severally liable for costs and encumbrances relating to the thing they jointly own.
- (4) Each joint owner is authorised to request that joint right of ownership of an immovable be registered in the land register for the benefit of all joint owners as their joint ownership, and likewise that joint ownership of movables be recorded in public registers, if maintained for such movables.

Management of a Jointly Owned Thing

Article 60

- (1) Any joint owner has the right to participate in decision-making relating to anything that concerns a jointly owned thing (management of a thing) together with other joint owners.
- (2) Joint owners manage the jointly owned thing jointly, passing decisions by mutual agreement, unless decision-making has been entrusted to a manager.

Dispositions of a Jointly Owned Thing

Article 61

- (1) Joint owners dispose of jointly owned thing jointly; individual joint owners may dispose of the thing only pursuant to the powers given to them by all other joint owners.

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(2) Notwithstanding paragraph 1 of this Article, and with the aim of protecting commercial reliance, a third party may acquire ownership under a juridical act not concluded with all joint owners:

- of a movable, if the thing was acquired for value and in good faith,
- of an immovable, subject to the conditions for the protection of reliance on the land register, if ownership was not registered in the land register as joint ownership.

(3) The provisions of paragraph 2 of this Article apply accordingly to the acquisition of other property rights over the jointly owned thing.

Protection

Article 62

(1) Each joint owner has the right to assert against other joint owners claims with respect to the jointly owned thing that arise from their joint ownership.

(2) Each joint owner has the right to assert against anyone such claims with respect to the whole thing that may be asserted by an owner of the thing, provided they may demand delivery of the thing into possession against a third party only according to the rules governing indivisible obligations.

Right of Partition

Article 63

(1) Each joint owner has the right to partition a thing if it is possible and permissible; this right does not prescribe.

(2) Each joint owner is authorised to request at any time that joint ownership be partitioned by determining the co-ownership share that they are entitled to by virtue of their share in joint ownership. Upon determining their co-ownership share, they become co-owner with the others, who remain joint owners of the remainder, until they too partition.

(3) The size of the co-ownership share that will be allocated to the former joint owner by partition is determined by agreement of all joint owners, otherwise by the court which decides on the matter at the request of any joint owner.

(4) The court determines the size of a co-ownership share according to the criteria for determining such size set by the statute governing the particular case of joint ownership and, in case of doubt, it shall be deemed that no joint owner has more rights than any other.

(5) In determining such shares, joint ownership shares that have been validly assigned by one joint owner to another shall also be taken into account.

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(6) If a partition of a jointly owned thing is prohibited by law, such prohibition applies to physical partition of the thing only, unless expressly designated to include partition by determination of co-ownership shares or extended to other methods of partition.

Third-Party Rights of Partition

Article 64

The right to request joint ownership be partitioned by determination of the co-ownership share belonging to a particular joint owner by virtue of their share in joint ownership is held by:

- creditors with respect to the share of their debtor,
- heirs with respect to the decedent's share,
- anyone with respect to the share of any joint owner, if such party has a legitimate interest for such partition.

Subsidiary Application of the Rules on Co-Ownership

Article 65

With respect to matters concerning joint ownership not covered by this or other statute, nor that follow from the nature of such ownership, the rules provided for co-owners shall apply accordingly to the rights and duties of joint owners.

Title 4 CONDOMINIUM

Section 1 General Provisions

Co-Ownership of the Whole Immovable and Ownership of a Unit

Article 66

- (1) Ownership of a specific unit (condominium) arises from and remains inseparably connected to the adequate co-ownership share (undivided share) of the immovable on which it is established.
- (2) Ownership of a specific unit authorises the co-owner on whose co-ownership share it is established to exercise all ownership powers and duties, managing the unit instead of all co-owners, as if the unit were their sole ownership and, unless otherwise provided, to do with such unit and benefits derived therefrom as they wish and to exclude from it all others.
- (3) Ownership of a unit may be established on an adequate co-ownership share of an immovable consisting of land with a building or of the right of superficies with a building.

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(4) Once ownership of a unit in an immovable is established on one of its co-ownership shares, the legal relations concerning the immovable are governed by the special rules in this Title of the Act, and subsidiarily by the general rules on co-ownership.

The Unit and Its Appurtenances

Article 67

- (1) Condominium may be established on such part of a co-owned immovable that is an independent functional unit, suitable for independent exercise of co-ownership powers, such as an apartment or another independent room.
- (2) Other independent rooms include, in particular, independent office suites, independent garages or clearly demarcated parking spaces for motor vehicles located within the building.
- (3) Ownership of a unit in an immovable may extend from an apartment or other independent room to appurtenant parts, such as open balconies, terraces, cellars or attics, home gardens, parking spaces for up to two motor vehicles per apartment or other independent room.
- (4) For the ownership of a unit in an immovable to extend to an appurtenant part, it must be clearly delineated from other parts of the immovable and accessible from the boundary of the immovable, its common parts, or from the apartment or the independent room to which it would be appurtenant.
- (5) The rules applicable to appurtenances of things apply accordingly to appurtenant parts.
- (6) Condominium cannot exist on parts of the immovable that serve as common or whose intended use prevents exclusive use for the benefit of a specific unit; in case of doubt, it is presumed that it serves as common and that its purpose prevents exclusive use for the benefit of a specific unit.

Adequate Co-Ownership Shares

Article 68

- (1) Ownership of a specific unit may be derived from and be established only on a co-ownership share of an immovable which is sufficiently large to correspond to the ratio of the weighted value of such independent unit and the weighted value of all apartments and other rooms in the immovable (adequate co-ownership share).
- (2) Whether a co-ownership share is an adequate share from which ownership of a specific unit could be derived and be established thereon shall be determined by court order, unless otherwise provided by this Act.
- (3) If all co-owners of an immovable decide to limit their co-ownership rights by linking the ownership of a specific unit to a specific co-ownership share, and if execute a written

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instrument to that effect, such share shall be deemed an adequate share from which ownership of a specific unit may be derived and on which it may be established, regardless of its size.

Inseparability

Article 69

(1) Condominium is inseparably linked to an adequate co-ownership share of immovable, and it may be limited, encumbered, alienated, transferred at death or subjected to execution only together with it.

(2) Entries in the land register on the adequate co-ownership share extend to condominium even when they precede it in the order of priority.

(3) In the event of a forced sale of a co-ownership share of an immovable on which condominium is established, all limitations arising from condominium pass to the purchaser, irrespective of their position in the land register and without being counted toward the highest bid.

Multiple Owners of the Same Unit

Article 70

(1) If two or more persons acquire, on any basis, an adequate co-ownership share of an immovable with condominium as co-owners or joint owners, all rights and duties regarding the ownership of such unit may only be exercised jointly and severally and they shall be deemed as against third parties and other co-owners of the same immovable as a single person both with respect to the management of the whole immovable and with respect to other rights and obligations under this Title of the Act.

(2) Anything provided in Part Three Title 4 of this Act concerning co-owners on whose share condominium is established also applies to all persons referred to in paragraph 1 of this Article, who are all jointly deemed as such co-owner.

(3) Mutual relations between persons referred to in paragraph 1 of this Article are governed, depending on the type of participation of such persons in co-ownership of the adequate co-ownership share, by the rules on co-ownership or joint ownership, but never contrary to the rule referred to in paragraph 1 of this Article.

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Section 2 Establishing Condominium

Request for Establishment

Article 71

- (1) Condominium shall be established on a specific co-ownership share if the co-owner of such immovable who holds at least an adequate co-ownership share so requests and if all conditions prescribed by law are satisfied.
- (2) Condominium shall also be established at the request of joint owners who hold under joint ownership at least an adequate co-ownership share of the immovable, if all conditions prescribed by law are satisfied, where after such establishment they shall be governed by the provisions of Article 70 of this Act.
- (3) Condominium shall also be established at a joint motion of several co-owners of immovable if their co-ownership shares are at least the same as the adequate co-ownership share, and all preconditions prescribed by law are satisfied, where after such establishment they shall be governed by the provisions of Article 70 of this Act.
- (4) Condominium shall also be established at the request of landowners or holders of the right of superficies dividing the immovable into co-ownership shares that are adequate shares for the establishment of condominium, if the conditions under Article 75 of this Act are satisfied.

Method of Establishment

Article 72

- (1) Condominium is established by registration in the land register of a right linked with a specific co-ownership share of the immovable.
- (2) Condominium shall be registered in the ownership sheet at the co-ownership share of the co-owner in whose favour condominium was established, indicating the unit and the appurtenant parts to which it extends, while the possessions sheet shall include the heading "Condominium".

Title

Article 73

- (1) Condominium is established on the basis of a written consent by all co-owners of the immovable.
- (2) No co-owner of the immovable may withhold their consent for the establishment of condominium to another co-owner who has an adequate co-ownership share, unless the establishment of new condominium for the benefit of such co-owner would terminate or limit the rights already vested in him by virtue of their previously established condominium.

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(3) Condominium may not be established until the competent authority certifies that a specific apartment or other room in a specific building on a specific land parcel is an independent functional unit. The certificate shall include a list and description of the units and shall confirm that they have been constructed in accordance with a permit issued by the competent authority.

(4) The certificate referred to in paragraph 3 of this Article may be substituted by a certificate of occupancy indicating that the building has been constructed in conformity with a condominium plan, as confirmed by the building permit and that the units are independent functional units.

(5) Condominium may not be established until the court order determining the weighted values of such apartment or other room and the weighted values of all apartments and other rooms of the whole immovable becomes final, unless this Act provides that a final court order determining weighted values is substituted by the co-owner's written instrument.

Adequate Share and Weighted Values

Article 74

(1) A co-ownership share of the immovable of the person requesting condominium be established on a specific unit shall be determined as adequate if the ratio of that co-ownership share to the ownership of the whole immovable is equal or larger than the ratio of the weighted value of the apartment or other independent room for which condominium is requested to the weighted value of all apartments and other rooms in the whole immovable.

(2) The court determines weighted values by an order delivered in non-contentious proceedings, according to the following rules:

- the weighted value of an apartment or other room is calculated based on the useful floor area of the apartment or other room with appropriate additions or deductions for differences which increase or decrease value compared to other apartments or rooms that, arising from purpose, location and similar according to trade practice and experience, and not attributable to the expense of a single co-owner,

- in calculating the weighted value, any differences which increase or decrease the value are disregarded if collectively they would justify an addition or deduction of less than 2% of the useful floor area of the apartment or other room,

- the useful floor area is the total floor area of an apartment or other independent room, minus the width of interrupting walls,

- in calculating the useful floor area, basements and attics unsuitable for residential or commercial purposes, stairways, open balconies and terraces shall not be taken into account; the same applies to other parts of immovable which are appurtenances of the apartment or other independent room under Article 67 paragraphs 3 through 5 of this Act,

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- as a rule, the useful floor area is calculated according to the final design included in the building permit or which has been approved by the competent authority; however, if someone makes it probable that there are significant deviations from the design, the useful floor area shall be calculated according to the as-built condition.

(3) Notwithstanding paragraph 2 of this Article, if the co-owners of an immovable have unanimously agreed to limit their co-ownership rights by linking the ownership of a specific unit to a specific co-ownership share, such co-ownership share is deemed to be an adequate share, and the final court order determining weighted values shall be replaced by the written instrument executed by all co-owners containing that agreement.

Article 75

(1) The owner of land with a building, or the holder of the right of superficies with a building may divide their right of ownership into co-ownership shares by a declaration of will filed with the land registration court, and with each such share establish the right of ownership on a specific apartment or other unit in the building.

(2) The division of ownership into co-ownership shares produces legal effect upon its registration in the land register; for condominium to be established for the benefit of the co-ownership share created by such division, conditions under which condominium establishment is possible must be also be met, where the final court order determining weighted values is substituted by an appropriate stipulation of the landowner or the holder of the right of superficies.

(3) If the landowner or the holder of the right of superficies divides their immovable on which a building is yet to be erected into co-ownership shares, they may declare that ownership of a specific apartment or other unit of the building, if erected, be linked to each share, in which case condominium shall be established only if the building is erected and subject to the conditions provided in paragraph 2 of this Article.

(4) If the seller directed how the immovable is to be managed, such directions shall also be effective against third parties if registered in the land register.

Subsequent Changes to Weighted Values

Article 76

(1) Even if previously established, the weighted value shall be re-assessed upon request of any authorised person if circumstances have changed in any manner provided by Article 77 or 78 of this Act.

(2) The court re-assessing a particular weighted value shall also determine whether and to what extent the sum of all weighted values of the apartments and other independent rooms of the immovable has changed.

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Article 77

(1) At the request of any co-owner of the immovable, and, after construction is completed, at the request of anyone seeking to acquire condominium, the court shall re-assess the weighted value if circumstances have changed in the sense:

- that the weighted value of an apartment or other room determined prior to the completion of construction changed before the completion of construction by at least 2% by works requiring a building permit, in which case the application for re-assessment may be submitted only within one year from the finality of the occupancy permit,

- that after the completion of construction, the determined weighted value of an apartment or other room changed substantially by such construction works on the immovable that require a building permit, in which case the application for re-assessment may be submitted only within one year from the finality of the occupancy permit.

(2) If the weighted value is re-assessed due to the changes referred to in paragraph 1 of this Article, co-owners are obligated to mutually transfer or adjust such co-ownership shares that are necessary so that each unit owner receives at least the share required for the establishment of condominium after the determination of weighted values (adequate co-ownership share).

Article 78

(1) The weighted value shall also be re-assessed if the previously determined value changed due to changes in adjacent apartments or other rooms, or due to the transfer of appurtenant parts from one unit to another, if the request for re-assessment of weighted value is filed by the unit owners performing the changes or transfers.

(2) In the case of paragraph 1 of this Article, the weighted value of apartments or other rooms affected by the change or transfer shall be determined such that the sum of their weighted values before and after the change or transfer is equal.

(3) If the weighted value is re-assessed under paragraph 1 of this Article, the co-owners whose weighted value increased must fully compensate the co-owners whose weighted value decreased.

Section 3 Exercise of Powers Over a Unit

Management In Lieu of All Co-Owners

Article 79

(1) A co-owner whose co-ownership share is subject to condominium manages the unit in lieu of all co-owners, and is authorised to exercise all ownership powers and duties as if the unit were their sole property and, unless otherwise provided, to do with such unit as they wish and to exclude all others from it.

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(2) A co-owner whose co-ownership share is subject to condominium is entitled to all fruits and other benefits from the unit, unless they belong to another party under a separate legal basis.

Duty of Maintenance

Article 80

(1) A co-owner whose co-ownership share is subject to condominium is responsible for maintaining the apartment or other independent room and related equipment, including fiber-optic, gas, water, heating, and sanitary installations, as well as all other appurtenances, in a manner that prevents damage to other co-owners.

(2) The co-owner responsible for maintenance shall be liable for all damages suffered by other co-owners due to the performance or non-performance of duties under paragraph 1 of this Article, and if multiple co-owners share such duty, they are jointly and severally liable for such damage.

(3) A co-owner whose co-ownership share is subject to condominium must allow access to and use of the apartment or room if necessary for the maintenance of the common parts of the immovable; other co-owners are jointly and severally liable for any economic damage they suffered.

Residential and Commercial Leases

Article 81

(1) A co-owner whose co-ownership share is subject to condominium is authorised to enter residential or commercial leases for the unit, in whole or in part, without seeking approval from the other co-owners, unless otherwise agreed and registered in the land register.

(2) Relations between co-owners whose co-ownership share is subject to condominium and such persons using or exploiting the unit as tenants, lessees and the like, are governed by the law of obligations, unless governed by specific statute.

Alterations

Article 82

(1) A co-owner on whose co-ownership share is subject to condominium is authorised to perform alteration in the apartment or other independent room, including change of use, without seeking approval from the other co-owners, in accordance with the building regulations and at their own expense, provided that they observe the following rules:

- alterations may not cause any damage to the building and other parts of the immovable or violate such interests of the other co-owners that deserve protection; in particular they may

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not alter the exterior appearance of the building or endanger the safety of persons, the building or other things,

- if alterations would require encroaching on the common parts of the immovable, this is permissible only if such alteration is customary or serving an important interest of the unit owner, and otherwise any co-owner may prohibit them; however, they may not prohibit the installation of conduits for lighting, gas, energy, water, telephony and similar equipment, as well as state of the art electronic communication infrastructure if a connection to an existing antenna is not possible or permitted, and the works ensuring unhindered access, mobility, and work for persons with reduced mobility.

- for the purpose of altering one's unit, it is not permitted to encroach on units owned by another co-owner without their consent; however, such co-owner must suffer the effects of such alterations which do not materially or permanently violate their right on the unit, as well as effects considered tolerable when all interests are fairly balanced,

- the owner of a unit performing the alteration must provide reasonable compensation to the one whose rights were violated even they were obligated to suffer such violation.

(2) If a permit issued by an authority is required for a change of used referred to in paragraph 1 of this Article, the co-owners who must suffer the change are not authorised to withhold their consent when needed and they are liable for damages caused by such withholding.

(3) The provisions of paragraph 1 of this Article for apartments and other independent rooms also apply to all appurtenant parts accessory thereto, and these provisions also apply in case of transfer of appurtenant parts serving one apartment or room to another apartment or room.

(4) Any damage suffered by other co-owners due to alterations performed by the co-owner on whose co-ownership share condominium is established, are borne by the co-owner if they were not obligated to suffer it; multiple co-owners are jointly and severally liable for the damage.

Adequate Collateral

Article 83

(1) If under the circumstances there is serious risk of damage resulting from what the co-owner undertakes or has undertaken with respect to the immovable in the exercise or excess of their authority without the approval of all others, each of the co-owners of the whole immovable is authorised to request adequate collateral.

(2) The performance of any action that the co-owner is legally obligated or authorised to perform may not be conditioned upon providing collateral.

(3) The court shall decide on the request for collateral referred to in paragraph 1 of this Article in a non-contentious proceeding, unless otherwise provided or unless another procedure

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related to what the co-owner is or has been undertaking in which it is possible to order the provision of adequate collateral is pending.

Expenses of the Unit

Article 84

(1) A co-owner whose co-ownership share is subject to condominium shall maintain such unit at their own expense and shall bear all public obligations and charges relating to the ownership of such unit, unless otherwise provided by law.

(2) If the debtor with respect to periodic payments for utility services in connection with the use of a unit (the supply of electricity, gas, thermal energy, waste disposal, etc.) is not another person, it is the co-owner whose co-ownership share is subject to condominium who owes these fees to the suppliers or providers of such services.

(3) If the debtor referred to in paragraph 2 of this Act is a person using or exploiting the unit under a residential or business lease or other contract with the co-owner whose co-ownership share is subject to condominium, such co-owner guarantees the performance of that obligation to the supplier.

Section 4 Exercise of Powers Over the Whole Immovable

Management by All Co-Owners

Article 85

(1) The whole immovable whose one or more co-ownership shares is subject to condominium is managed by the co-owners according to the general rules governing the management of a co-owned thing, unless otherwise provided by this Act.

(2) Co-owners are obligated to participate in the management of the immovable, to designate a person to perform the duties of a common manager and to establish a reserve fund.

(3) If the adequate co-ownership share subject to condominium is acquired by two or more persons as co-owners or joint owners, all such persons participate in management as if they were all a single co-owner of the whole immovable, and the rules of the law of obligations regarding joint and several liability of creditors or debtors apply accordingly.

(4) Co-owners adopt decisions on conducting acts of ordinary and extraordinary administration in writing, where their mutual relations may be stipulated in a written agreement (owners' agreement).

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Acts of Ordinary Administration

Article 86

Ordinary administration of the whole immovable includes in particular:

- regular maintenance of common parts and facilities in the immovable, including construction alterations necessary for maintenance,
- creating a reasonable reserve fund for foreseeable future expenses,
- obtaining loans to cover maintenance expenses not covered by the reserve fund, necessary to perform proper maintenance activities recurring at intervals longer than one year,
- adequate insurance of the immovable,
- appointment and removal of the common manager,
- determining and modification of house rules,
- entering into residential or business leases, as well as terminating them with respect to apartments and other independent rooms of the immovable not subject to condominium, wherein it is permitted to terminate a residential lease for a parking space in a common garage or parking lot as soon as any of the co-owners needs it, with a notice period of three months, even if otherwise agreed or provided by law.
- entering into residential or business leases of common parts of the buildings, or establishing other legal relations related to the installation, maintenance, and development of electronic communication infrastructure and payment of fees to owners in accordance with special legislation.

Extraordinary Acts

Article 87

- (1) Except for acts normally considered as extraordinary, consent of all co-owners of the immovable is required to pass a decision on improvements to common parts and facilities of the immovable.
- (2) Notwithstanding paragraph 1 of this Article, the approval by all is not necessary if co-owners holding a majority of co-ownership shares decide to proceed with the improvement, and that they alone shall bear the expenses or that the expenses can be covered from the reserve fund, without jeopardizing the ability to cover ordinary maintenance needs, and if the improvement shall not disproportionately harm the dissenting co-owners.

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(3) Notwithstanding the provisions of paragraph 1 of this Article, consent by all co-owners is not required for improvements to common parts and facilities in the immovable enabling unhindered access, movement, and work of persons with reduced mobility.

Right of Each Co-Owner

Article 88

Each co-owner of an immovable is authorised, independently of the others, to request a court order to determine:

- a term for the performance of an act referred to in Article 86 of this Act previously approved by a majority vote,
- the creation of a reasonable reserve fund or a reasonable increase or decrease of such fund determined by a majority vote consistent with the rule that in determining the reserve fund and contributions thereto, in addition to foreseeable expenses, the financial condition of all co-owners should be taken into account,
- that the co-owner, if they are unable to pay a part of the expenses for maintenance works on the whole immovable occurring at intervals longer than one year, and which is not covered by the reserve fund, is allowed to pay in monthly instalments over a period not longer than ten years, secured by a mortgage against their co-ownership share, with a rate of interest customary for debt secured by a mortgage,
- the conclusion of reasonable insurance against fire or third-party liability,
- the appointment of a common manager or the removal of a manager who grossly neglects their duties,
- the modification or repeal of house rules passed by the majority if they violate such interests of that co-owner that deserve protection or if requiring their exercise of him would be unfair to him,
- the termination of a lease of a space in a common garage or parking lot, due to needs of such co-owner, but only if they are also a unit owner.

Expenses of the Whole Immovable

Article 89

(1) The expenses of maintaining and improving the immovable is borne by all co-owners of the immovable in proportion to their co-ownership shares, unless otherwise provided.

(2) Contributions for the reserve fund to cover the expenses of maintaining and improving the immovable or for the repayment of loans to cover such expenses are borne by all co-owners in proportion to their co-ownership shares, unless otherwise provided.

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(3) Co-owners may agree on an allocation key for expenses and contributions to the reserve fund different than in paragraphs 1 and 2 of this Article, specifically:

- by a majority vote of co-ownership shares for expenses of maintaining facilities in the immovable that are not equally beneficial to all co-owners, such as expenses for elevators, central heating, etc., if such a decision is justified by the varying ability of individual co-owners to use the facilities and the inability to determine actual consumption for each co-owner,

- by unanimous written decision of all co-owners for all other expenses of maintaining and improving the immovable and contributions to the reserve fund.

(4) Each co-owner may request the court to determine whether the method of distributing expenses is consistent with the rule referred to in paragraphs 1 and 2 of this Article and whether the decision referred to in paragraph 3 of this Article is valid, and where there is no valid decision on the distribution of maintenance expenses for facilities not equally beneficial to all co-owners, to determine the expenses allocation key considering the varying ability to use the facilities.

(5) Provisions of the co-owners on the expenses allocation key referred to in paragraph 3 of this Article, if the co-owners' signatures are publicly authenticated, as well as final court orders equitably determining the expenses allocation key, shall be noted in the land register upon request.

(6) If the expenses of the immovable are paid out of the reserve fund in accordance with its purpose, they shall not be charged to the co-owners who paid their contributions into the reserve fund.

Reserve Fund

Article 90

(1) The reserve fund referred to in Article 85 paragraph 2 of this Act is dedicated joint patrimony of all co-owners, intended to cover the expenses of maintaining and improving the immovable and to repay loans to cover such expenses.

(2) The reserve fund consists of monetary contributions that the co-owners paid based on decisions passed by a majority of co-ownership shares or court orders on request of a co-owner considering foreseeable expenses and taking into account the financial condition of all co-owners.

(3) The reserve fund is managed by the co-owners or the manager of the immovable as patrimony separate from the patrimony of any individual co-owner, invested in a way to bear fruits.

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(4) Only such payments from the reserve fund that are made to cover the expenses of maintaining and improving the immovable or to repay a loan taken to cover such expenses are permissible; execution against the reserve fund is permissible only to satisfy such claims.

(5) The manager whose term expired must promptly issue an accounting statement regarding the reserve fund and remit the balance to the new manager; if the court relieves the manager of their duty, it shall order them to remit the designated balance to the new manager within fourteen days on pain of execution.

(6) A co-owner who alienated their co-ownership share in an immovable does not have the right to reclaim the contribution they paid into the reserve fund, but it remains its part as the contribution of that co-ownership share.

Benefits

Article 91

(1) Fruits and other benefits of apartments and other independent rooms in the immovable not subject to condominium belong to all co-owners of the immovable in proportion to their co-ownership shares, but such fruits and other benefits belong to each co-owner of the immovable who is also a unit owner only to the extent their co-ownership share exceeds the adequate co-ownership share.

(2) Fruits and other benefits of immovable not covered by the provision of paragraph 1 of this Article belong to all co-owners in proportion to their shares.

(2) Any provision of juridical acts contrary to the provisions of paragraphs 1 and 2 of this Article are null and void.

Duty to Report Damage

Article 92

(1) Each co-owner is authorised and obligated to report to the common manager without any delay the damage they have become aware of on parts or facilities in the immovable that such common manager manages, as well as the damage on such units subject to condominium if they pose a threat to other parts of the immovable.

(2) If there is imminent danger of damage, each co-owner is authorised to take any necessary measures without the consent of the other co-owners.

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Duties and Powers of the Manager

Article 93

- (1) The manager, whether appointed by the co-owners or the court, manages the immovable and the reserve fund as representative of all co-owners, in their stead, and as against third parties any contractual limitations have no effect.
- (2) In the course of managing the immovable, the manager is authorised to act in proceedings before a court or other authority on behalf of all co-owners, including the power to authorise professional representatives for such proceedings.
- (3) The manager's relationship with the co-owners concerning their management of the immovable is governed by general rules on agency and special rules on the manager appointed by co-owners, unless otherwise apparent from the position of manager under the provisions of Part Three Title 4 of this Act.
- (4) The manager is obligated to protect the interests of all co-owners of the immovable to the greatest possible extent, to follow the instructions of the majority in performing acts of ordinary administration and to undertake acts of extraordinary administration with consent of all co-owners or a court order substituting it; in addition, they are obligated in particular:
- to present to each co-owner a proper report on their activities in the previous calendar year and to make available the documents on which the report is based in an appropriate manner no later than June 30 of each year,
 - to prepare a summary of planned maintenance activities and improvements, as well as foreseeable expenses and burdens for the following calendar year, and to post them in the building in an appropriate manner no later than the end of the current calendar year,
 - to collect several bids for maintenance activities recurring at intervals longer than one year, as well as for any major improvement works.
- (5) The co-owners on whose behalf the manager manages the immovable are obligated to notify all lessees in an appropriate manner of a change of the manager or changes relating to their powers that concern them; any performance rendered by unnotified lessees to a person who is no longer manager or who is no longer authorised to receive performance is deemed validly performed and releases the debtor of their obligation, but only if they did not know of the change.

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Section 5 Termination of Condominium

Destruction of an Object

Article 94

Condominium terminates if the apartment or another independent room that was the subject to it permanently ceases to be suitable for independent exercise of co-ownership powers, and the ownership of appurtenant parts terminates simultaneously.

Cancellation

Article 95

(1) Save in the event referred to in Article 94 of this Act, ownership of a unit in an immovable terminates by entry of cancellation of the registration that established condominium as the right linked to the specific co-ownership share of the immovable.

(2) For entry of cancellation referred to in paragraph 1 of this Article based on renunciation, consent is required of all co-owners and registered right-holders whose rights encumber the adequate co-ownership share.

Termination of Co-Ownership

Article 96

When the former co-owner of immovable ceases to be the co-owner of an adequate co-ownership share, the condominium established on such adequate share also terminates; however, termination of condominium does not result in the termination of co-ownership of the immovable.

Exclusion from the Co-Owners' Collective

Article 97

Each co-owner of an immovable consisting of land with a building or the right of superficies with a building must act with particular consideration toward the others in exercising their rights, otherwise the other co-owners may seek their exclusion from the co-owners' collective, under the conditions provided in Articles 98 and 99 of this Act.

Exclusion at the Request of the Majority

Article 98

(1) Co-owners who together hold the majority of co-ownership shares may decide to seek exclusion of a particular unit owner from the co-owners' collective, if any of the reasons in paragraphs 3 or 4 of this Article exist.

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(2) Where condominium is established on more than half of the co-ownership shares of an immovable, the co-owners who together hold the majority of co-ownership shares may decide to seek exclusion of any particular co-owner from the co-owners' collective, if any of the reasons for it provided in paragraphs 3 or 4 of this Article exist.

(3) The decision excluding a particular co-owner may be made:

- if the co-owner fails to comply with the duties arising from the collective, particularly if they fail to pay any amounts due before the end of the hearing preceding the judgment of the court of first instance, and if the amount owed was disputed and the court rendered an interlocutory judgment, then before the end of the first-instance hearing following the interlocutory judgment,

- if they use parts of the immovable that they own as units or parts that are also used by other co-owners in a way that significantly harms the interests of other co-owners,

- if by their reckless, rude, or otherwise indecent behaviour they make cohabitation burdensome for the other co-owners or commits a criminal act against property, morality or physical integrity of a co-owner or other resident, provided such acts are not so insignificant as to be disregarded.

(4) The acts and conduct of the co-owner's spouse and other family members residing with him, as well as persons using parts of the immovable with their consent, which they failed to prevent as far as possible, are attributed to such co-owner.

(5) Co-owners who decide to seek exclusion of a particular co-owner shall file a complaint requesting the court to declare the existence of grounds for exclusion and order the defendant to alienate their co-ownership share and vacate possession, because otherwise, at the claimant's request, which may be filed no sooner than three months after the judgment becomes final, the defendant's co-ownership share shall be sold at public auction.

(6) Upon acquisition of the co-ownership share by another person, association with the excluded co-owner terminates.

Exclusion at the Request of a Minority

Article 99

(1) If a co-owner of an immovable, unprovoked, causes harm to another co-owner by their reckless, rude or otherwise indecent behaviour, if they make cohabitation of such co-owner burdensome or if they commit a criminal act against their property, morality or physical integrity of any of their household members, and such acts are not so insignificant as to be disregarded, the injured co-owner, even without having received sufficient support from other co-owners to adopt a majority decision referred to in Article 98 paragraphs 1 and 2 of this Article, may file a complaint requesting the co-owner concerned refrain from such acts in the future.

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(2) The acts and conduct of the co-owner's spouse and other family members residing with him, as well as persons using parts of the immovable with their consent, which they failed to prevent as far as possible, are attributed to such co-owner.

(3) If such conduct continues even after the judgment ordering the defendant to refrain from it becomes final, the injured co-owner may himself file a complaint referred to in Article 98 paragraph 5 of this Act, in which case the provisions usually applicable to a complaint filed by co-owners decided to request exclusion shall apply accordingly.

Title 5 NEIGHBOURING RIGHTS

General Provisions

Article 100

(1) Neighbouring rights are powers granted by the provisions of this or other law to the owner of an immovable for the purpose of mutual considerate exercise of ownership, authorising him, with respect to the exercise of their right of ownership, to demand for their benefit that a person who is the owner of another immovable suffers, refrains from or does whatever is provided by law regarding their immovable.

(2) Where the provisions of this Act direct the owner to an act of suffering, refraining or doing for the purpose of mutual considerate exercise of ownership, the owners of other immovables that have a legitimate interest are entitled, as of right, to demand, such performance and may enforce it in judicial proceedings unless another remedy is provided. Persons who are in possession of an immovable under a right derived from the owner's right are equally entitled to make such a demand as is the owner.

(3) Neighbouring rights may be exercised only to the extent and in the manner that least limits, burdens or otherwise disturbs the person who must suffer, refrain, or act.

(4) Suffering, refraining, or doing that may be demanded from the owner of an immovable may be demanded in their stead from the person in possession of the immovable under a right derived therefrom.

(5) The provisions governing neighbouring rights of landowners apply accordingly to the owners of other immovables, including those co-owners whose co-ownership shares are subject to condominium, unless contrary to law or the nature of immovables.

Common Fence

Article 101

(1) Fences between neighbouring properties (walls, enclosures, fences, hedges, and other obstacles) as well as things that serve as boundary markers are common fences and they are co-owned by the neighbours on both side of the boundary, unless proven (especially by symbols, signs, coats of arms, or other evidence) to be the property of one of the neighbours.

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(2) Co-ownership of things that serve as common fences or boundary markers is not divisible until such things lose that purpose.

(3) Each of the neighbours may use the common fence on their side up to half of its width, they may build a blind door or place built-in cabinets and the like. However, they may not do anything that would endanger the fence or that would prevent their neighbour from using it on their side up to half the width.

(4) The expenses of maintaining a common fence is borne by its co-owners in equal parts, and they are held jointly and severally liable for any damage caused to third parties as the result of the fence not being maintained in the condition that is customary considering the purpose of the fence, the enclosed immovable, and local circumstances.

Individually Owned Fence

Article 102

(1) A fence situated exclusively on the immovable of one owner is not co-owned by the neighbours, but is in sole ownership of whoever owns the land.

(2) Each owner must enclose their space and separate it from the neighbour's space on the right side of their main entrance, viewed from the path, unless otherwise provided by law or a different local custom prevails.

(3) The owner of a fence is obligated to maintain it in good condition if there is a danger of causing damage to the neighbour, but, as a rule, they are not obligated to re-build a collapsed wall, unless so required under the provision of paragraph 2 of this Article.

Boundary

Article 103

(1) If boundary markers between two properties are damaged, regardless of the cause of such damage, to the extent that the boundaries may become non-recognizable, or the boundaries are in fact no longer recognisable, or are disputed, each of the neighbours has the right to request that the court restore or correct the boundary in a non-contentious proceeding (boundary fixing proceeding).

(2) The court shall restore or correct the boundary according to the cadastral plan if that is possible and if the parties so consent.

(3) Failing application of paragraph 2 of this Article, the court shall restore or correct the boundary according to an agreement reached between the neighbours whose boundary is in question, and if no agreement is reached, according to the last quiet possession, and if that cannot be determined – as equity requires.

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(4) At the time of issuing the order referred to in paragraphs 2 or 3 of this Article, the court shall mark the boundary on site with boundary markers.

(5) As of the moment the court marks the boundary with boundary markers, it is deemed that ownership extends up to such boundary, and whoever claims otherwise bears the burden of proof.

(6) Even after the court restores or corrects a boundary in a boundary fixing proceeding, anyone may prove ownership in civil litigation and request that the boundary be marked accordingly, but any neighbour who participated in the boundary fixing proceeding may not make such request after the expiration of six months after the order issued in the boundary fixing proceeding became final.

A Tree on the Boundary

Article 104

(1) A tree belongs to the person on whose land the trunk grows, regardless of the direction in which it leans, or where its roots or overhanging branches extend.

(2) A tree whose trunk grows on the boundary is co-owned by the neighbours on both sides of the boundary.

(3) The provisions relating to trees apply accordingly to other vegetation.

Branches and Roots

Article 105

(1) The owner may remove from their land the roots and strands of another's tree or other vegetation and cut off the branches of another's tree, as well as the parts of the trunk that extend into the airspace above their immovable, and keep them for himself or use such parts of another's tree.

(2) The owner of the neighbouring land has the right to demand compensation for any damage caused by the roots, strands, or branches of the tree of another on their immovable, which would not have occurred if their owner had acted with due care.

(3) If special regulation prohibits the owner from acting in under paragraph 1 of this Article, they nevertheless retain the right to compensation referred to in paragraph 2 of this Article.

(4) The provisions of paragraphs 1 and 2 of this Article do not apply in the event of mutually adjoining forests.

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Access to Another's Property

Article 106

- (1) If an animal, a swarm of bees or a thing enters the immovable of another, but does not become so incorporated into it as to lose its independent existence, they to whom such thing belongs may enter the land of another within a reasonable time to recover it.
- (2) The owner of the property may prohibit access to their property under paragraph 1 of this Article only if they deliver the things to their possessor without any delay.
- (3) If the animal, the swarm of bees and other things that had entered the property of another, or their recovery or retrieval caused damage to the owner of the property that the things had entered, or if the owner of the property incurred necessary costs therewith, they may retain the thing until the damage and costs are fully compensated.

Using Another's Immovable to Perform Works

Article 107

- (1) The owner of an immovable on which works necessary for its use or exploitation may temporarily use the land of another to perform works, erect scaffolding and the like, if such works cannot be otherwise accomplished.
- (2) Any person using the immovable of another for the purposes referred to in paragraph 1 of this Article is obligated to restore such immovable to its previous condition and compensate any damage according to the general provisions on tort liability.
- (3) Adequate compensation is due for the temporary use of land referred to in paragraph 1 of this Article at the request of the owner of the immovable, and such compensation may not amount to less than the one to which they would be entitled in case of partial expropriation of their land.

Installation of Utilities

Article 108

The placement of conduits and other equipment (electrical, sewage, gas, water, heating, electronic communications and others) on another's immovable without the permission of its owner is possible in the interest of the Republic of Croatia pursuant to the statutory provisions on partial expropriation, and in the private interest pursuant to the provisions on the establishment of utility servitudes by court order, unless otherwise provided by law.

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Withdrawal of Lateral Support

Article 109

- (1) The owner is not permitted to excavate their land or generally do anything on their property that can be reasonably expected to endanger the stability of another's immovable.
- (2) The owner of an immovable whose stability is endangered may demand the works referred to in paragraph 1 of this Article cease unless all measures have been taken, which can be reasonably expected to eliminate the danger to the stability of their immovable, including the placement of special structures, if necessary.
- (3) If the measures referred to in paragraph 2 of this Article cannot be performed successfully without placing special structures on the property the stability of which is endangered, its owner may demand the prohibition of actions that pose a threat to the stability of their immovable.
- (4) The owner of an immovable who placed special structures to ensure stability of another's immovable is liable for any damages caused in connection therewith, and the neighbour whose property is endangered is entitled to demand such structures be maintained in good condition appropriate to their purpose.

Nuisance

Article 110

- (1) No one may exploit or use an immovable in a manner that smoke, unpleasant odours, soot, waste water, vibrations, noise and the like reach another's immovable, either by accident or by forces of nature, if they are excessive considering use appropriate to that immovable in such time and place, or cause significant damage or are prohibited under the provisions special legislation (excessive indirect nuisance).
- (2) The owners of properties exposed to excessive indirect nuisance are entitled to demand the owner of the immovable from which such nuisance originates remove the causes thereof and to compensate for the damage caused, as well as to refrain henceforth from doing on their immovable whatever was the cause of excessive nuisance until they take all measures necessary to prevent excessive nuisance.
- (3) Notwithstanding paragraph 2 of this Article, if excessive nuisance is the result of activities permitted by a competent authority, the owners of the exposed property do not have the right to demand the owner refrains from such activity as long as the permit lasts, but they are entitled to demand compensation for damage caused by the nuisance, as well as the taking of appropriate measures to prevent future excessive nuisance and damage, or to reduce them.
- (4) An owner of an immovable is not obligated to suffer disturbances by anyone without a special legal basis directly emitting smoke, unpleasant odours, soot, waste water, vibrations, noise and the like (direct nuisance) onto their immovable by special devices or otherwise, and

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they are entitled to demand such disturbances cease and compensation for damage suffered be paid.

(5) The owner whose immovable is threatened by foreseeable danger of being exposed to direct or indirect nuisance from another's property which they would not be obligated to suffer is authorised to request that appropriate preventive measures be ordered and enforced.

Building in Danger of Collapse

Article 111

When a building or another part of someone's immovable is in serious danger of collapsing either completely or partially, thereby endangering the neighbouring immovable, the neighbour whose property is at risk may demand from the owner of the structure the taking of all measures necessary to prevent the damage from occurring and demand sufficient collateral for the compensation of future damages.

Prohibition to Altering the Natural Flow of Water

Article 112

(1) An owner of a tract of land may not to the prejudice of another tract alter the direction or the strength of the natural flow of water across their land or through it (groundwater).

(2) The owner is obligated to use land along the banks of watercourses and lakes so that it does not obstruct the natural flow of water, does not endanger the condition or use of the waterbed, the banks, and water-management structures on and along the banks, or prevent their maintenance.

(3) The owner of a downstream tract may not create or place obstacles to prevent water flowing naturally to their land from an upstream tract, nor may the owner of an upstream tract arbitrarily do anything that would particularly burden the downstream tract.

Discharge of Rainwater from a Roof

Article 113

The owner of an immovable is obligated to take all measures necessary to prevent rainwater from flowing from their building from falling on another's immovable.

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Title 6 ACQUISITION OF OWNERSHIP

Acquisition Titles

Article 114

- (1) Ownership may be acquired by way of a juridical act, a decision of a court or other competent authority, inheritance or by the operation of law.
- (2) The right of ownership is considered acquired under paragraph 1 of this Article when all conditions provided by law have been satisfied.

Section 1 Acquisition by Juridical Act

General Provisions

Article 115

- (1) Ownership passes from the former owner to the acquirer by a valid juridical act intended to effect the acquisition of ownership, and in a mode provided by law.
- (2) Ownership may not be acquired by a juridical act beyond the limits of the transferor's power to dispose of the thing, except when good faith acquisition of ownership enjoys protection.
- (3) Any juridical act intended to effect the acquisition of ownership of an immovable must be in writing to be valid, in addition to other conditions of validity.
- (4) The acquisition of ownership by a juridical act does not affect existing rights of third parties on the thing, unless otherwise provided by law to protect the person who in good faith relied on the land register or other public records intended to disclose relevant information.

a/ Acquisition of Movables

Delivery into Independent Possession

Article 116

- (1) Ownership of movables is acquired by delivery of the thing into independent possession of the acquirer based on a valid declaration of will of the former owner directed to transfer their ownership to the acquirer, unless otherwise provided by law.
- (2) If the thing is delivered into independent possession of an acquirer so that it remains in direct possession of the transferor, the transfer of ownership shall not affect the rights that third parties would acquire on the thing if at the time of acquisition, they did not know and could not have known that ownership had been transferred.

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Multiple Transfers

Article 117

- (1) If multiple people conclude juridical acts with the transferor to acquire ownership of the same movable, ownership shall be acquired by the person to whom the thing was first delivered, provided that all other conditions for the acquisition of ownership are also satisfied.
- (2) In the case referred to in paragraph 1 of this Article, relations between the transferor and the persons with whom they concluded juridical acts, but who did not acquire ownership of the movable are governed by the law of obligations.

Acquisition from Non-owners

Article 118

- (1) A person who acquires independent possession of a movable in good faith for value by a juridical act intended to acquire ownership with a possessor to whom the thing does not belong or who is not authorised to dispose of it, has acquired ownership of the thing.
- (2) The acquirer referred to in paragraph 1 of this Article acquires ownership at the moment of acquiring independent possession if the thing was delivered into their direct possession or if they already have it from before. However, if the thing is delivered into their independent possession by a declaration of will, they shall acquire the right of ownership only after the thing is delivered into their direct possession.
- (3) The acquirer is in good faith if neither at the moment of concluding the act nor at the moment of receiving direct possession did they know or had sufficient reason to suspect considering the circumstances that the thing did not belong to the transferor.
- (4) The provision of paragraph 1 of this Article does not apply if the thing was stolen from its owner or the person through whom they possessed it or if it was lost or misplaced; except for the acquisition of banknotes, bearer paper or at public auction.
- (5) The rights of third parties encumbering a movable are extinguished with the acquisition of ownership from a non-owner; however, the rights of third parties of which the acquirer knew or should have known at the time of acquiring ownership remain unaffected.

b/ Acquisition of Immovables

Registration of Ownership in the Land Register

Article 119

- (1) Ownership of an immovable is acquired by the registration of the acquirer's ownership in the land register as provided by law, based on a valid declaration of will of the former owner directed to transfer ownership to the acquirer, unless otherwise provided by law.

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(2) The provisions of this Act on the acquisition of ownership of an immovable by registration in the land register apply accordingly to any changes and termination of ownership based on juridical acts.

(3) The method of establishing and maintaining the land register and the method of registration are regulated by the provisions of land registration law.

Acquisition by Entry

Article 120

(1) Ownership of an immovable is acquired by entry in the land register, unless provided by law that ownership of an immovable is acquired by some other registration in the land register.

(2) For registration of ownership, an instrument concerning the juridical act which is the basis for the acquisition of ownership must be executed, the content and form of which must comply with the rules of land registration law.

(3) Registration is effective as of the moment of submitting a request for registration to the court.

(4) Ownership of an immovable not registered in the land register is acquired by recording with the court an authenticated instrument suitable for registration, by which the former owner allows registration of another's ownership, and the rules on acquisition by registration shall apply accordingly.

Acquisition by Provisional Entry

Article 121

(1) If not all conditions for entry provided by land registration law are satisfied, and an entry of ownership has been requested, the acquisition ownership shall be entered provisionally provided the minimum conditions allowing such provisional entry are satisfied.

(2) Ownership shall be acquired by provisional entry, provided that such provisional entry is subsequently substantiated.

(3) Provisional entries are substantiated in the manner and within time limits provided by land registration law.

(4) If a provisional entry is subsequently substantiated, ownership is deemed acquired as of the moment of submitting the request for entry of ownership in the land register to the court.

(5) In the case referred to in paragraph 1 of this Article, ownership of immovables that are not registered in the land register is acquired by filing with the court an authenticated instrument

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suitable for provisional entry, to which the rules on acquisition by provisional entry apply accordingly.

Protection of Reliance on the Land Register

Article 122

(1) The land register is presumed to reflect the factual and legal situation of an immovable accurately and completely, and any person who in good faith relies on the land register, not knowing that what is registered therein is not complete or differs from the state not of record, shall enjoy protection with respect to such acquisition in accordance with law.

(2) The acquirer was in good faith if neither at the moment of concluding the act nor at the moment of requesting registration did they know or had sufficient reason to suspect considering the circumstances that the thing did not belong to the transferor

(3) Absence of good faith cannot be imputed against anyone solely because they did not investigate the state not of record.

Effect of Reliance on Accuracy

Article 123

(1) The acquirer acquires an immovable by virtue of registration as if from its owner if, having relied on the land register, they acquire the immovable in good faith from a person who was registered as owner of the immovable, though not actually such, and if their entry is not cancelled for invalidity.

(2) The cancellation referred to in paragraph 1 of this Article may be requested for inaccuracy (invalidity) of the predecessor's registration by way of a cancellation complaint no later than three years after the predecessor's registration was requested; but the person who was duly notified of the predecessor's inaccurate registration may request cancellation for inaccuracy of the predecessor's registration only if they, within the appeal period, requested a dispute notice for that registration and immediately or no later than 60 days after expiration of the appeal period, filed a complaint against those who acquired a right by the contested registration or procured further registrations in the land register based on it.

Effect of Reliance on Completeness

Article 124

(1) An acquirer who, having relied on the land register, acquired ownership of an immovable in good faith has acquired the immovable as if there were no rights, encumbrances or limitations for the benefit of third parties insofar as at that time they were not registered nor was it visible from the land register that their registration had been requested.

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(2) An acquirer who, although having relied on the land register, made an acquisition in good faith does not enjoy protection of reliance on completeness referred to in paragraph 1 of this Article regarding such rights, encumbrances and limitations that exist by the operation of law and which are not subject to land registration.

Multiple Transfers

Article 125

(1) If multiple persons concluded juridical acts with the transferor to acquire ownership of the same immovable, ownership shall be acquired by the person who was the first request registration in the land register in good faith, provided that all other conditions for the acquisition of ownership are also satisfied.

(2) Cancellation of the registration of ownership of the person in paragraph 1 of this Article and registration for their own benefit may be requested by the person to whom the transferor conveyed the immovable and delivered it into independent possession if they prove that the acquirer failed to act in good faith, because at the moment of concluding the juridical act with the transferor the acquirer knew that the immovable had been validly conveyed and delivered into another's independent possession. Cancellation may be sought within three years of the registration whose cancellation is sought.

(3) Relations between the transferor and the persons with whom they concluded juridical acts, but who did not acquire ownership of the immovable, are governed by the law of obligations.

Section 2 Acquisition by Decision of the Court or Other Authority

Effect of the Decision

Article 126

(1) Ownership is acquired by a decision of the court or other authority in cases provided by law and in a mode and under the conditions provided by law.

(2) Ownership is acquired at the moment the decision of the court or other authority becomes final, unless otherwise provided by law or dictated by the purpose for which the decision was rendered.

(3) The acquisition of ownership by a decision of the court or other authority does not extinguish property rights held by others on the thing, except for those specified in the decision or special legislation, or which by virtue of their very nature cannot continue to exist.

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Of Immovables in Particular

Article 127

- (1) Any person who acquires the right of ownership of an immovable by decision of the court or other authority is authorised to have the acquired right of ownership registered in the land register.
- (2) Ownership of an immovable acquired by decision of the court or other authority may not be asserted against the right of a person who, having relied on the land register, had registered their right on the immovable in good faith before the right acquired by the decision of the court or other authority was registered.

Section 3 Acquisition by Succession

Article 128

- (1) An heir acquires ownership of the things inherited at the moment of opening of the estate, unless otherwise provided by law.
- (2) The heir is authorised to have their right of ownership of an immovable registered in the land register.
- (3) The acquisition of ownership by succession does not extinguish property rights held by others on the thing, except for those provided by law, or which by virtue of their very nature cannot continue to exist.
- (4) All provisions relating to succession apply accordingly to every case of universal succession.

Section 4 Acquisition by Operation of Law

a/ In General

Effect of Statutory Conditions

Article 129

- (1) If the law provides that ownership is acquired upon fulfilment of certain conditions that are neither a juridical act nor a decision of the court or other authority based on which ownership is acquired nor succession, the person for whom such conditions are satisfied acquires the right of ownership at the moment such conditions are satisfied.
- (2) Unless otherwise provided by law, the acquisition of ownership by the operation of law extinguishes all property rights that existed on the thing prior thereto, except for those of which the acquirer knew or should have known.

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(3) Relations between the former owner and persons whose rights on the thing were extinguished because of the acquisition of ownership by the operation of law are governed by the rules of the law of obligations, unless otherwise provided by law.

Of Immovables in Particular

Article 130

(1) Any person who acquires the right of ownership of an immovable by the operation of law is authorised to have such ownership registered in the land register.

(2) Ownership of an immovable acquired by operation of law may not be asserted against the right of a person who, having relied on the land register, had registered their right on the immovable in good faith before the right acquired by operation of law was registered.

b/Acquisition by Appropriation and Find

Appropriation

Article 131

(1) A person who takes independent possession of a movable not owned by anyone with the intent to appropriate it shall acquire ownership of such thing, unless otherwise provided by law.

(2) For movables not owned by anyone and which can be obtained or used only with a special permit issued by a competent authority, ownership may be acquired by appropriation only by a person holding such permit.

(3) Things that pursuant to special legislation may only be owned by the Republic of Croatia or a unit of local (regional) self-government cannot be acquired by appropriation; but for things whose purpose includes appropriation (e.g. minerals, fish, water from watercourse and the like), any person authorised to appropriate by law or by an permit issued under the law, acquires ownership of what they appropriated under and within the scope of such authority, unless otherwise provided by law.

(4) Ownership of an unowned immovable may not be acquired by appropriation.

Abandoned Things

Article 132

(1) In addition to things that are originally ownerless, things abandoned by their owner are also ownerless if the owner thereby renounced their right of ownership.

(2) Movables ownerless as of the moment their owner abandons possession of such movable with the intention of renouncing ownership.

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(3) The property of another may not be acquired by appropriation; in case of doubt, it is deemed that the thing concerned belongs to someone; however, a tamed animal is deemed ownerless if it remains absent on its own for forty-two days, and a swarm of bees is deemed ownerless if the owner failed to recapture them in two days.

(4) An abandoned co-ownership share of a movable is accretes to the shares of other co-owners in proportion to their co-ownership shares.

Of Abandoned Immovables in Particular

Article 133

(1) An immovable is ownerless only when ownership has been cancelled in the land register based on a declaration renouncing ownership in the form of an instrument suitable for land registration.

(2) An abandoned immovable passes into the ownership of the Republic of Croatia by operation of law, unless otherwise provided by law.

(3) The conditions under which land totally neglected in cultivation or buildings dilapidated through disrepair are presumed abandoned and taken by the Republic of Croatia is governed by special regulation.

Lost Things and Finders

Article 134

(1) A thing lost or misplaced by the owner or stolen from him does not thereby cease to be owned by him, and the finder is obligated to deliver it without delay to the person who lost it, or to the owner if they can identify him based on markings on the thing or other circumstances, and they are not difficult to reach.

(2) A finder who fails to deliver the thing they found to whomever lost it, or its owner, is obligated to deliver it without delay to the nearest lost property bureau personally through the person in whose premises, vehicle or other location they found it, who shall deliver it to the nearest lost property bureau on behalf of the finder; the finder is not obligated to deliver the thing to the nearest lost property bureau only if its value is generally considered negligible.

Lost Property Bureau

Article 135

(1) The lost property bureau must receive in deposit any thing found, keep it for the person who lost it, or its owner, and to take all measures necessary for safekeeping.

(2) The lost property bureau shall entrust all things that it is not able or willing to keep to a reliable custodian.

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(3) If the thing is perishable or if its safekeeping or maintenance requires expenses disproportionate to its value, it shall be sold at public auction and the proceeds deposited with the court.

Return of Things

Article 136

(1) If the person who lost the thing or its owner comes forward within one year of the publication of a notice and proves that they lost the thing, or that they are its owner, the thing or the proceeds of its sale shall be delivered to them after repayment of any necessary expenses related to the found thing, as well as the finder's reward.

(2) In case of doubt as to which of the multiple persons the found thing should be delivered, and if the circumstances do not indicate another person, priority shall be given to the person who lost it from direct possession.

(3) The lost property bureau must immediately notify the finder in writing of the delivery of the thing to the person who proved ownership or loss of possession and deliver to him a finder's reward.

Finder's Reward

Article 137

(1) The finder is entitled to a finder's reward of 10% of the market value of the thing and to the compensation of any necessary costs that they incurred in relation to the found thing.

(2) The finder is also a person who first spotted the thing and reached for it, although another person captured it first. Several persons who found a thing together are entitled to the finder's reward in equal parts.

(3) A person who should pay the finder's reward may demand an equitable reduction of the amount of the finder's reward if the finder's reward would represent a disproportionately high benefit in view of the circumstances of the finder and the person obligated to pay the finder's reward, as well as the circumstances under which the thing was lost and found.

(4) If the value of the found thing cannot be determined or if it has value only for its owner or the person who lost it, the finder may request a fair amount of the finder's reward be determined.

(5) The person owing expenses and the finder's reward may be released from their obligation by renouncing the thing, in which case it shall be deemed that such person never came forward.

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Delivery of the Thing to the Finder

Article 138

(1) If the person who lost a thing or the owner do not come forward within one year of the date of publication of the notice of the find or if they fail to prove the right to the thing or if they refuse to receive it, the found thing or the proceeds of its sale shall be delivered into direct possession of the finder.

(2) If the person who lost the thing or the owner come forward at a later date, the finder must return the thing with any benefits obtained or any money received for it with interest, after deducting any necessary expenses, and the person to whom the thing has been returned shall pay the finder's reward.

Acquiring Ownership of Things Found

Article 139

(1) The finder may acquire ownership of a thing found or the money received for it subject to the conditions for acquiring a thing by adverse possession, where their possession of the thing found is considered in good faith if they do not know nor should know to whom the thing belongs.

(2) The finder who failed to act in accordance with the provisions of Articles 134 through 136 and Article 138 paragraph 2 of this Act cannot acquire ownership of the thing by adverse possession and is not entitled to a finder's reward.

Treasure Trove

Article 140

(1) Treasure for the purposes of this Act means money, valuables and other things of value hidden for such a long time that their owner can no longer be identified.

(2) The finder is obligated to take possession of the treasure found on behalf of the Republic of Croatia, whereby it becomes the property of the Republic of Croatia if it truly does not have an owner.

(3) The finder is obligated to immediately notify the nearest lost property bureau about the treasure found and deliver it to the lost property bureau, and until such delivery take the measures necessary to prevent the treasure from being destroyed, damaged or stolen.

(4) The lost property bureau is obligated to immediately notify the competent state authority for the protection of cultural monuments or the state archives about the treasure or archival material of general cultural interest, which are authorised to take such things into possession and safekeeping, unless otherwise provided by law.

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(5) The finder and the owner of the immovable in which the treasure was found have the right to a reasonable reward from the Republic of Croatia, which may be no less than the amount of the finder's reward that would be paid for another's found thing nor greater than the value of the treasure found, and they are also entitled to reimbursement of necessary expenses.

(6) One half of the reward referred to in paragraph 5 of this Article belongs to the finder, and the other to the owner of the immovable, but if either of them attempted to conceal the treasure find, they shall not be entitled to any reward or reimbursement.

(7) The Republic of Croatia may be released from the obligation to pay the finder's reward and reimbursement of expenses for the treasure by renouncing the thing and delivering the treasure into independent co-possession of the finder and the owner of the immovable, in which case the provisions of this Act on delivery of a thing to a finder and acquiring ownership of things found shall apply accordingly.

(8) The provisions on the right of the owner of the immovable to a reward apply accordingly to the holder of the right of superficies if the treasure was found in a building that is a component of the land on which such holder has the right of superficies.

c) Acquisition of Accessions

Acquisition by Separation

Article 141

(1) Fruits and everything that separates from a thing belong to the owner of the thing even after separation, unless otherwise provided.

(2) If another person possesses as an independent possessor a thing that belongs to another from which fruits or other items were separated, the other person becomes the owner of the separated items by way of separation, unless if at such moment they were not a good faith possessor of the thing belonging to another.

(3) Notwithstanding paragraphs 1 and 2 of this Article, the owner or an independent possessor of a thing does not acquire ownership of the fruits and items separated from the thing if ownership is acquired by another person pursuant to the rules of Articles 142 and 143 of this Act.

Acquisition by Virtue of a Limited Property Right

Article 142

(1) A person entitled to the ownership of fruits or other parts of a thing belonging to another by virtue of a limited property right shall become their owner when they separate from the owner's thing; but, if their right merely entitles him to take ownership of the fruits or parts of a thing, they shall become their only when they collect them for himself.

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(2) If the fruits or parts are separated from a thing in possession of a person possessing under colour of a limited property right under which such person would receive ownership of the fruits or other parts of the thing, they become owner of the separated items by way of separation, unless if at such moment they were not a good faith possessor of the thing belonging to another.

(3) The holder of a limited property right on a thing or another person who possesses the thing under colour of such right does not acquire ownership of the fruits and other separated items if ownership is acquired by another person under the rules of Article 143 of this Act.

Acquisition by Virtue of a Personal Right

Article 143

(1) A person entitled, by virtue of on an obligatory right, to fruits and other parts of another's thing delivered into their possession, possessing the it at the moment of separation of such fruits or parts of the thing, shall acquire ownership thereof by way of separation; if they do not have the thing in possession at such time, they shall acquire them only when they receive them into possession.

(2) If a thing from which fruits or parts were separated is in possession of another person as if they were the holder of an obligatory right based on which they would be entitled to ownership of the fruits or other products of the thing, by such separation such person shall have become the owner of the separated fruits or parts, but only if at such time they were a good-faith possessor of the thing of another.

Fruits of Animals

Article 144

(1) Fruits of an animal and all other benefits derived therefrom belong to the owner or other person pursuant to the rules provided in Articles 141 through 143 of this Act.

(2) A person whose animal impregnates the another's animal has no right to offspring or to an award unless otherwise provided by law or custom.

Land Accretions

Article 145

(1) If an island forms in the middle of a watercourse that is not a common good, and if nothing else is provided by special legislation, the island shall legally accrete to the riparian lands lengthwise along both banks, and in width up to the midline of the watercourse.

(2) If in the case under paragraph 1 of this Article the island formed on one half of the watercourse, the owner of the nearer bank shall have an exclusive right to it.

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(3) The provisions on the acquisition of islands formed in a watercourse by accretion do not apply to islands formed due to drying of the watercourse, bifurcation of the stream into several branches, or by flooding of land, as in such cases existing rights remain unaffected.

Article 146

(1) If a watercourse changes its course, the concerned riparian owners have the right restore the former course at their expense within three years, unless that would be contrary to the watercourse regulation plan or the provisions special legislation.

(2) If the previous course is not restored, the landowners who suffer damages due to the new course are entitled to compensation from the abandoned riverbed or its value, unless otherwise provided by special legislation.

(3) Except in the case of compensation under paragraph 2 of this Article, an abandoned riverbed belongs to the riparian owners in accordance with the rules governing acquiring ownership of islands, unless otherwise provided by special legislation.

Article 147

(1) If a watercourse avulses a portion of the land and attaches it to another tract, the owner of the avulsed portion of land may reclaim it within one year.

(2) Upon expiration of the term referred to in paragraph 1 of this Article, the avulsed piece of land that was not reclaimed shall become a component part of the land to which it was attached, and ownership of the latter shall thereto extend.

(3) Soil deposited on a bank belongs to the owner of the riparian land.

Transformation, Union, Commixing and Building with the Another's Materials

Article 148

(1) A person who transforms, unites, or commingles or commixes the movables of another with their own, or if this occurs involuntarily acquires no right to another's property, unless they have a title for such acquisition.

(2) If the things that were transformed may be restored to their previous condition without disproportionate expenses, or if the things united, commingled, or commixed may be separated without incurring disproportionate expenses, to each shall be returned their own, and the rules of the law of obligations determine whether and who has the right to demand compensation, and from whom.

(3) If a person transformed, united, commingled, or commixed the things of another with their own, thereby creating a new thing of special artistic or other cultural value that would be destroyed by restoration of transformed things to their previous condition, or by separation of

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things united, commingled, or commixed, such person has the right to request the court to restoration or separation.

Involuntary Co-Ownership

Article 149

(1) If restoration to their previous condition or the separation of the transformed, united, commingled, or commixed things is impossible or prohibited, and a new thing has been created according to common understanding, then absent a title under which the thing would belong to another, it shall be co-owned by all participants, in proportion to the value of their things and useful labour at the moment of creation, and the rules of the law of obligations determine whether and who has the right to demand compensation, and from whom.

(2) The co-owner whose thing was transformed into a new thing through the fault of the other co-owners has the right to partition such co-ownership by keeping the whole thing for themselves and compensating the others for the value of their shares or by transferring it to them for consideration; if there is no fault of either party, the person whose thing was more valuable has the right to purchase the whole thing.

Accession to the Principal Thing

Article 150

(1) If restoration to the previous condition or separation is impossible without disproportionate expenses, and no new thing was created, but another thing has accreted to the principal thing becoming its component, or another's labour or funds were invested therein, the ownership of the principal thing subsists, and extends to all accreted thereto or invested therein, and the rules of the law of obligations shall determine whether and who has the right to demand compensation, and from whom.

(2) If an owner of land constructs a building thereon with another's materials, or generally incorporates into their immovable another's thing that may not be separated from it without disproportionate expenses, or if someone else does so, ownership of the immovable shall extend thereto, and the former owner of the materials or incorporated things shall have the right to claim compensation according to the rules of the law of obligations.

(3) The provision of paragraph 2 of this Article applies accordingly to the holder of the right of superficies who constructed a building by using another's materials or into whose building either they or someone else incorporated something that belongs to another.

Effect on Limited Property Rights

Article 151

(1) When a movable ceases to exist independently by transformation, union, commingling, or creating a mixture, by building with another's materials or its incorporation into one's

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immovable, all limited property rights also terminate, except those that by their very nature may exist on the compensation to which the former owner is entitled.

(2) All leases on the thing terminate when the thing ceases to exist under paragraph 1 of this Article.

(3) Whether the persons whose rights terminated under the provisions of paragraphs 1 and 2 of this Article have the right to claim compensation, and from whom is governed by the law of obligations.

Building on Another's Land

Article 152

(1) A building erected on the land of another without the knowledge or permission of the owner of such land belongs to the owner of the land.

(2) The owner has the right to demand that the land with the building be delivered into their possession, and the builder may claim compensation from the owner if they are entitled to do so under the rules of the law of obligations.

(3) A landowner having a legitimate interest therein may demand restoration to the previous condition instead of exercising the right referred to in paragraph 2 of this Article, and in that case the builder must to comply with such request without claiming any compensation but they are entitled to take all materials that belonged to them.

(4) The owner's right to compensation from the builder is determined according to the rules of the law of obligations.

(5) For the purposes of this Act, a building is any structure relatively permanently affixed to the parcel of land on its surface or below it, and the building considered built when it is fit for the intended use of such buildings.

Good-Faith Builder and Bad Faith Owner

Article 153

If the landowner knew about the construction and did not immediately prohibit a good-faith builder from further works, the parcel of land with the building constructed on belongs to the builder, and the former landowner shall only have the right claim the market value of the land.

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Builder and Landowner Both in Bad Faith

Article 154

(1) If the builder was not in good faith, the building belongs to the owner of the land even if they did not immediately prohibit further construction, but in such case the landowner has no right to demand restoration to the previous condition.

(2) In the case under paragraph 1 of this Article, the builder is entitled to restore the previous condition at their own expense and to reclaim their building materials incorporated into the building, but not after the expiration of the period within which, following the finality of the court order, they should voluntarily deliver possession of the land with the building on it to the owner.

Encroachment by Construction

Article 155

(1) If by construction of a building a boundary was crossed and a part of the adjoining land next to the boundary was encroached upon, the owner of such adjoining land has the right to demand restoration to the previous condition.

(2) Until restoration to the previous condition is completed, it is deemed that the owner of the building is granted a predial servitude of having a part of their building on neighbouring land until revoked.

(3) The owner of the land on which a part of another's building stands has the right to periodic payments equal to the rental value of the encroached land, which the owner for the time being of the building is obligated to pay to the owner for the time being of the encumbered land for as long as there is the part of the building on such land; the foregoing does not affect the right to compensation for damages.

(4) The owner of the land on which a part of the building of another was constructed has the right to demand the owner of the building purchase their entire parcel at a fair market value; the owner of the building who was a bona fide builder may demand the same, if the owner of the land demanded restoration to the previous condition, and such restoration is impossible without significant damage to other parts of the building or disproportionately high expenses.

Horizontal and Vertical Extensions, Remodelling, and Investments

Article 156

(1) Ownership cannot be acquired by adding horizontal or vertical extensions, by remodelling buildings or rooms in co-owned, jointly owned or another's buildings, nor by annexes, installations, or investments therein, unless otherwise provided by the owner of the immovable with these extensions or annexes.

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(2) The rules of the law of obligations govern whether the person who performed extensions or remodelling of a building or room referred to in paragraph 1 of this Article, or who invested therein is entitled to compensation.

Building on Another's Right of Superficies

Article 157

Where construction took place on a land encumbered by another's right of superficies, the holder of such right has the rights and obligations of the landowner under Articles 152 through 155 of this Act.

Sowing and Planting

Article 158

(1) Plants that take root on a parcel of land belong to the owner of the land, regardless of who owned the seeds or seedlings, and the relationship with the owner of the seeds or seedlings is governed by the rules of the law of obligations.

(2) The provision of paragraph 1 of this Article regarding plants that took root also applies to plants that cannot be separated from the immovable without disproportionately high expenses.

d/ Acquisition by Adverse Possession

Article 159

(1) Ownership of a thing by adverse possession is acquired by independent possession of the thing if the possession has qualities prescribed by law and was uninterrupted for the period of time prescribed by law, and the possessor is capable of owning such a thing.

(2) An independent possessor whose possession of a movable is lawful, peaceable and in good faith acquires ownership by adverse possession after three years, and such possessor of an immovable after ten years of uninterrupted independent possession.

(3) An independent possessor of a movable whose possession is at least in good faith acquires ownership by adverse possession after ten years, and such possessor of an immovable after twenty years of uninterrupted independent possession.

(4) An independent possessor of a thing owned by the Republic of Croatia, the counties, local self-government units and regional self-government units and any legal persons of equal status, as well as things owned by the church or other legal persons not seeking profit for themselves, but serving various charitable or other generally useful purposes, acquire ownership by adverse possession of a thing only after their lawful, peaceable and good faith, or at least good faith, independent possession continuously lasted uninterrupted for twice the period referred to in paragraphs 2 and 3 of this Article.

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Course of Time

Article 160

- (1) Time needed for adverse possession begins on the day on which the possessor assumes independent possession of a thing, and ends upon expiration of the last day of the period required for adverse possession.
- (2) The time during which predecessors of the present possessor had uninterrupted possession as lawful, good faith, and peaceable independent possessors, or as good faith independent possessors is counted toward the period required for adverse possession.
- (3) An heir becomes a good faith possessor as of the moment the estate is opened even if the decedent was a bad-faith possessor, but not if the heir knew or should have known thereof.
- (4) When, with respect to a good-faith possessor whose possession is not lawful and peaceable, the time period over which their predecessor had possession of the thing lawfully, in good faith and peaceably is counted towards the period for adverse possession, ownership shall be acquired after the remaining time required for a good-faith possessor to acquire a thing by adverse possession has elapsed.
- (5) When, with respect to a lawful, good-faith, and peaceable possessor the time period over which their predecessor had possession of the thing in good faith, but not lawfully and peaceably is counted toward the period for adverse possession, ownership shall be acquired after the remaining time required for a good-faith possessor to acquire a thing by adverse possession has elapsed, unless they have already acquired the thing because their lawful, good-faith and peaceable possession lasted over a period necessary for a lawful, good-faith and peaceable possessor to acquire ownership by adverse possession.
- (6) The provisions on interruption or suspension of the running of statute of limitations for claims apply accordingly to the interruption or suspension of the running of adverse possession.

Title 7 Protection of Ownership

Owner's Action to Recover a Thing

Article 161

- (1) The owner has the right to demand that any person who has their thing in possession deliver the possession of the thing to him.
- (2) The owner's right referred to in paragraph 1 of this Article does not prescribe, unless otherwise provided by law.

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(3) A person who alienated a thing on their own behalf at a time when the thing was not theirs, although they acquired ownership later, does not have the right referred to in paragraph 1 of this Article.

Revendication

Article 162

(1) To exercise their right in a court proceeding or in a proceeding before another competent authority to demand the person who possesses their thing to surrender their possession to them, the owner must prove that the thing claimed is owned by them and that it is in the possession of the defendant.

(2) The owner must describe the thing claimed by its characteristics that distinguish it from other fungible things, so they may not claim things such as banknotes mixed with other banknotes or bearer paper mixed with other bearer paper, unless there are circumstances from which the plaintiff can prove their ownership and the defendant should have known they may not appropriate the thing.

(3) A defendant who conceals in court that they possess the thing, and it is proven that they have it in possession, must for that very reason surrender the thing into the plaintiff's possession but they reserve the right to revendicate it; a person falsely claiming to possess a thing, thereby deceiving the plaintiff, is liable for all resulting damages.

(4) A defendant who possessed a thing and abandoned possession after being served a complaint must deliver it to the plaintiff or compensate him for the full value of the thing, if they choose not pursue the true possessor.

Possessor's Defences

Article 163

(1) The possessor has the right to refuse to surrender the thing to its owner if they have a right that entitles them to possess the thing (right to possession).

(2) The possessor has the right to refuse to surrender a thing to its owner if they derive their right to possession from an indirect possessor who has the right to possession of the thing, except if the possessor received possession from an indirect possessor who was not authorised to deliver it to them.

(3) If surrender of the thing to the owner is sought against a possessor of a thing alienated by way of transfer of indirect possession, they may raise any defences based on their right to possession against the new owner that they could have raised against the transferor.

(4) If the defendant is a dependent possessor, they may defend themselves against an action to surrender possession of a thing by naming an indirect possessor whose superior authority they recognise and from whom they derive their possession.

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Legal Status of a Good-Faith Possessor

Article 164

- (1) A good-faith possessor of another's thing having no right to possess it must surrender it to the owner or to the person designated by the owner, but they are not liable for compensation for its use and benefits corresponding to such right to possession they believed they held, nor does they need to compensate for damage or destruction caused thereto.
- (2) If the owner demands the possessor surrender the thing, a good-faith possessor may claim reimbursement for necessary and useful expenses, and withhold the thing such reimbursement.
- (3) Any expense by which a good-faith possessor changed the intended use of the thing is not considered useful if it is not useful to the owner.
- (4) A good-faith possessor cannot seek reimbursement for expenses which are neither necessary nor useful, but, if no compensation is offered to them, they may remove and take the additions made at their expense, provided this can be done without damaging the thing itself.
- (5) The value of fruits and other benefits derived from the thing shall be deducted from the expenses that the possessor justifiably claims.
- (6) Expenses and the value of fruits are calculated at prices prevailing at time of reimbursement.
- (7) The right to reimbursement of necessary and useful expenses prescribes three years from the surrender of the thing.

Legal Status of a Bad-Faith Possessor

Article 165

- (1) The bad-faith possessor of another's thing must surrender the thing to the owner or to the person designated by the owner, and is liable for all damages to it and all benefits derived for the duration of their possession, including those that the thing would have yielded had they not neglected them.
- (2) The owner's claim for compensation referred to in paragraph 1 of this Article prescribes three years from the surrender of the thing.
- (3) The bad-faith possessor may claim reimbursement of such expenses necessary for the owner; this right prescribes three years from the surrender of the thing.
- (4) A bad-faith possessor is not authorised to withhold the thing until they receive reimbursement of the expenses claimed, but must surrender the thing without any delay.

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(5) A possessor is entitled to remove and take what they added at their own non-reimbursable expense, provided this can be done without damaging the thing itself.

(6) From the moment a good-faith possessor enters into bad-faith, their rights and obligations are governed by the rules provided for a bad-faith possessor; the same applies to actions taken by the good-faith possessor with respect to the thing inconsistent with the right to possession they believed they held.

Action of a Presumed Owner

Article 166

(1) Any person who proves in a court proceeding or in a proceeding before another competent authority a title and a peaceable mode of their acquisition of the thing shall be presumed owner of the thing (presumed owner) as against any person in possession of the thing with no title or a weaker title.

(2) Upon request of a presumed owner, a possessor having no title for possession or a weaker title, due to their possession being in bad faith or unlawful, or because they cannot identify their predecessor or can only identify a dubious one, or because their possession of the thing was acquired gratuitously, and the one reclaiming possession acquired it for value, shall surrender possession; however, a possessor having an equally strong title as the presumed owner shall need not surrender possession of the thing.

(3) The presumption of ownership does not benefit a person who was not a good-faith possessor of the thing.

(4) Instead of proving ownership, the presumed owner must provide proof of facts from which their ownership is presumed and of facts relevant for the justification of their claim against the possessor of the thing under paragraphs 1 and 2 of this Article; otherwise the presumed owner's action, the possessor's defences and the legal status of possessors in good or bad faith who must surrender a thing to the owner are governed accordingly by the rules applicable to revendication, unless otherwise provided by law or unless contrary to the legal nature of the presumed owner's action.

Protection Against Disturbances

Article 167

(1) If a third party unlawfully disturbs the owner in any way other than by dispossession, the owner may petition the court to order the disturbance to cease.

(2) To exercise their right referred to in paragraph 1 of this Article in a court proceeding or in a proceeding before another competent authority, the owner must prove that they are the owner of the thing and that another person is interfering with their exercise of powers over the thing; if such person claims to have a right to act so as to disturb by the owner, they have the burden of proof.

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(3) If damages are caused by disturbances referred to in paragraph 1 of this Article, the owner is entitled to claim compensation according to general tort law.

(4) The right to protection, like that of a proven owner extends to the person who proves the title and peaceable mode of acquiring possession of the thing (presumed owner) in a court proceeding or in a proceeding before another competent authority; but no right to protection against disturbances belongs to a person who was not a good-faith possessor of the thing. The rules governing the presumed owner's action apply accordingly to the right to protection of the presumed owner against disturbances.

Protection Against Infringement by Registration in the Land Register

Article 168

If a person interferes with the owner's right of ownership by means of invalid registration in the land register, the owner may seek protection using the remedies provided by land registration law for the protection of registrable rights.

Title 8 Termination of Ownership

Destruction of the Thing

Article 169

(1) Ownership terminates once the thing subject to it is destroyed but, if any remains of the thing remain, the owner retains ownership on them.

(2) Ownership also terminates when the thing accretes to another thing by becoming its part not legally separated from it on a special legal basis.

Removal from Commerce

Article 170

Ownership terminates by operation of law when a provision renders a thing no longer subject to ownership, in which case the former owner is treated as if the thing had been fully expropriated.

Acquisition by Another

Article 171

Ownership terminates completely when another person acquires ownership of a thing by original acquisition, while in the case of transfer of ownership to another person it terminates only for the former owner.

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Renunciation

Article 172

- (1) The right of ownership of a movable terminates if the possession of such movable is abandoned, constituting renunciation of ownership.
- (2) The right of ownership of an immovable terminates by renunciation only when the right is cancelled in the land register on the basis of a declaration of renunciation of ownership, issued in the form of an instrument suitable for land registration, unless otherwise provided by law.
- (3) If ownership is registered in the land register, it terminates only upon its cancellation.

Termination by Operation of Law

Article 173

- (1) Ownership terminates in cases provided by special legislation, under the conditions and in a mode determined by such law.
- (2) If the right of ownership of an immovable terminates pursuant to special legislation irrespective of cancellation in the land register, such termination of ownership shall not prejudice those who neither knew nor needed to know thereof and no one can be held at fault for failing to investigate the state not of record.

Part Four SERVITUDES

Title 1 OF SERVITUDES IN GENERAL

Right of the Holder

Article 174

- (1) A servitude is a limited property right on another's thing authorising the holder of such right to use that thing in a specific manner (servient estate), whoever the owner may be, and obligating its owner for the time to suffer or refrain from something in respect thereof.
- (2) The manner in which the holder of a servitude is authorised to use the servient estate is determined at the moment of establishing such servitude; if the servitude is established by juridical act, the owner of the servient estate determines the way in which the holder of the servitude is authorised to use the servient estate of their own will or by agreement with the acquirer; if it is established by decision of the court or other authority, it is determined by such decision; otherwise, it is determined by law.
- (3) A servitude has the content with which it is established, unless lawfully modified at a later date; whoever asserts modification has the burden of proof.

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Purpose

Article 175

- (1) Every servitude must have a reasonable purpose.
- (2) If the purpose of a servitude is better and more beneficial administration of an immovable, the servitude is predial; otherwise it is personal.

Holders of Servitudes

Article 176

An immovable may be encumbered with a servitude either for the benefit of the owner for the time being of a particular immovable (dominant estate) or the holder of the right of superficies on it, or for the benefit of a specific person.

Exercise of Powers

Article 177

- (1) The holder of a servitude may exercise the powers conferred to them under their right as they wish but not by extending them beyond, only by restricting them to the extent permitted by the nature and purpose of the servitude.
- (2) The holder of a servitude must act considerately in exercising their powers, so as to burden the servient estate as little as possible.
- (3) The owner of a servient estate must not do anything that would prevent or substantially hinder the exercise of the servitude; however, they are not required to do anything, unless otherwise provided.

Modification of the Manner of Exercise

Article 178

- (1) The holder of a servitude may modify as they wish the manner of exercise of their powers with respect to the content and location on the servient estate, provided this does not materially alter the manner in which it has been exercised so far.
- (2) If the modification would materially alter the present manner of exercise of powers, the modification is permitted only in agreement with the owner of the servient estate, and if such modification would interfere with the present manner of exercise of other property rights on the same thing – then also in agreement with the holders of such other rights.
- (3) To the modification referred to in paragraph 2 of this Article, the rules applicable to the establishment of a servitude by juridical act apply accordingly.

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Relocation

Article 179

- (1) Servitudes are an encumbrance on the entire servient estate but if they are continually exercised only over a part thereof, the owner of the servient estate may demand exercise be relocated to another location equally convenient for the holder, if the exercise at the present location has become particularly burdensome for the owner.
- (2) The costs of relocating a servitude are borne by the owner of the servient estate.
- (3) The owner's right under paragraph 1 of this Article may not be waived or restricted by juridical act.

Exercise of Multiple Servitudes on the Same Servient Estate

Article 180

- (1) An immovable may be encumbered with multiple servitudes, but a later servitude may not restrict the exercise of those preceding it in the order of priority.
- (2) If a servitude or another rentcharge granting the right to benefits has the same order of priority, and the exercise of one interferes with another, each holder may request that the court to regulate the exercise fairly in the interest of all holders.
- (3) No one can have a servitude on another's servitude.

Maintenance Expenses

Article 181

- (1) The expenses of maintaining and repairing the servient estate are borne by the servitude holder, unless otherwise provided.
- (2) If the owner also uses the servient estate, they must bear proportionately the cost referred to in paragraph 1 of this Article, but, they may be released from such obligation by transferring the servient estate to the servitude holder, even if against their will.
- (3) A servitude holder who keeps a device on the servient estate, used to exercise their servitude, must keep it in proper condition, to the extent required by the interests of the owner of the servient estate.
- (4) The expenses of maintaining the device referred to in paragraph 3 of this Article are borne by the servitude holder; however, if the device is also beneficial to the owner of the servient estate, they must contribute to such maintenance expenses in proportion to the benefits they receive, unless agreed otherwise.

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Inseparability

Article 182

- (1) A servitude may not be unlawfully separated from the servient estate nor transferred to another holder or thing.
- (2) A servitude is transferable only together with the servient estate, and a predial servitude also with the dominant estate.

Effect of Division

Article 183

- (1) A servitude is indivisible; by increasing, decreasing or fragmenting the servient estate, including changes in shape, area, or built structures on the cadastral parcel that is the servient estate, the servitude encumbering it cannot be modified or divided, unless otherwise provided by law.
- (2) If a servitude is exercised only on a specific part of the servient estate, and it is divided, a removal of the servitude on other parts of the servient estate may be requested.
- (3) If a dominant estate benefiting from a predial servitude is divided, the servitude remains for the benefit of all parts, but may only be exercised so as not to increase the total encumbrance on the owner of the servient estate; however, if the purpose of the servitude was to serve the needs of only a particular part which was separated, its termination on other parts may be requested.

Ostensible Servitudes

Article 184

- (1) Powers such as those granted by a servitude may be granted revocably (ostensible servitudes), in which case the powers and duties shall be governed until revoked by the rules on servitudes applied accordingly.
- (2) Deviations from the nature of the servitude are not presumed, and must be proven by the party invoking them.

Legal Servitudes

Article 185

If special legislation provides that under certain conditions certain servitudes encumber such things to which those conditions apply (legal servitudes), these constitute legal limitations on ownership, and the rules governing servitudes do not apply, unless otherwise provided by law.

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Title 2 PREDIAL SERVITUDES

Section 1 General Provisions

The Dominant Estate and the Servitude

Article 186

- (1) A predial servitude is a property right of the owner for the time being of an immovable (dominant estate) to use another's immovable in a specified manner (servient estate) for the benefit of their own immovable, and the owner for the time being whereof must suffer or omit to refrain from certain actions with respect to their immovable that they would otherwise be entitled to do.
- (2) A predial servitude established for the benefit of a dominant estate may not be separated from the ownership of the immovable, and it is its appurtenance, transferable only with such immovable.
- (3) A predial servitude may also exist for the benefit of immovables that are public things in common or public use, provided this does not conflict with their legal nature.
- (4) If a dominant estate is owned by multiple co-owners or joint owners, each has an equal right to exercise the predial servitudes for the benefit of the dominant estate, and if a servient estate is owned by several co-owners or joint owners, each of them must suffer that the holder of the servitude encumbering their immovable use such immovable in the manner entitled and each must refrain from actions with respect to the servient estate that would interfere with the other's predial servitude.

Right of Superficies on the Dominant Estate

Article 187

Provisions relating to the owner of a dominant estate apply accordingly to the holder of the right of superficies, unless otherwise provided or arising otherwise from the nature of that right.

Content of Powers

Article 188

- (1) The owner of a dominant estate and the owner of a servient estate may establish predial servitudes of any permissible content not prohibited by law, be it creating a continuous state that does not require action by the holder to exercise the powers conferred by the servitude, be it the servitude is exercised by repeated human actions, consecutively or at specific intervals or period of time or at a specific time of the year, unless otherwise provided by law.

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(2) A servitude may be established to serve a dominant estate intended for agriculture; in such case it is a rural servitude, otherwise it is an urban servitude.

(3) Rural servitudes may be established to serve immovables intended for agriculture, such as in particular: 1. right-of-way, including paths, driving livestock, or roadway over the servient estate; 2. water servitudes, including the right to draw water, water cattle, or the right of aqueduct, i.e. diverting or conducting water; 3. pasture servitudes; 4. forest servitudes, including the right to cut timber or to collect deadwood, or acorns; or others.

(4) Urban servitudes may be established to serve an immovable with a building which authorise the owner of the immovable to exercise their right over the neighbour's immovable as the servient estate, which the neighbour must suffer, such as in particular: 1. imposing a load of one's building on another's building; 2. inserting beams or joists into another's wall; 3. opening a window in another's wall for light or view; 4. projecting parts of one's building in a neighbour's airspace or on their land, or placing devices on another's property; 5. conveying smoke or other gases through a neighbour's chimney; 6. directing drip from one's roof onto a another's property; 7. draining or discharging liquids onto a neighbour's land; and others.

(5) Servitudes may also be established to serve an immovable with a building which authorise the owner of the dominant estate to require the servient owner to refrain from acts otherwise freely permitted, such as in particular: 1. not raising or lowering one's building; 2. not obstructing light, air, or view to the benefited building; 3. not diverting rainwater from one's roof that could benefit the neighbour's land for watering gardens or filling cisterns or other; and others.

Irregular Servitudes

Article 189

(1) A servitude which is predial in nature may be established on the servient estate for the benefit of a specific person (irregular servitude).

(2) If the servitude referred to in paragraph 1 of this Article is established, the rules applicable to personal servitudes shall apply accordingly.

(3) Whoever claims that a predial servitude was established for the benefit of a specific person bears the burden of proof.

Section 2 Special Rules for Specific Servitudes

Of Rights-of-Way

Article 190

(1) The owner of a servient estate having the right of path is authorised to walk along such path and allow others to pass onto their property; if a person has the right to drive cattle, they

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are also authorised to use a cart; if a person has the right of roadway, they are authorised to drive on the servient estate using one or more wagons, motor vehicles, and bicycles.

(2) The right to walk along a passage does not include the right to ride a horse, ride a bicycle, or push a bicycle along the servient estate; the right to drive livestock does not include the right to pull heavy loads across the servient estate; the right of roadway over the servient estate does not include the right to drive unrestrained cattle.

(3) The area on the servient estate necessary to exercise the rights of walking, driving livestock, or using a roadway must be limited to what is required, considering local conditions. If paths or roads become unusable due to flooding or another cause, a new area must be designated until the previous condition is restored, unless the competent authority immediately takes the necessary measures.

Of Rights of Passage

Article 191

(1) A right of passage is a right-of-way established by the court at the request of the owner of an immovable which has no access or no adequate access to a public road.

(2) A right of passage is governed by the rules applicable to rights-of-way, unless specific provisions for the right of passage provide otherwise.

Of Servitudes of Aqueduct

Article 192

(1) The owner of a dominant estate entitled to draw water from the servient estate is also entitled to unrestricted access to it.

(2) The owner of a dominant estate entitled to convey water from another's property to their land or divert water from their land to another's land is also authorised to install at their own expense the necessary pipes, gutters, dams, water reservoirs, and other devices, to the extent determined according to the needs of the dominant estate.

Of Pasture Servitudes

Article 193

(1) If at the moment of acquiring the right of pasture the type and the number of livestock as well as the time and manner of exercising the right of pasture are not specified, the manner of exercise of quiet possession of such servitude over twenty years controls.

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(2) If the type and the number of livestock cannot be determined according to the rule in paragraph 1 of this Article, the following rules shall apply:

- unless prohibited by special regulation, the right of pasture includes all types of draft animals, cattle, and sheep, but not to pigs or poultry, nor to goats in forested areas; unclean, diseased, or another's livestock are always excluded from grazing;

- if the number of livestock grazed has varied over the past twenty years, the average number from the first three years is taken; if unclear, the number shall be determined equitably based on the quality and quantity of the pasture; in no case may the servitude holder keep more livestock on the servient estate than can be fed over the winter with fodder produced on the dominant estate; nursing animals are never counted in the number of livestock.

(3) The grazing period is generally determined according to established local custom, but grazing must never interfere with or impede agricultural work governed by special regulations.

(4) The right of pasture does not extend to any other benefit; accordingly, the servitude holder may not mow grass, damage the substance of the pasture or exclude the livestock of the owner of the servient estate from grazing their land, and if a danger exists that the livestock might cause damage, it must be properly supervised.

Of Other Rural Servitudes

Article 194

The provisions on the right of pasture apply accordingly to timber servitudes and other rural servitudes.

Of the Right to a Window

Article 195

(1) The right to a window in a wall of the servient estate grants the owner of the dominant estate the right to light and air, but a view only if expressly granted.

(2) A person not having a right to a view must insert a grille in the window at the request of the owner of the wall.

(3) A person having the right to a window must maintain the opening; a person who neglects this duty is liable for the resulting damages.

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Of the Right to Own Parts of One's Building and Devices on the Servient Estate

Article 196

- (1) The owner of a dominant estate who is authorised to own a part of their building, built equipment or other device serving their building on neighbouring property, on its surface, beneath it, or in its airspace based on their servitude, must maintain it at their own expense, and pay the servient estate owner compensation for use of the property, equivalent to rent, unless otherwise provided by contract or law.
- (2) The provision of paragraph 1 of this Article applies accordingly where the owner of the dominant estate is entitled to own conduits and other devices (electrical, sewer, gas, water, heating, electronic communication, and others) on neighbouring property, on its surface, beneath it or in its airspace.
- (3) The owner of a servient estate who must suffer the load of a neighbouring building, another's beam inserted into their wall, the passage of another's smoke through their chimney, another's antenna on their roof, another's billboard or sign on the façade of their building, or similar, must proportionally contribute to maintenance of their own designated wall, post, support, chimney, roof, façade, and other, but is not required to support or repair another's thing.

Of the Right to Convey Liquids

Article 197

If ditches and channels are needed to convey liquids across the servient estate, the owner of the dominant estate must construct and maintain them properly covered and clean, thereby reducing the burden on the servient estate.

Of the Right of Drip

Article 198

- (1) The owner of a dominant estate who has the right to direct rainwater from their roof onto the servient estate (the right of drip) may let rainwater drain onto another's immovable either freely or through gutters.
- (2) The servitude holder under paragraph 1 of this Article may raise their roof, but must take measures so as to prevent the servitude from becoming more burdensome for the owner of the servient estate.
- (3) The servitude holder under paragraph 1 of this Article must maintain gutters used to direct rainwater and their roof so that the flow of rainwater does not damage the servient estate, as well as clear fallen snow in a timely fashion.

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Title 3 PERSONAL SERVITUDES

Section 1 General Provisions

Servitudes of Personal Nature

Article 199

(1) A personal servitude is a property right authorising a specifically designated person to use the property of another in a particular manner (servient thing), which the owner for the time being must suffer.

(2) Personal servitudes include: the usufruct, the right of use, and the right of habitation.

Servient Thing

Article 200

(1) Personal servitudes may exist over the entire servient thing, but also on its undivided share, if possible considering the content of the servitude and the character of the property.

(2) If condominium is established on an undivided share, a personal servitude encumbers the unit only together with the undivided share on which condominium is established.

Limited Duration

Article 201

Personal servitudes last only for the period of their establishment, and terminate no later than upon death of their holder, unless otherwise provided by law.

Inalienability and Non-inheritability

Article 202

(1) Personal servitudes cannot be transferred from the holder to another person.

(2) Personal servitudes cannot be inherited, except for servitudes expressly established for the benefit of the servitude holder's heirs.

(3) Exceptionally, when a personal servitude is expressly established for the benefit of the servitude holder's heirs, it passes by succession to those who inherit upon death of the first servitude holder; upon the death of an heir who inherited the personal servitude, it terminates without exception.

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Section 2 Special Rules on Particular Servitudes

a/ On the Usufruct

General Principles

Article 203

- (1) The usufruct is a personal servitude that authorises its holder (the usufructuary) to use another's thing (the servient thing) in every respect in accordance with its purpose, while preserving its substance.
- (2) A usufruct may exist over a servient thing that is non-consumable, whether movable or immovable, as well as over several movables together; it may exist over consumables only in the form of a quasi-usufruct.
- (3) A usufruct may exist on a right yielding fruits or other benefits, in which case the right is deemed a thing, and the provisions on things under paragraph 2 of this Article apply accordingly.
- (4) The subject matter of any usufruct is a thing within the meaning of paragraphs 2 through 4 of this Article, together with all its components.
- (5) A usufruct over a single servient estate may be held by multiple persons, in which case each is an independent holder of their share of the usufruct, except when their relationship is such that the usufruct or a part thereof is held jointly; in case of doubt, it is deemed that each holds an equal share of the usufruct.
- (6) If a servient estate is owned by multiple co-owners or joint owners, each must suffer that the holder of the usufruct encumbering their immovable uses it in accordance with their right.

Powers

Article 204

- (1) The usufructuary is authorised to use the servient thing in accordance with its purpose, regardless of the extent of their needs, to possess it as an independent possessor and to utilize it for themselves in full, including the net income of its net value, all within the limits of preserving its substance, which includes maintaining the fundamental purpose of the servient thing.
- (2) The usufructuary may transfer the exercise of these powers to another person by juridical act.
- (3) The owner of the servient thing must suffer the exercise of the usufructuary's powers over their thing, and may exercise their ownership only in a manner that does not infringe upon the usufructuary's rights.

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Net Income from Net Value

Article 205

- (1) The usufructuary is entitled to all income that the servient thing yields without diminishing its substance, but bears the expenses and burdens provided by this Act.
- (2) The income of the servient thing includes all fruits and other benefits that the thing yields without diminishing its substance; any treasure found on the servient estate is not income of the usufructuary.
- (3) The usufructuary acquires the fruits of the thing by their separation, and the same applies to all other things separated from the thing without diminishing its substance, except as otherwise provided by law.
- (4) The provision of paragraph 3 of this Article for fruits also applies to rents, leases, interests, and other income that the thing yields through a legal relationship (civil fruits), but only the portion attributable to the period of the usufruct belongs to the usufructuary, regardless of when it became due or was collected; the remainder belongs to the owner of the servient thing, who may claim it.
- (5) The usufructuary bears all expenses of using and exploiting the servient thing, regardless of the income it yielded.
- (6) The usufructuary must, as a prudent administrator, maintain the servient thing in the condition in which they received it, and bear the expenses of ordinary maintenance and repair, public burdens (taxes and the like), rentcharges encumbering it, and interest on claims secured by a mortgage on it; however, they are responsible only to the extent of the value remaining after deducting the expenses of paragraph 5 from the income under paragraphs 2 to 4.

Extraordinary Repairs and Renovations

Article 206

- (1) If it becomes necessary to perform extraordinary repairs or extraordinary renovations of the servient thing due to wear or force majeure, the usufructuary must notify the owner, or the person managing the estate on the owner's behalf, without delay, unless they must make such repairs or renovations at their own expense.
- (2) If the owner of the servient thing makes the necessary extraordinary repairs or extraordinary renovations of the servient thing, the usufructuary must reimburse them the interest on the value that the owner spent, in proportion to which their usufruct improved.
- (3) If the owner is not able or willing to perform the necessary extraordinary repairs or extraordinary renovations, the usufructuary is not authorised to demand they make such repairs or renovations of their own thing, but they may undertake them themselves and upon

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termination of the usufruct claim reimbursement as a good-faith possessor, or claim appropriate compensation for the usufruct lost on account of omitted works.

(4) The usufructuary must perform such extraordinary repairs and extraordinary renovations of the thing caused by their own fault, or by a person for whom they is responsible.

Improvements

Article 207

(1) The usufructuary need not to permit the owner to make improvements on the servient thing that are not necessary, unless the owner promises to pay full compensation for the use and lost profits by the usufructuary as the result of such works.

(2) The owner of the thing who made improvements may demand from the usufructuary who claimed compensation under the provision of paragraph 1 of this Article that the benefit the usufructuary derives from the improvements be deducted from that compensation.

(3) If the usufructuary makes improvements without an agreement with the owner, they are entitled to separate and take for themselves what they added, if possible without damaging the thing, but they may claim compensation for such improvements only if they would be entitled to do so in as a manager of the affairs of another without authority.

Inventory and Appraisal

Article 208

(1) The owner and the usufructuary shall prepare an authenticated inventory of all servient things indicating their value at the time of inventory and appraisal to facilitate proof of mutual claims.

(2) In the absence of inventory and appraisal referred to in paragraph 1 of this Article, it is presumed that the usufructuary received the servient thing in a usable condition of medium quality, with all components necessary for the proper exercise of the usufruct.

Duty to Provide Collateral

Article 209

(1) If the substance of the servient thing is endangered, the owner may ask the usufructuary to provide adequate collateral.

(2) If the usufructuary does not provide collateral which promised to provide or which the court ordered, the owner may request the court to terminate the usufruct, provided the owner provides equitable compensation for it.

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(3) The court shall not terminate the usufruct but appoint a manager of the servient thing if that is preferable considering the circumstances of the case, if the usufructuary so requests and promises to bear all expenses of such management as expenses of using and enjoying the thing.

(4) The court that appointed a manager shall also prepare an inventory and appraisal of the servient thing without delay.

Returning the Thing

Article 210

(1) Upon termination of the usufruct, the former usufructuary must deliver possession of the servient thing to its owner, and the thing must be in the same condition in which the usufructuary received it.

(2) If the thing is not in the same condition in which the usufructuary received it, they are liable to the owner for the diminution in value, regardless of the cause, but, they are not liable for the diminution in value due to age ordinary wear and tear that could not be avoided or remedied by full performance of the duties referred to in Article 205 paragraph 6 of this Act.

(3) The usufructuary is not liable for diminution in value of the servient thing that could have been avoided or remedied only by extraordinary repairs or extraordinary renovations of the thing, unless they were obligated to perform such extraordinary repairs or extraordinary renovations at their own expense.

(4) Fruits not yet separated belong to the owner, and they shall have to reimburse the usufructuary or their heir for the expenses incurred to obtain them according to the rules governing the legal status of a good-faith possessor upon returning a thing to the owner.

(5) The provisions of paragraph 4 of this Article on unseparated natural fruits also apply to civil fruits (rents, leases, interest and the like) attributable to the period following the termination of the usufruct.

(6) The duties and responsibilities of the usufructuary are incumbent upon their heir or other universal successor.

Quasi-Usufruct

Article 211

(1) If the usufruct is established over a consumable thing or a right that does not yield fruits, it is a quasi-usufruct.

(2) In the case under paragraph 1 of this Article, the servient thing is the monetary value of the thing that shall be returned to the owner upon termination of the usufruct.

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(3) The usufructuary may dispose of banknotes during the quasi-usufruct as they wish; however, if such usufruct is established over an invested principal, the holder may claim only the interest.

(4) The quasi-usufruct is governed accordingly by the rules governing the usufruct, unless otherwise provided by law or required by the nature of such usufruct.

b/ Right of Use

General Principles

Article 212

(1) The right of use is a personal servitude which authorises its holder (the user) to make use of another's thing (the servient thing) for their own needs according to its intended purpose, preserving its substance.

(2) A right of use may exist over servient thing that is non-consumable, whether movable or immovable, as well as over several movables together; it may not exist on consumables even in the form of a quasi-use.

(3) A right of use may exist on a right yielding fruits or other benefits, in which case the right is deemed a thing, and the provisions on things under paragraph 2 of this Article apply accordingly.

(4) The subject matter of any right of use is a thing within the meaning of paragraphs 2 and 3 of this Article, together with all its components.

(5) The right of use may not be held by multiple people, except when their relationship is such that the right of use is held jointly.

(6) The right of use is governed accordingly by the rules on the usufruct, unless otherwise provided by law or by the nature of such right of use.

Powers

Article 213

(1) The user is authorised to use the servient thing for their own needs by possessing it as a dependent possessor, utilizing it and collecting its income, within a specified scope, while preserving its substance.

(2) The user may not delegate by juridical act the exercise of this powers referred to in paragraph 1 of this Article to another person.

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(3) The owner of servient thing must suffer the exercise of the user's powers over their thing, and may exercise their ownership only if that does not infringe upon the user's right, so all benefits that can be reaped from the thing without disturbing the user belong to the owner.

User's Needs

Article 214

(1) The user is authorised, irrespective of their other assets, to use the servient thing to the extent of their needs, appropriate to their age, vocation, occupation, and household size.

(2) The user's needs are determined as per status at the time of establishing the right of use; subsequent changes of occupation and vocation do not entitle the user to expand their use, unless otherwise provided.

(3) The user's needs include the needs of their family household, including any changes in the family household that were naturally expected and foreseeable (spouse and minor children, as well as legal dependents) or changes necessary for managing the family household.

Acquiring Fruits and Other Benefits

Article 215

(1) The user acquires the fruits of servient thing when they collect them for their needs pursuant to the powers conferred by their right of use, and the same applies to all other benefits of the thing.

(2) The provision of paragraph 1 of this Article for fruits also applies to rents, leases, interest and other income that the thing yields through a legal relationship (civil fruits) but the user may not collect anything not attributable to the period of their right of use, the remainder belonging to the owner, who may claim it.

Expenses and Burdens

Article 216

(1) All benefits that may be reaped from the thing without disturbing the user belong to the owner, and the owner must bear all ordinary and extraordinary expenses and burdens of the servient thing, as well maintain it in good condition at their own expense.

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(2) If the expenses and burdens exceed the benefit remaining to the owner, the user must bear such excess cost, unless they renounce their right of use.

c/ Right of Habitation

Article 217

(1) The right of habitation is a personal servitude authorising its holder (the habitee) to use another's residential building, or part thereof intended for housing (the servient thing), in accordance with that purpose, while preserving its substance.

(2) The right of habitation is governed by the rules applicable to the right of use, unless otherwise provided.

(3) If the right of habitation authorises its holder to use all parts of the building intended for housing so as to enjoy them in full while preserving their substance, this constitutes a usufruct of a residential building and is governed by the rules on the usufruct.

(4) In any case, the owner retains the right to dispose of parts of the immovable not intended for housing, as well as residential parts not subject to the habitee's right of habitation, but not so as to prevent the exercise of the right of habitation.

(5) The exercise of the right of habitation must not prevent or hinder the owner from required oversight of their whole immovable.

Title 4 ACQUISITION

Section 1 Establishment of Servitudes

General Principles

Article 218

(1) A predial servitude may be established by juridical act of the owner of a servient estate, a decision of a court or other authority, or by operation of law, as an appurtenance of the dominant thing for the benefit of its owner for the time being, and as an encumbrance on a specific thing as servient.

(2) A personal servitude for the benefit of a specific person is established by juridical act of the owner of the servient estate, as an encumbrance on a specific thing as servient and the same applies to the establishment of irregular servitudes.

(3) A servitude is established upon the fulfilment of all conditions provided by law.

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a/ Establishment by Juridical Act

Title

Article 219

- (1) Servitudes are established by their derivation from ownership of the servient estate, or holding of the right that is the servient thing, by a valid juridical act, intended to establish servitudes, in mode provided by law.
- (2) The content of the servitude is determined by the owner of the servient estate, or the holder of the right that is the servient thing, either of their own will or in agreement with the acquirer in a juridical act referred to in paragraph 1 of this Article.
- (3) By juridical act referred to in paragraph 1 of this Article, a servitude may be limited and encumbered in any way possible, and neither impermissible or contrary to the legal nature of the right.
- (4) A juridical act, intended to establish a servitude, aside from satisfying general conditions for its validity, must be in written form if the servient estate is an immovable.
- (5) If an immovable is owned by several co-owners or joint owners, only all of them may unanimously agree to encumber the immovable with a servitude.

Mode of Establishment of Servitudes on Immovables

Article 220

- (1) A servitude on an immovable is established by registration of the right in the land register as an encumbrance on the servient estate, unless otherwise allowed by law.
- (2) If not all conditions for entry provided by land registration law are satisfied, and entry of a servitude has been requested, such right shall be established by way of provisional entry under the condition of subsequent justification of that entry, provided that the conditions under which land registration law permits provisional entry are satisfied.
- (3) Servitudes on immovables not registered in the land register are established by depositing with the court an authenticated instrument suitable for registration of the right in the land register, stating that the owner of immovable allows entry of the servitude; such deposit is considered entry or provisional entry, and the rules on acquisition by entry in the land register apply accordingly.
- (4) The provisions of this Act on establishing servitudes on immovables by registration in the land register apply accordingly to any modification and termination of servitudes by juridical acts.

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Protection of Reliance

Article 221

The provisions of Articles 122 through 125 of this Act apply accordingly to the protection of reliance in the land register with respect to servitudes, unless they are contrary to the legal nature of such rights.

Mode of Establishment of Servitudes on Movables

Article 222

(1) A personal servitude on a movable is established by delivery of the thing to the acquirer into dependent possession, based on validly declared will of the owner intended to confer the servitude to the acquirer, unless otherwise provided by law.

(2) If the owner has executed multiple juridical acts to establish personal servitudes on the same servient thing, and such servitudes cannot co-exist simultaneously on the same thing, the servitude for which the thing was delivered first is established, provided that all other conditions for acquiring the servitude are satisfied.

(3) In the case under paragraph 1 of this Article, relations between the grantor and the persons with whom they executed juridical acts, but who did not acquire a personal servitude, are governed by the law of obligations.

b/ Establishment by Decision of the Court or Other Authority

Establishment by Decision

Article 223

(1) A servitude may be established by decision of the court under the conditions prescribed by law, in a proceeding of establishing a right of passage or a right-of-way for utilities, in partition and in succession proceedings, as well as in other cases provided by law.

(2) A predial servitude may be established under the conditions prescribed by law by a competent administrative authority in expropriation and land consolidation proceedings, and in other cases provided by law.

(3) A servitude is established at the moment the decision of the court referred to in paragraph 1 of this Article becomes final, or at the moment the decision by other authority referred to in paragraph 2 of this Article becomes final, unless otherwise provided by law or implied from the purpose of the decision.

(4) The holder of the servitude acquired by a decision of the court or other authority is authorised to have the acquired right registered in the land register.

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Decisions on Right of Passage

Article 224

(1) The court shall establish a right of passage over a servient estate at the request of the owner of another immovable if there is no access or no adequate access to a public road, and if the benefit of establishing the right of passage for the management of that immovable exceeds the damage to the servient estate, with the obligation of the owner for the benefit of whom the passage is established to pay full compensation to the owner of the servient estate.

(2) The court may not establish a right of passage over immovables if that would be contrary to the public interest, nor through buildings, fenced yards or fenced game preserves; a right of passage through fenced gardens and vineyards may be established only if there is a particularly compelling reason.

(3) The court shall in its order establishing a right of passage for the benefit of a specific immovable designate it as the right of path, the right to drive cattle, the right of roadway, or all of them, taking into account the needs of the dominant estate and the minimizing the burden on the servient estate; however, a right of passage may never be established for the benefit of a specific person or common goods.

(4) In its decision establishing a right of passage, the court shall order the owner of the dominant estate pay full monetary compensation to the owner of the servient estate for everything that they will suffer or incur damage, and such compensation shall be no less than they would be entitled to in case of expropriation in the interest of the Republic of Croatia, and the establishment of a right of passage shall be conditional on full payment of compensation, unless the parties come to a different understanding with respect to compensation.

Decisions on Utilities

Article 225

(1) A utilities servitude (electrical, sewage, gas, water, heating, or electronic communication, and others) on a servient estate shall be established by court order at the request of the owner of another immovable, if there is no access or no adequate access to the supplier of the matter, energy, or services delivered through conduits or devices, and if the benefit of installing such conduits or devices for the management of that immovable exceeds the damage to the servient estate, with the obligation of the owner for whose benefit of the utilities servitude is established to pay full compensation to the servient estate owner.

(2) The rules governing the right of passage apply accordingly to the establishment of the utilities servitude by necessity referred to in paragraph 1 of this Article.

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Decisions in Partition or Succession Proceedings

Article 226

- (1) A court conducting the partition of co-ownership or joint ownership may order the establishment a predial servitude if the parties agree or, in the event of geometric partition of an immovable, also without their consent.
- (2) A court conducting succession proceedings shall order in its decision the establishment of a servitude if the decedent ordered the establishment of such right by a valid testamentary mandate or legacy.
- (3) A servitude whose establishment was ordered by the court pursuant to the provisions of this Article shall be established in a mode provided by this Act for the acquisition of a servitude by juridical act.

Protection of Reliance

Article 227

A servitude established on an immovable by a decision of the court or other authority that is not registered in the land register, may not be asserted against the right of the person who, having relied on the land register, registered their right on the immovable in good faith before the servitude established by the decision of the court or other authority was registered.

c/ Establishment by Operation of Law

General Principles

Article 228

- (1) A servitude shall be established by the operation of law if all conditions prescribed by law to establish a servitude by adverse possession are satisfied; otherwise, it may be established by operation of law only if so provided by special legislation.
- (2) Any person having acquired a servitude on an immovable by operation of law is authorised to have the acquired right registered in the land register.

Adverse Possession of Servitudes

Article 229

- (1) A predial servitude is established by adverse possession if the possessor of the dominant estate held it in good faith possession exercising its content over a period of twenty years, and the owner of the servient estate did not object to it.

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(2) A predial servitude may not be established by adverse possession if its content was exercised through abuse of trust of the owner or possessor of the servient estate, by force, clandestinely, or by precarious permission.

(3) If the servitude, by its nature, can be exercised only rarely, a person claiming it was acquired by adverse possession for the benefit of their immovable as a dominant estate must prove that over a period of at least twenty years the servitude was exercised at least three times and that they or their predecessor exercised its content on each occasion.

Protection of Reliance

Article 230

A servitude established by the operation of law as an encumbrance on an immovable, but not entered in the land register, may not be asserted against the right of the person who, having relied on the land register, entered their right on the immovable in good faith before the servitude established by the operation of law was registered.

Section 2 Acquiring Servitudes of Another

Acquisition with the Dominant Thing

Article 231

A person who acquires ownership of the dominant thing under any title, shall have acquired thereby all predial servitudes that are its appurtenances, unless otherwise provided.

Acquisition with the Servient Thing

Article 232

A person who acquires ownership of the servient thing under any title, shall have acquired it encumbered with all predial servitudes thereon, unless otherwise provided by law.

Title 5 PROTECTION

Request to Enforce a Servitude

Article 233

(1) A holder of a servitude may demand the owner of the servient thing recognise and suffer their servitude as an encumbrance on the servient thing, and to suffer the exercise of the holder's right on it or to refrain from doing what they must refrain from because of the holder's right; they may demand the same from any other person who through their actions denies their servitude or unlawfully prevents or interferes with the exercise of such right.

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(2) Each co-owner and joint owner of the dominant thing and each of multiple holders of the same usufruct are entitled to protection referred to in paragraph 1 of this Article.

(3) The right referred to in paragraph 1 of this Article ceases after twenty years after the holder of the servitude was dispossessed of it.

Action of the Servitude Holder

Article 234

To exercise their right referred to in Article 233 of this Act in a proceeding before a court or other competent authority, the holder of the servitude must prove their servitude and the defendant's act of preventing or interfering with the exercise of such right.

Action of the Presumed Servitude Holder

Article 235

(1) A person who in a proceeding before the court or other competent authority proves the title and the peaceable mode of acquiring possession of the servitude has the right to protection of their presumed servitude like the person who proved their servitude (presumed servitude holder).

(2) The rules applicable to the presumed owner's action apply accordingly to the presumed servitude holder's right to protection.

Protection against Infringement by Land Registration

Article 236

(1) Should someone infringe the servitude by invalid registration in the land register, the holder may protect himself by the remedies for the protection of registrable rights provided under land registration law.

(2) Modifications of content are governed accordingly by the provisions applicable to the establishment of rentcharges by juridical act.

Title 6 TERMINATION

Destruction of the Thing

Article 237

(1) A servitude terminates on destruction of the dominant or servient thing but, the servitude is revived as soon as the thing is restored to its previous condition.

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(2) The provisions applying to the destruction of things also apply if the thing is removed from commerce.

(3) If the servient estate that was destroyed is replaced by a right (right to compensation, insurance proceeds and the like), the usufruct did not terminate by destruction of the thing, but still exist on the substitute as the servient thing.

Merger

Article 238

(1) If ownership of the dominant and servient estate should become vested in the same person, the predial servitude itself terminates by such merger.

(2) If ownership of the dominant and servient estate is separated before cancellation of the servitude in the land register, the servitude is revived.

Renunciation by the Holder

Article 239

(1) The servitude terminates by valid unilateral renunciation by its holder, regardless of the title under which it was established.

(2) A single co-owner or joint owner of the servient estate may not renounce the servitude without consent of the others.

(3) The owner of a dominant estate encumbered with a usufruct or a mortgage may not renounce such usufruct or mortgage without consent of the holders of such rights.

(4) A servitude terminates by renunciation without consent of the owner of the servient thing, even if they also benefited from the servitude.

(5) If a servitude is registered in the land register, it shall terminate only upon its cancellation.

Expiration of a Term and Fulfilment of a Resolutive Condition

Article 240

(1) A servitude terminates upon expiration of the term for which it was established or for which ownership from which it was derived was established, and likewise upon fulfilment of the resolutive condition subject to which it was established or the right of ownership from which it was derived.

(2) If a servitude is established until a third party reaches a certain age, it shall terminate only at such time, even if the third deceased before reaching said age.

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(3) If a servitude is registered in the land register, it shall terminate only upon its cancellation.

Non-use

Article 241

(1) A servitude terminates based by prescription if it was not exercised over a period of twenty years.

(2) A servitude which by its nature can be exercised only rarely is not extinguished by prescription until three occasions have passed in which it should have been exercised, and the beneficiary failed to exercise it.

(3) The servitude terminates if the owner of servient estate objected to its exercise, and the holder therefore failed to exercise it uninterruptedly over a period of three years.

(3) Prescription does not run, nor is a servitude extinguished by non-use, so long as on the servient estate there is equipment intended precisely for the exercise of that right.

(5) If a servitude is registered in the land register, it shall terminate only upon its cancellation.

Discharge

Article 242

(1) If the servitude loses its reasonable purpose, the owner of servient estate may request its discharge; unless specifically provided, a discharge order shall be issued by the court at the request of the owner of the servient estate, regardless of the title under which the servitude was established.

(2) At the request of the owner of the servient estate, the court shall discharge a right of passage or any other right-of-way, regardless of the title under which it was established, if it determines that there is another more appropriate passage or another equally appropriate passage that would cause less damage to the owner of servient estate, or another equally appropriate public passage.

(3) At the request of the owner of the servient estate to whom the usufructuary did not provide collateral they promised to provide or was ordered to provide by the court, the court shall discharge the usufruct and order the owner to pay equitable compensation.

(4) The court conducting proceedings to discharge a usufruct because the usufructuary failed to provide the necessary collateral may, instead of discharging the usufruct, by its order appoint a manager of the servient property if it determines that this is preferable given the circumstances of the case, and if this is requested by the usufructuary who has undertaken to bear all expenses of such management as expenses for the use and exploitation of the servient property.

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(5) If a servitude is registered in the land register, it shall terminate only upon its cancellation.

Protection of Third-Party Reliance

Article 243

A servitude not registered in the land register terminates when the servient estate is acquired by a person who did not know nor should have known of the servitude concerned.

Extinction of the Servitude Holder

Article 244

(1) A personal servitude terminates by death of the holder or by dissolution of the legal person that was its holder, unless otherwise provided.

(2) Notwithstanding paragraph 1 of this Article, if a personal servitude was expressly established for the benefit of the holder's heirs, it passes by succession to those who inherit upon death of the first servitude holder; upon the death of an heir who inherited the personal servitude, it terminates, unless otherwise provided.

(3) If the personal servitude is established for the benefit of a family, it terminates when the family dies out; in case of doubt, it is presumed established for the benefit of an heir, and anyone claiming that the personal servitude was established for the benefit of a family must prove it.

Disencumbrance by Operation of Law or by Decision of an Administrative Authority

Article 145

(1) Servitudes terminate on the fulfilment of conditions provided by special legislation.

(2) An administrative authority shall discharge a servitude in cases and under the conditions provided by special legislation.

(3) If the discharge of servitudes referred to in paragraphs 1 and 2 of this Article constitutes expropriation, the person whose servitude terminated has the right to full compensation.

(4) If a servitude is registered in the land register, it shall terminate only upon its cancellation, unless otherwise provided by law.

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Part Five RENTCHARGES

Title 1 OF RENTCHARGES IN GENERAL

Definition and Content

Article 246

A rentcharge confers on its beneficiary a property right on an encumbered immovable against its value authorising him to repeated delivery of things or to performance of acts which are the content of the rentcharge.

Encumbered Immovable

Article 247

- (1) An immovable capable of being subject to a mortgage, including several such immovables collectively, may be subject to a rentcharge.
- (2) All components of an immovable are encumbered together with the encumbered immovable.
- (3) The provisions applicable to an immovable also apply to the co-ownership shares of such immovable.

Beneficiary of the Rentcharge

Article 248

An immovable may have a rentcharge on it for the benefit of the owner for the time being of a specific immovable (dominant estate) or the holder of the right of superficies thereon, or for the benefit of a specific person.

Content

Article 249

- (1) The content of a rentcharge is the performance to which the beneficiary is entitled against the value of the encumbered immovable.
- (2) The content of a rentcharge may be a lawful, possible and determined or at least determinable performance of periodic delivery of things or a sum of money, or acts of monetary value, not necessarily related to the economic use of the encumbered immovable nor serving to advance the economic purpose of the beneficiary's immovable.

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(3) Performance of a single delivery or act of monetary value may constitute subsidiary content of a rentcharge, in which case the provisions applicable to deliveries or acts referred to in paragraph 2 of this Article apply accordingly, unless otherwise provided.

Modifications of Content

Article 250

(1) Modification of the content of a rentcharge is permitted only in agreement with the owner of servient estate, and if such modification would interfere with the existing exercise of other property rights on the encumbered immovable, then also by agreement with the holders of those rights.

(2) The rules governing the establishment of a rentcharge by juridical act apply accordingly to the modification of its content.

The Fundamental Obligation of the Owner

Article 251

(1) A rentcharge obligates the owner for the time being of an encumbered immovable to perform the content of the rentcharge for the benefit of the rentcharge beneficiary, which is enforceable against the value of the immovable.

(2) The obligation referred to paragraph 1 of this Article is transferable only together with the encumbered immovable.

(3) Upon transfer of ownership of the encumbered immovable to another person, the obligation referred to in paragraph 1 of this Article is also transferred.

(4) The obligation referred to in paragraph 1 of this Article does not prescribe.

Individual Obligations to Deliver or Act

Article 252

(1) When under the owner's obligation referred to in Article 251 of this Act a delivery or an act becomes due, an individual obligation arises for the then-owner of the encumbered immovable to satisfy such delivery or act for the beneficiary of the rentcharge as creditor, and as well as right for the beneficiary to demand this.

(2) The beneficiary is authorised to demand performance of the individual obligation referred to in paragraph 1 of this Article, or demand a monetary value in lieu of a mature unperformed individual obligation.

(3) Individual obligations to deliver or act prescribe in three years from the maturity date of each individual obligation.

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Personal Liability for Individual Obligations

Article 253

(1) The person who is the owner of an encumbered immovable at the time when an individual obligation to deliver or act referred to in Article 252 of this Act arises is personally liable for performance of the obligation with their patrimony, and such liability does not cease upon the termination of their ownership of the encumbered immovable.

(2) If a third party possesses the encumbered immovable independently, they are personally liable with their patrimony, in lieu of the owner, for individual deliveries or acts required by the rentcharge on that immovable.

(3) The usufructuary of an immovable encumbered by a rentcharge is personally liable with their patrimony, in lieu of the owner, for individual deliveries or acts required by the rentcharge.

In Rem Liability for Individual Obligations

Article 254

(1) The owner for the time being is liable for all mature individual obligations, deliveries and acts referred to in Article 252 of this Act that have not prescribed against the value of the encumbered immovable; and after division of such immovable, all owners of the divided portions are jointly and severally liable against the value of their portions.

(2) In rem liability for an individual obligation to deliver or act is joint and several with the personal liability for the same obligation.

Inseparability

Article 255

(1) A rentcharge cannot be separated from an immovable which it encumbers so anyone who acquires ownership of the encumbered immovable under any title, shall also have acquired the immovable subject to the rentcharge, unless otherwise provided by law.

(2) A rentcharge established for the benefit of a specific person cannot be transferred from the beneficiary to another, unless otherwise provided, and a rentcharge established for the benefit of the owner for the time being of an immovable may be transferred only together with ownership of that immovable.

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Title 2 PREDIAL RENTCHARGES

The Rentcharge and the Dominant Estate

Article 256

(1) A rentcharge for the benefit of an immovable (dominant estate) confers on the owner for the time being of such dominant estate a limited property right over the encumbered immovable, authorising periodic deliveries of things or acts to them that are the content of the rentcharge, with the owner for the time being of the encumbered immovable being liable with the value of the immovable.

(2) A rentcharge established for the benefit of an immovable as the dominant estate cannot be separated from the ownership of that immovable and constitutes its appurtenance, transferable only together with the immovable.

Effect of Partition

Article 257

(1) If a dominant estate is divided, the rentcharge persists for the benefit of its individual parts, in proportion to the size of each part, if the deliveries and acts authorised by the rentcharge are divisible; with respect to those that are indivisible, the rules on indivisible obligations apply accordingly.

(2) A division must not increase the burden on the owner of the encumbered immovable, and such owner has the right to demand that the rentcharge be discharged or that the deliveries or acts rendered more burdensome by the partition be reduced.

Transferability of Individual Claims

Article 258

Mature individual obligations to deliver or act to which the owner for the time being of an immovable is obligated by a rentcharge for the benefit of an immovable may be transferred to another, unless otherwise provided.

Title 3 PERSONAL RENTCHARGES

Rentcharges of Personal Nature

Article 259

(1) A rentcharge for the benefit of a person confers on such person a limited property right over the encumbered immovable, authorising periodic deliveries of things or acts to them that are the content of the rentcharge, with the owner for the time being of the encumbered immovable being liable with the value of the immovable.

Act on Ownership and Other Property Rights

OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15, 94/17

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(2) A rentcharge established for the benefit of a person may not be transferred from the beneficiary to another, unless otherwise provided.

Transferability of Individual Claims

Article 260

Mature individual deliveries or acts to which the owner for the time being of an immovable is obligated by a rentcharge for the benefit of a person may be transferred to another person, unless otherwise provided or unless contrary to the nature of the performance required.

Title 4 ACQUISITION

Section 1 Establishment of Rentcharges

In General

Article 261

- (1) A rentcharge may be established on a specific immovable as the servient estate by juridical act of the owner of the immovable encumbered or by decision of the court.
- (2) A rentcharge having public-law character is established by the operation of law.
- (3) A rentcharge is established upon the satisfaction of all conditions prescribed by law.

a/ Establishment by Juridical Act

Title

Article 262

- (1) A rentcharge is established by its derivation from ownership of encumbered immovable by a valid juridical act intended to establish a rentcharge, in a mode provided by law.
- (2) The juridical act referred to in paragraph 1 of this Act must include provisions on establishing a rentcharge on a specific immovable, its content and the beneficiary, and to be valid it must be in writing.
- (3) By juridical act referred to in paragraph 1 of this Article a rentcharge may be limited in any way possible, and not unlawful or contrary to the legal nature of such right.
- (4) If an immovable is owned by multiple co-owners or joint owners, only all of them may unanimously agree to encumber it with a rentcharge.

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Mode of Establishment

Article 263

- (1) A rentcharge is established by its entry in the land register as an encumbrance on the encumbered immovable, and if established for the benefit of the owner for the time being of a specific immovable, then it is also as a right for the benefit of the dominant estate, unless provided by law that a rentcharge may be established differently.
- (2) If not all conditions for entry provided by land registration law are satisfied, and entry of a rentcharge has been requested, such right shall be established by way of provisional entry under the condition of subsequent justification of that entry, provided that the conditions under which land registration law permits provisional entry are satisfied.
- (3) Rentcharges on immovables not registered in the land register are established by depositing with the court an authenticated instrument suitable for entry of the rentcharge on it; such deposit is considered entry or provisional entry, and the rules on acquisition by entry in the land register apply accordingly.
- (4) The provisions of this Act on establishing rentcharges on immovables by registration in the land register apply accordingly to any modification and termination of rentcharges by juridical acts.

Protection of Reliance

Article 264

The provisions of Articles 122 through 125 of this Act apply accordingly to the protection of reliance in the land register with respect to rentcharges, unless they are contrary to the legal nature of the rentcharge.

b/ Establishment by Decision of the Court

Establishment by Decision

Article 265

- (1) A rentcharge may be established by decision of the court in partition or succession proceedings if the court is authorised in that proceeding to establish a servitude, and in other cases as provided by law.
- (2) The rules governing establishment of servitudes by decision of the court apply accordingly to the establishment of rentcharges by decision of the court.

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c/ Establishment by Operation of Law

Rentcharges of Public Law

Article 266

- (1) Rentcharges of public law are established by operation of law upon the fulfilment of conditions prescribed by law.
- (2) Unless otherwise provided by the law establishing a rentcharge, rentcharges of public law are not registered in the land register.

Section 2 Acquisition of Another's Rentcharges

Acquisition with the Dominant Estate

Article 267

A person who acquires ownership of a dominant estate under any title, shall also have acquired as its appurtenance the rentcharge for the benefit of the owner for the time being of the immovable, unless otherwise provided.

Title 5 PROTECTION

Request for the Protection of the Beneficiary's Right

Article 268

- (1) The beneficiary has the right to demand from the owner for the time being of an encumbered immovable who by denying the rentcharge refuses to deliver or do what constitutes the rentcharge, to acknowledge and suffer the rentcharge on the encumbered immovable.
- (2) The beneficiary has the right to demand from anyone interfering with the exercise of the deliveries or acts that constitute the rentcharge to acknowledge and suffer the rentcharge on the encumbered immovable, and to cease the interference.
- (3) The right provided in paragraphs 1 and 2 of this Article belongs independently to each individual co-owner and joint owner of the dominant estate, and each of the several beneficiaries of the same rentcharge.

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Request against a Person who is Personally Liable

Article 269

(1) The beneficiary may demand performance of any mature, outstanding individual obligations referred to in Article 252 of this Act or its monetary equivalent from the person who is personally liable for the obligation pursuant to Article 253 of this Act.

(2) The right provided in paragraph 1 of this Article belongs independently to each individual co-owner and joint owner of the dominant estate, and each of the several beneficiaries of the same rentcharge.

Request against a Person who is Liable In Rem

Article 270

(1) The beneficiary of the rentcharge may demand from the owner of an encumbered immovable to pay the amount of mature, but still outstanding individual obligations to give or perform referred to in Article 252 of this Act, or their equivalent in money, against the value of such immovable.

(2) The beneficiary may demand the same from a third party who has independent possession of the encumbered immovable, as well as from the usufructuary of an immovable encumbered with a rentcharge just as they could from the owner.

(3) The right provided in paragraphs 1 and 2 of this Article belongs independently to each individual co-owner and joint owner of the dominant estate, and each of the several beneficiaries of the same right.

(4) The rules on mortgages apply accordingly to the request referred to in paragraphs 1 and 2 of this Article and its enforcement.

Action of the Beneficiary of the Rentcharge

Article 271

(1) To exercise their right referred to in Article 268 of this Act in a proceeding before a court before another competent authority, the beneficiary must prove a rentcharge for their benefit and the defendant's act of withholding of performances due or act of preventing or interfering with the exercise of such performances.

(2) To exercise their right referred to in Article 269 of this Act in a proceeding before a court before another competent authority, the beneficiary must prove a rentcharge for their benefit, that the individual obligations referred to in Article 252 of this Act have matured, and that the defendant was the owner of the encumbered immovable at the moment matured for payment.

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(3) To exercise their right referred to in Article 270 of this Act in a proceeding before a court before another competent authority, the beneficiary must prove a rentcharge for their benefit, that the individual obligations referred to in Article 252 of this Act have matured, and that the defendant is the owner or presumed owner of the encumbered immovable or its independent possessor or usufructuary.

(4) The beneficiary may exercise their rights referred to in Articles 268 through 270 in a court proceeding or in a proceeding before another competent authority either jointly or separately.

Protection Against Infringement by Land Registration

Article 272

Should someone infringe the rentcharge by invalid registration in the land register, the beneficiary may protect themselves by the remedies for the protection of registrable rights provided under land registration law.

Title 6 TERMINATION

Destruction of the Thing

Article 273

(1) A rentcharge terminates on destruction of the dominant or servient thing but, the rentcharge is revived as soon as the thing is restored to its previous condition.

(2) The provisions applying to the destruction of thing also apply if the thing is removed from commerce.

Renunciation by the Beneficiary

Article 274

(1) A rentcharge terminates by valid unilateral renunciation by its beneficiary.

(2) Renunciation of individual obligations to deliver or act referred to in Article 252 of this Act is not considered renunciation of a rentcharge.

(3) A single co-owner or joint owner of the dominant estate may not renounce their rentcharge for the benefit of the immovable without consent of the others if the content of the rentcharge is indivisible.

(4) The owner of a dominant estate encumbered by a usufruct or a mortgage may not renounce a rentcharge for the benefit of the immovable without consent of the holders of such rights.

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(5) If a rentcharge is registered in the land register, it shall terminate only upon its cancellation.

Expiration of a Term and Fulfilment of a Resolatory Condition

Article 275

(1) A rentcharge terminates upon expiration of the term for which it was established or upon fulfilment of the resolatory condition subject to which it was established.

(2) If a rentcharge is registered in the land register, it shall terminate only upon its cancellation.

Discharge

Article 276

(1) If the servitude loses its reasonable purpose, the owner of the encumbered immovable may request its discharge; unless specifically provided, a discharge order shall be issued by the court at the request of the owner of the encumbered immovable, regardless of the title under which the rentcharge was established.

(2) A rentcharge shall terminate by order of the land registration court which, after conducting the proceeding provided under land registration law, authorises a clearance of the rentcharge.

(3) In cases provided in paragraphs 1 and 2 of this Article, a rentcharge shall terminate by cancellation in the land register.

(4) The court is not authorised to discharge a rentcharge of public law, unless otherwise provided by law.

Protection of Third-Party Reliance

Article 277

(1) A rentcharge not registered in the land register terminates when the encumbered property is acquired by a person who neither knew nor needed to know of the rentcharge concerned.

(2) The provision of paragraph 1 of this Article does not apply to rentcharges of public law, unless otherwise provided by law.

Extinction of the Beneficiary

Article 278

(1) A rentcharge established for the benefit of a specific person terminates by death of such person or by dissolution of the legal person, unless otherwise provided.

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(2) Notwithstanding paragraph 1 of this Article, if a rentcharge was established to expressly include the beneficiary's heirs, it persists after the beneficiary's death for as long as there are those who inherit the first beneficiary; the rentcharge shall terminate upon their death, unless otherwise provided.

(3) If a rentcharge is established for the benefit of a family, it terminates when the family dies out; in case of doubt, it is presumed established for the benefit of an heir, and anyone claiming that the rentcharge was established for the benefit of a family must prove it.

Disencumbrance by Operation of Law or by Decision of an Administrative Authority

Article 279

(1) Rentcharges terminate on the fulfilment of conditions provided by special legislation.

(2) If a rentcharge is entered in the land register, it shall terminate only upon its cancellation in the land register, unless otherwise provided by law.

(3) If the discharge of a rentcharge constitutes expropriation, the person whose rentcharge thereby terminated has the right to full compensation.

Part Six RIGHT OF SUPERFICIES

Title 1 OF THE RIGHT OF SUPERFICIES IN GENERAL

Definition

Article 280

(1) The right of superficies is a limited property right on another's land, authorising its holder to own a building on or under the surface of such land, which the owner for the time being of the land must suffer.

(2) The right of superficies is legally considered an immovable.

(3) A building that is or will be constructed on land encumbered by the right of superficies is a component of that right, as if it were part of the land itself

Content of the Right of Superficies

Article 281

(1) Anyone holding the right of superficies is also the owner of the building that is a component of their right, and they have the powers and duties of a usufructuary with respect to land encumbered with the right of superficies; any provision to the contrary is null and void.

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(2) The holder of the right of superficies is obligated to pay to the landowner a monthly fee for the land in the amount of average rent for such land, unless otherwise provided.

(3) The right of superficies has the content with which it was established, unless lawfully modified at a later date; anyone claiming such modification must prove it.

Modification of the Content

Article 282

(1) Modification of the content of the right of superficies is permitted only in agreement with the owner of the encumbered property, and if such modification would interfere with the existing exercise of other property rights on the encumbered immovable, then also by agreement with the holders of those rights.

(2) The provisions governing the establishment of a right of superficies by juridical act apply accordingly to any modification of its content.

Inseparability

Article 283

The right of superficies cannot be separated from the land which it encumbers, so anyone who acquires ownership of the encumbered immovable under any title, shall also have acquired the immovable subject to the right of superficies, unless otherwise provided by law.

Holder of the Right of Superficies

Article 284

(1) A holder of the right of superficies is the person in whose favour the right was established or to whom it was transferred.

(2) The landowner may hold the right of superficies on their own land.

Transmissibility

Article 285

(1) The right of superficies is alienable and inheritable like other immovables, unless otherwise provided.

(2) The right of superficies may be encumbered with servitudes, rentcharges, and mortgages.

(3) Any constructed building is part of the right of superficies, and it is transferred, inherited and encumbered together with the right of superficies.

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Title 2 ACQUISITION

Section 1 Establishment of the Right of Superficies

In General

Article 286

- (1) The right of superficies is established by juridical act by the owner of the encumbered immovable or by decision of the court.
- (2) The right of superficies is established when all conditions prescribed by law are fulfilled.

a/ Establishment by Juridical Act

Title

Article 287

- (1) A right of superficies is established by its derivation from ownership of the encumbered immovable by a valid juridical act intended to establish a right of superficies, in a mode provided by law.
- (2) The juridical act referred to in paragraph 1 of this Article must include provisions on establishing a right of superficies on a specific immovable, and to be valid it must be in writing.
- (3) By juridical act referred to in paragraph 1 of this Article, a right of superficies may be limited in any way possible, and not unlawful or contrary to the legal nature of such right.
- (4) If land is owned by multiple co-owners or joint owners, only all of them may unanimously agree to encumber it with a right of superficies.

Mode of Establishment

Article 288

- (1) A right of superficies is established by dual registration of such right in the land register, namely by its registration as an encumbrance on the land, and by its registration as a separate land registration unit in a newly created land registration folio.
- (2) Registration of the right of superficies in the land register as an encumbrance on land is possible only pursuant to a written declaration of owner's will to encumber their land; however, if the right of superficies would impair registered limited property rights on the land encumbered by the right of superficies, it may only be registered with the consent of the holders of those rights.

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(3) A building, if constructed, shall be registered as if it were constructed on the right of superficies.

(4) The holder of the right of superficies shall be registered in the ownership sheet of the new folio and, unless the landowner directs otherwise, the owner shall be registered as the holder of that right.

(5) Unless otherwise provided by law, with respect to the mode of establishing the right of superficies, its modification and termination, and the protection of reliance in the land register, the provisions of Articles 263 and 264 of this Act shall apply accordingly.

b/ Establishment by Decision of the Court

Establishment by Decision

Article 289

(1) A right of superficies may be established by a court by its decision issued in partition or succession proceedings, if the court is authorised in that proceeding to establish a servitude, and in other cases provided by law.

(2) The rules governing establishment of servitudes by decision of the court apply accordingly to the establishment of a right of superficies by decision of the court.

Section 2 Acquiring the Right of Superficies of Another

Transfer and Succession

Article 290

(1) The transfer of a right of superficies is governed accordingly by the provisions on acquiring ownership of immovables by juridical acts, decision of the court and succession, unless otherwise provided or arising from the legal nature of the right of superficies.

(2) Ownership of a building constructed on a right of superficies is transferred simultaneously with the right of superficies; any provision to the contrary is null and void.

Title 3 PROTECTION

Protection of the Right of Superficies

Article 291

(1) A right of superficies, both before and after the construction of the building, enjoys protection under the rules governing the protection of servitudes, applied accordingly.

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(2) Ownership of a building constructed on a right of superficies enjoys protection under the rules governing the protection of ownership, applied accordingly.

Title 4 TERMINATION

In General

Article 292

(1) A right of superficies terminates by destruction of the thing, by renunciation of the beneficiary, by expiration of a term, by fulfilment of a resolutive condition, by protection of third-party reliance, by extinction of the beneficiary, by disencumbrance and by discharge.

(2) A right of superficies registered in the land register terminates when due to reasons referred to in paragraph 1 of this Article it is cancelled as an encumbrance on the land encumbered with that right and as a separate land registration unit.

Destruction of the Thing and Other Reasons

Article 293

The rules on termination of rentcharges apply accordingly to the termination of a right of superficies by destruction of the thing, by renunciation of the beneficiary, by expiration of a term and fulfilment of a resolutive condition, by protection of third-party reliance, by extinction of the beneficiary, and by disencumbrance.

Discharge

Article 294

(1) If a building is not constructed on a right of superficies within twenty years from the establishment of that right, the owner of the encumbered immovable may request that the right of superficies be discharged; unless otherwise specifically provided, a discharge order shall be issued by the court at the request of the owner of the encumbered property, regardless of the title under which the right of superficies was established.

(2) A right of superficies on which a building was constructed, but has been demolished to such extent that it cannot be used for its intended purpose, shall terminate by discharge as if the building had never been constructed unless it is reconstructed within six years at least to the extent most necessary for its former principal purpose.

(3) The period referred to in paragraph 2 of this Article begins on the first day of the year following the year when the building was demolished, but does not run as long as there are circumstances under which the term for adverse possession would be suspended.

(4) A right of superficies shall terminate pursuant to a discharge order only upon cancellation in the land register due to discharge.

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Consequences of Termination

Article 295

- (1) Upon the termination of a right of superficies, whatever was legally separated from the land becomes a component of the land.
- (2) The relationship between the landowner and the person whose right of superficies terminated shall be governed accordingly by the rules on relations after the termination of usufruct, unless otherwise specifically provided.
- (3) The owner must pay to the person whose right of superficies terminated compensation for the building in an amount equal to the increase in market value of the immovable with the building.

Rights of Third Parties

Article 296

- (1) Property rights of third parties that encumbered the right of superficies terminate upon its termination, unless otherwise provided.
- (2) A mortgage that encumbered the right of superficies shall, upon its termination, encumber the compensation payable by the owner to the person whose right of superficies has terminated.
- (3) Servitudes, rentcharges and mortgages for the benefit of and encumbering a right of superficies with a building shall persist as servitudes and rentcharges for the benefit of or encumbrances on the land with a building, retaining their previous order of priority.

Part Seven CHARGE

Title 1 OF CHARGES IN GENERAL

Definition

Article 297

- (1) A charge is a limited property right over a specific thing (collateral) authorising its holder (secured creditor) to satisfy a specific claim if it is not paid when due from the value of that thing, whoever may own it, which its owner for the time being (secured debtor) must suffer.
- (2) The provisions on charges apply accordingly to transfer of ownership for security, as well as any other security interest over things or rights of the debtor or a third party, unless otherwise provided by law.

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Collateral

Article 298

- (1) A charge may encumber an individually identified movable or immovable capable of being liquidated, as well as on an undivided share of such a thing.
- (2) A charge may, like other things, encumber an individually identified patrimonial right suitable for the creditor to satisfy the claim, unless otherwise provided by law.
- (3) A charge may, like other things, encumber several immovables as if they were all together one thing (joint, simultaneous mortgage).
- (4) All components of the collateral are encumbered along with it, unless otherwise provided.
- (5) The right to fruits derived from a thing by through a legal relationship (rents, leases, and the like) may constitute separate collateral.
- (6) If the debtor charges a thing for the benefit of a creditor, and later charges its fruits for the benefit of another, the latter charge is effective only with respect to those fruits already separated or collected at the time of charging.
- (7) Charges on ships and aircraft are governed by the provisions of this Act, unless governed by special legislation.

Inseparability

Article 299

- (1) A charge may not be separated from the collateral it encumbers, so anyone who acquires the collateral, under any title, shall also have acquired it subject to the charge, unless otherwise provided by law.
- (2) A charge may not be transferred from one item of collateral to another, unless otherwise provided.

Secured Creditor

Article 300

Collateral is encumbered by a charge for the benefit of the creditor for the time being of a specified claim whose satisfaction is thereby secured.

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Claim and Charge

Article 301

- (1) A charge secures satisfaction from the value of collateral of a specified monetary claim, or a claim whose value is expressed in money; a claim is sufficiently specified if it specifies the creditor and the debtor, the legal basis and the amount of the claim, or at least the maximum amount secured by the collateral.
- (2) Like an existing claim, a charge may also secure, from the value of collateral, a claim that may arise after some time or upon the fulfilment of a condition, if that claim satisfies the requirements provided in paragraph 1 of this Article.
- (3) In addition to a principal claim referred to in paragraph 1 of this Article, a charge also secures the satisfaction of incidental claims, interest, costs of preserving the thing and the collection costs from the value of collateral.
- (4) For the duration of the charge, satisfaction of the claim is secured by the collateral as a whole, including all its components; if the collateral is divided, the charge continues to encumber whatever the collateral was divided into or what was separated therefrom; if the collateral perishes and is replaced by a right that substitutes for it (right to compensation, insurance proceeds and others), the charge persists on such right.
- (5) A charge secures satisfaction from the value of collateral of a specific claim as a whole, so the encumbrance on the collateral is not reduced with the reduction of the claim, unless otherwise provided by law.
- (6) If a charge is established to secure the satisfaction of a specific claim against the value of multiple immovables as a single item of collateral (joint, simultaneous mortgage), the creditor may freely choose from which immovable to satisfy the claim, unless otherwise provided.
- (7) The debtor who established a charge to secure the creditor's claim is not obligated to satisfy the creditor's claim unless the collateral is returned to them, or an authorisation is issued for a cancellation of a mortgage registered in the land register.
- (8) The termination of a charge securing a claim does not itself terminate that claim.

Priority in Satisfaction

Article 302

- (1) A claim secured by a charge has priority in satisfaction from the value of collateral over all other claims not secured by a charge on such collateral, unless otherwise provided by law.
- (2) If the collateral is encumbered with multiple charges, the claim that ranks ahead of the others in the order of priority has priority in satisfaction.

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(3) A position in the order of priority is determined by the moment of establishment of the charge, unless otherwise provided by law.

(4) The order of priority of mortgages and the conditions under which a position in the order of priority can be validly assigned are governed by the rules of land registration law.

Transferability

Article 303

(1) A charge may be alienated and inherited only together with the secured claim.

(2) A charge may be encumbered by a sub-charge.

(3) The provisions on charges apply to sub-charges as well, unless otherwise provided by law or arising from the legal nature of the sub-charge.

Mortgage

Article 304

(1) A consensual charge established on a thing without delivery of the thing into the creditor's possession and which does not authorise them to hold the collateral in possession is a mortgage.

(2) On immovables, a charge may be established only as a mortgage.

(3) On movables and intangibles that can only be acquired through registration in a public register, or which cannot be used without registration, a mortgage may be established under the conditions and in a mode provided by law (registered charge).

(4) Mortgages on things referred to in paragraph 3 of this Article are governed by special legislation, and subordinately they shall be governed accordingly by the provisions of this Act governing mortgages, unless contrary to special legislation or the nature of such mortgage.

Title 2 ACQUISITION

Section 1 Establishment of Charges

Charging

Article 305

(1) A charge may be established on a specific thing or intangible as collateral by juridical act of the owner of the collateral (consensual charge), by decision of the court (judicial lien) or by operation of law (statutory lien), in a mode provided by law.

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(2) A charge is established when all conditions prescribed by law are fulfilled.

a/ Establishment of Consensual Charges

Derivation from Ownership of the Collateral

Article 306

(1) A charge is established by its derivation from ownership of the thing or intangible encumbered by a valid juridical act intended to establish a charge on a specific thing or intangible to secure the satisfaction of a specific claim against the value of collateral, in a mode provided by law.

(2) If the charged thing is owned by multiple co-owners or joint owners and if the charged intangible belongs to multiple persons, only all of them may unanimously agree to charge the thing or intangible; however, each person may charge their undivided share of a thing or intangible without seeking the consent of the others.

Charge Agreement

Article 307

(1) By a contract of pledge, or mortgage, the debtor or a third party (collateral provider) promises, for the purpose of establishing a charge securing a specific claim of the creditor, to deliver a specific movable as pledge, or to allow the creditor to register their charge in the public register as an encumbrance on a specific thing, or to transfer an intangible to them for the purpose of security. The other party promises at the same time to safekeep the pledged movable and, as soon as their claim is extinguished, return it to the pledgor, or to do what is necessary to cancel the charge from the public register, or to transfer the intangible back to him.

(2) A charge agreement is governed by rules applicable to onerous contracts, unless specifically provided otherwise.

(3) All provisions of an agreement contrary to the nature of the collateral and the secured claim are null and void.

(4) Provisions of the agreement stipulating that collateral will become owned by the creditor if the debt is not repaid at a specific time, that the debtor can never redeem the collateral or that they cannot allow the establishment of a charge on the same collateral for the benefit of anyone else, or that the creditor may not request a sale of the collateral even after the maturity of the secured claim, are null and void.

(5) Provisions that the creditor may alienate the collateral at their will or at a pre-determined price, or keep it for themselves, are also null and void; however, they are not null and void if the collateral has a prescribed price.

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(6) In order for an agreement charging an immovable (mortgage contract) to be valid, it must be in writing.

Mode of Consensually Charging Movables

Article 308

(1) A consensual contractual pledge on a movable is acquired by the creditor when it is delivered into their possession, or the possession of a person they designate, pursuant to the pledge agreement

(2) If the movable referred to in paragraph 1 has already been pledged to someone, a subsequent pledge is acquired by the new creditor when the pledgor notifies the creditor in possession of the movable of the new pledge and directs them to deliver it to the new pledgee after their own pledge terminates.

Mode of Consensually Charging Immovables

Article 309

(1) A consensual contractual mortgage (consensual contractual mortgage) or charge on an intangible with equal status as immovables, is acquired by the creditor through entry of that right in the land register as an encumbrance on the charged immovable, unless otherwise provided by law.

(2) If not all conditions for entry provided by land registration law are satisfied, and an application for entry of the mortgage has been requested, the mortgage shall be established by provisional entry under the condition of subsequent justification of the entry, if the conditions under which these rules permit provisional entry are satisfied.

(3) A consensual mortgage on an immovable not registered in the land register is established by depositing with the court an authenticated instrument by which the owner of the immovable allows entry of such right against it; such deposit is considered entry or provisional entry, and the rules on acquisition by entry in the land register apply accordingly, unless otherwise provided by law.

(4) The provisions of this Act on establishing consensual contractual mortgages by entry in the land register apply accordingly to any modification and termination of charges on immovables by juridical acts.

Mode of Consensually Charging Intangibles

Article 310

(1) A consensual charge on bearer paper is acquired by the creditor in the same way as a pledge on movables, on order paper by pledge endorsement, on named paper, as well as claims—by assignment by way of security and notification of the account debtor of such

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assignment, and on other intangibles, by method prescribed for their transfer, unless otherwise provided by law.

(2) Charges on rights created by registration in public registers or other public records, for which no negotiable document has been issued, are acquired by registration in the register or record upon a request for registration of information on the establishment of the charge, filed by the person whose right is charged, together with the charge agreement.

(3) The priority of charges created under paragraph 2 of this article is determined by applying the rules of land registration law accordingly, unless otherwise provided by law.

b/ Establishment of Judicial and Statutory Liens

Establishment of Non-Consensual Judicial Liens

Article 311

(1) A non-consensual judicial lien is established by a decision of the court issued in a proceeding of non-consensual securing of a claim. Statutory provisions governing judicial proceedings for securing monetary claims determine the conditions under which the court may decide to establish such a lien.

(2) Pursuant to the decision referred to in paragraph 1 of this Article, a non-consensual judicial lien is established according to the method provided by the statutory provisions on execution and non-consensual liens.

(3) A person who acquires a lien on an immovable by court order is authorised to have the acquired lien registered in the land register.

Establishment of Consensual Judicial Liens on Movables and Immovables

Article 312

(1) A judicial lien on movables and immovables is established consensually pursuant to a charge agreement which the parties conclude in a judicial proceeding for securing a monetary claim in the form of a court record of the parties' agreement to secure a specific claim by a judicial lien.

(2) Statutory provisions governing judicial proceeding of securing monetary claims determine the procedure for incorporating in the court record a charge agreement between the parties to secure a claim by a judicial lien, and its legal effects.

(3) Pursuant to the agreement between the parties referred to in paragraph 1 of this Article, a consensual judicial lien is established according to the method provided by the statutory provisions on execution and non-consensual liens.

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(4) A person who acquires a lien under the provisions of this Article is authorised to have the acquired lien registered in the land register.

Establishment of Consensual Judicial Liens on Intangibles

Article 313

(1) A judicial lien on intangibles is established consensually pursuant to a charge agreement which the parties conclude in a judicial proceeding for securing a monetary claim in the form of a court record of the parties' agreement to secure a specific claim by a judicial lien.

(2) Statutory provisions which, by governing judicial proceedings for securing monetary claims, also govern the proceedings and legal effects of an agreement between the parties to secure a claim by establishing a judicial lien on movables and immovables, apply accordingly to the establishment of judicial liens on intangibles.

(3) Pursuant to the agreement between the parties referred to in paragraph 1 of this Article, a consensual judicial lien is established according to the method provided by the statutory provisions on execution and non-consensual liens on intangibles.

Establishment of Statutory Liens

Article 314

(1) A statutory lien is established upon the fulfilment of conditions provided by special legislation.

(2) A statutory lien on an immovable shall be registered in the land register at the request of the secured creditor.

c/ Establishment of Sub-Charges

Consensual Sub-Charges

Article 315

(1) A secured creditor may further pledge a pledged movable in their possession within the limits of their right to satisfaction from the value of such movable, on such title and mode provided for establishing a pledge; if they pledge it, the collateral is subject to a sub-charge of a subsidiary secured creditor.

(2) A creditor secured by a mortgage may, within the limits of their right to satisfaction from its value, establish a mortgage for the benefit of a third party (sub-mortgage) on the existing mortgage (hypothec) without the secured debtor's consent, and on such title and mode provided for establishing mortgages; if they do so, the mortgage is subject to a sub-mortgage as a sub-charge of a subsidiary secured creditor.

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(3) If the secured debtor is notified that the collateral was charged further to a subsidiary secured creditor, they may repay the debt to their creditor only with the consent of the subsidiary creditor or by depositing payment into court; otherwise the collateral remains charged for the benefit of the subsidiary secured creditor.

Judicial and Statutory Sub-Liens

Article 316

(1) Non-consensual judicial sub-liens on collateral securing a secured creditor's claim are established pursuant to a decision of the court, according to the method of establishing judicial liens.

(2) Consensual judicial sub-liens on collateral securing a secured creditor's claim are established pursuant to a charge agreement, which the parties conclude in a judicial proceeding for securing a monetary claim in the form of a court record of the parties' agreement to secure a specific claim by a judicial lien, according to the method of establishing judicial liens.

(3) Statutory sub-liens on collateral securing a secured creditor's claim are established upon the fulfilment of conditions provided by special legislation for the establishment of statutory liens. Once established, a statutory sub-lien on an immovable shall be registered in the land register at the request of the secured creditor.

d/ Protection of Reliance

Acquisition by Non-Owners

Article 317

(1) If a creditor who has a title to acquire a consensual charge acquires a movable as collateral without permission by its owner, they thereby acquired a pledge if the conditions under which they could acquire ownership of the thing from a non-owner or a person not authorised to make such legal dispositions of the thing are satisfied; the same applies accordingly if they receive bearer paper as collateral.

(2) The provision of paragraph 1 of this Article applies accordingly to the acquisition of a consensual sub-charge if the creditor receives the thing as collateral without permission by the secured creditor whose claim is secured by such collateral.

Protection of Reliance in the Land Register

Article 318

The provisions of Articles 122 through 125 of this Act apply accordingly to the protection of reliance in the land register with respect to charges on immovables (mortgages), unless contrary to the legal nature of such rights.

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Section 2 Acquiring Another's Charges

Transfer

Article 319

If a claim secured by a charge passes to another person, regardless of the legal basis for such transfer, such person therewith acquires the charge without any special title and without any special mode of acquisition, unless otherwise provided.

Possession and Registration

Article 320

(1) If a secured debtor does not agree that a pledged movable be delivered into the direct possession of a new creditor of the claim secured by the collateral, the collateral shall remain in the possession of the transferor of the claim to safekeep for the secured creditor as an indirect possessor; the same applies to the delivery of bearer paper.

(2) A new creditor shall be able to enforce powers they enjoy on the basis of a mortgage that was passed to him with the claim it secures once it is registered in the land register as their right.

Title 3 CREDITOR'S POWERS BEFORE SATISFACTION

Section 1 Powers with Respect to Charged Movables

Right to Possession

Article 321

(1) A secured creditor by virtue of their consensual pledge on a movable, has the right to possess that thing.

(2) Unless otherwise provided, a secured creditor has the right to direct possession of the collateral.

(3) A secured creditor who acquires a pledge on a thing already pledged to another shall be satisfied with indirect possession of the thing as long as the thing is in direct possession of the person who acquired a pledge on it before them.

(4) A secured creditor whose claim is secured by a judicial or statutory lien or a registered charge on a movable has no right to possess the thing.

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Safe-Keeping and Returning Collateral

Article 322

- (1) A secured creditor should safeguard the collateral in their possession with the diligence of a prudent manager, otherwise they are liable for damages.
- (2) A secured creditor is authorised to use the collateral in their possession or lend it to another only if so permitted by the secured debtor or if necessary for performing their duty of safeguarding the collateral.
- (3) When a claim secured by collateral is extinguished, the secured creditor must return the collateral to the person from whom they received it without any delay.
- (4) A secured debtor may demand that the secured creditor returns the collateral even before the claim is extinguished if it is necessary that they have the collateral in their direct possession and if they provide other collateral in exchange of no lesser value, whose safeguarding requires no greater effort, expense, or care than the property that was charged originally.
- (5) The secured creditor's right to reimbursement for expenses incurred for the collateral, as well as whether they may retain it until their they are covered, shall be governed by application of the rules governing the possessor's defences in case of revendication.
- (6) Claims by the secured debtor against the secured creditor for deterioration of the collateral prescribes within one year from the date the collateral was returned. Claims by the secured creditor against the secured debtor for reimbursement of expenses incurred to improve the collateral prescribes within the same term.

Fruits of the Collateral

Article 323

- (1) Fruits and other benefits derived from the collateral belong to the secured debtor.
- (2) A secured creditor who directly possesses the collateral is authorised to collect and keep all fruits and other benefits derived from the thing, unless they promised not to do so.
- (3) Fruits collected by the secured creditor become their own, and their value is set off against their claim, first against expenses they are entitled to, then against interest owed by the debtor, and finally against the principal.

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Taking Collateral from Creditor's Possession

Article 324

A secured debtor may require in court that the collateral be seized from direct possession of the secured creditor and delivered to a third party to hold for the creditor as indirect possessor, if the secured creditor does not properly safeguard the collateral, uses it without authorisation or lends it to another without permission, or if they have taken fruits and other benefits derived from the collateral although they promised not to do so.

Establishment of Sub-Charges

Article 325

A secured creditor is authorised to sub-pledge the collateral in their possession, even against the prohibition of the secured debtor or collateral provider, but they shall be liable for accidental loss or damage to the collateral that would not have occurred otherwise.

Latent Defects

Article 326

(1) If it is discovered that the collateral has a material or legal defect that the creditor neither knew nor needed to know of at the time of receiving the collateral into possession, and due to which the collateral does not represent sufficient security for the satisfaction of the claim thereby secured, the secured creditor is authorised to demand from the collateral provider other appropriate collateral.

(2) A defect in the collateral, even if the collateral perishes due to it, does not authorise the secured creditor to cancel the obligation in which their claim was secured by the collateral.

Necessary Sale of Collateral

Article 327

(1) If a movable received by the secured creditor as pledge is perishable or if it loses value for reasons unrelated to latent defects, and there is a risk that the collateral might become insufficient to secure the creditor's claim, the secured debtor may request the collateral be sold at its commercial or market value and a sufficient portion of the proceeds be deposited with the court to secure the creditor's claim.

(2) The secured creditor also has the right referred to in paragraph 1 of this Article; however, if they request a necessary sale of collateral, the secured debtor may avert the sale by providing other collateral of no lesser value as replacement, if its safeguard requires no greater effort, costs, and care than the thing originally pledged.

Protection of Collateral

Act on Ownership and Other Property Rights

OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15, 94/17

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Article 328

A secured creditor is authorised to assert against anyone, including the owner of the collateral, any claim necessary to protect their right on the collateral and, in particular:

- demand from anyone holding the collateral unlawfully in possession to surrender the thing to them; hereon the rules governing the protection of ownership of an owner or presumed owner apply accordingly;
- demand from the person unlawfully disturbing their right on the collateral in ways other than dispossession to cease such disturbance; hereon the rules governing the protection of ownership of an owner or presumed owner apply accordingly;
- demand from the collateral provider another appropriate collateral in lieu of collateral with latent defects; hereon the rules on liability for material and legal defects apply accordingly;
- demand a necessary sale of the collateral.

Section 2 Powers with Respect to Charged Immovables

Non-Possessory Mortgage

Article 329

- (1) A creditor of a claim secured by a mortgage (mortgagee) does not have the right to possession of the mortgaged immovable nor the right to collect and appropriate its fruits or other benefits or to otherwise use the immovable.
- (2) The provision of an agreement or other juridical act contrary to paragraph 1 of this Article is null and void, unless otherwise provided by law.
- (3) Provisions on the legal position of a creditor whose claim is secured by a mortgage apply accordingly to a creditor whose claim is secured by a judicial or statutory lien on a movable or who holds a registered charge.

Maintaining the Value of Collateral

Article 330

- (1) If a mortgagor does something that endangers or diminishes the value of the immovable encumbered by a mortgage, the mortgagee is entitled to demand that the mortgagor refrain from such conduct, and if they fail to refrain, the mortgagee may request enforcement of the claim secured by the mortgage before its maturity.
- (2) Actions by the mortgagor referred to in paragraph 1 of this Article, even if they cause the pledged asset to perish, do not entitle the secured creditor to cancel the obligation in which their claim was secured by the mortgage.

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Civil Fruits Derived from Immovables as Collateral

Article 331

(1) If a secured creditor has a charge only on fruits that the immovable generates through a legal relationship, they have the right to collect them.

(2) The value of fruits referred to in paragraph 1 of this Article that the secured creditor has collected is set off against their claim; first against costs for which they are entitled to reimbursement, then against interest owed to them by the debtor, and finally against the principal.

Protection

Article 332

A mortgagee is authorised to assert against anyone, including the owner of the collateral, any claim necessary to protect their mortgage, and in particular:

- demand protection of the mortgage interfered with using the remedies provided for the protection of registrable rights under the rules of land registration law;
- demand that the secured debtor or a third party refrain from such conduct with respect to the mortgaged immovable that endangers or diminishes its value;
- demand that what the collateral generated through a legal relationship be delivered to them, if they hold a charge on such fruits.

(2) The claims that a secured creditor may raise for the exercise of their powers over the charged thing are governed according to the rules applicable to the protection of ownership of an owner or presumed owner.

Section 3 Powers with Respect to Charged Intangibles

General Rules

Article 333

(1) A secured creditor who holds a charge on an intangible of equal status as a movable has the powers and duties with respect to such intangible that they would have if they held a pledge of a movable, unless otherwise provided by law or implied by the legal nature of the charged intangible.

(2) A secured creditor who holds a charge on an intangible of equal status as an immovable has the powers and duties with respect to such intangible that they would have if they held a mortgage of an immovable, unless otherwise provided by law or implied otherwise by the legal nature of the charged intangible.

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Of Charged Claims in Particular

Article 334

- (1) A secured creditor who holds a charge over a claim must to take measures necessary to preserve the claim.
- (2) If the charged claim yields interest or other periodic payments, the secured creditor must collect them. Their value is set off against the costs for which the creditor is entitled to reimbursement, then against interest owed to them by the debtor, and finally against the principal.
- (3) When a charged claim becomes mature, the secured creditor must to do what is necessary to have the debtor satisfy it and to receive performance.
- (4) Upon satisfaction of a charged claim, the charge passes to the thing used to satisfy the claim; however, if the secured creditor receives money for the performance of the charged claim, they must deposit it with the court. Only if the debtor's claim was already mature may the creditor retain the amount owed to him from the money received and deliver the remainder to the collateral provider.

Protecting Collateral

Article 335

- (1) A secured creditor is authorised to assert against anyone, including the one whose intangible is charged, any claim necessary to protect their charge on the collateral, in particular:
 - demand from the debtor of the charged claim any mature interest and other periodic payments derived from the claim, or demand from a third party what they received on account of due interest and other periodic receipts;
 - demand from the debtor performance of the charged claim when due or demand from a third party what they received on account of satisfaction of the charged claim.
- (2) The claims that a secured creditor may raise for the exercise of their powers over the charged intangible are governed according to the rules applicable to the corresponding claims of a secured creditor holding a charge over a movable or an immovable, and subordinately according to the rules of the law of obligations applicable to creditors exercising their right.

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Title 4 EXERCISE OF THE RIGHT TO SATISFACTION

Right to Satisfaction of the Secured Creditor

Article 336

- (1) If a secured claim is not satisfied when due, the secured creditor is authorised to exercise their right to satisfaction of the claim from the value of the collateral.
- (2) The secured creditor may exercise their right to satisfaction of a secured claim against the collateral in court, according to the rules provided in this Act and as provided by the statute governing the execution for monetary claims, unless otherwise provided by law.
- (3) The secured debtor has the right to demand the owner for the time being of collateral, as well as any third party, suffer satisfaction of the claim secured by the charge against the value of the collateral, unless otherwise provided by law.
- (4) The secured creditor may choose, regardless of whether the debtor owns the collateral or not, to seek satisfaction of their claim primarily from the value of the collateral, from the patrimony of their debtor, or simultaneously from the collateral and the debtor's patrimony.
- (5) If the secured creditor requires satisfaction from the value of the collateral, but does not fully cover the claim out of the proceeds of such sale, the debtor remains liable for the deficiency; conversely, if the collateral is sold for an amount in excess of the creditor's claim, the surplus belongs to the debtor.
- (6) A secured creditor whose charge encumbers a thing subject to enforcement of a claim may purchase the claim for which the enforcement proceeding is conducted, but no later than the commencement of the public sale.
- (7) A secured creditor whose charge encumbers a thing or an intangible capable of generating fruits or other benefits, from the value of which the secured claim due could be satisfied, may request the court to establish temporary management of the collateral and appoint a manager authorised to collect and liquidate such fruits or benefits, and to deposit the proceeds with the court for satisfaction of the secured claim.

Out-of-Court Satisfaction

Article 337

- (1) A secured creditor may exercise their right to satisfaction of a secured claim against the value of collateral out of court if the charge encumbers a movable or an intangible that is not considered an immovable, and the secured debtor permitted such satisfaction expressly in writing at the time of establishing the charge or at a later date.
- (2) If the movable or the intangible that is not considered an immovable is charged to secure a claim arising from a commercial transaction, the secured creditor is authorised to exercise

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their right to satisfaction of such claim from the value of the collateral out of court, unless the secured debtor explicitly excluded such satisfaction at the time of establishing the charge.

(3) If the secured creditor is authorised to exercise their right to satisfaction out of court, they may exercise it by way of public auction (public bidding), or in another manner only if they have the right to exercise it in such manner pursuant to a juridical act or statute, or if such manner is the only manner possible in view of the circumstances to realise the right to satisfaction.

(4) If a secured creditor who is authorised to exercise their right to out-of-court satisfaction receives as collateral a movable or intangible that has a market or exchange value, they may, in order to satisfy their claim, sell the collateral for such price in a private sale, through a person publicly authorised to conduct sales on an exchange or public sales of such assets and intangibles.

(5) If the collateral is money, the secured creditor is authorised to satisfy their secured claim when due by retaining the corresponding amount. The same applies if the creditor satisfies their claim when due against money received for a claim charged to them or interest or other occasional payments derived from the charged claim, or against charged fruits derived from an immovable through a legal relationship.

(6) If the secured creditor is authorised to collect for themselves the fruits from a pledged movable, the value of what is collected is set off by operation of law at the time of collection against the secured claim secured, even if it is not mature; the secured debtor is authorised to demand at any time the creditor issue of an acknowledgment of the set-off. The same applies to the value of other benefits the secured creditor has lawfully obtained from the collateral.

(7) A creditor who exercised their right to satisfaction out of court without authorisation or in an unauthorised manner is liable for any resulting damages.

Notice of Default and Complaint

Article 338

(1) If a creditor, to satisfy their claim from the value of an immovable, must first obtain a final judgment in litigation ordering the secured debtor to suffer satisfaction from the value of the collateral or a judgement ordering the debtor to personally satisfy the creditor's claim, they are authorised to request the complaint against the owner of the immovable be noted in the land register; likewise they are authorised to request that a default affecting the maturity of the claim be noted.

(2) The noted default or complaint shall have effect against any subsequent owner of the immovable, and an enforceable judgment obtained upon the noted complaint or default shall be serve grounds for execution by satisfaction from the value of the immovable, regardless of who is the current owner of the immovable.

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Title 5 PROTECTION

Request to Respect the Charge

Article 339

(1) A secured creditor has the right to demand the owner of collateral recognise and suffer their charge as an encumbrance on the collateral and to suffer the exercise of the holder's right thereon, particularly the satisfaction of the secured creditor's mature claim from the value of the collateral, and to refrain from acts on the collateral what they must refrain from due to the holder's right; they may make said demand against any other person whose acts deny, unlawfully hinder, or disturb the exercise of that right.

(2) Each of several holders of the same charge have the right referred to in paragraph 1 of this Article.

(3) The right referred to in paragraph 1 of this Article is not barred by the statute of limitations.

Complaint by a Secured Creditor

Article 340

If a secured creditor is to exercise their right referred to in Article 339 of this Act in a court proceeding or in a proceeding before another competent authority, they must prove their lien and the defendant's act of preventing or interfering with the exercise of the lien.

Complaint by a Presumed Secured creditor

Article 341

(1) Any person who in a court proceeding or in a proceeding before another competent authority proves the title and the peaceable mode of acquiring possession of the collateral, that is, that their lien on the immovable was at least entered in the land register, has the right to protect their presumed lien in the same way as the person who proved their lien (presumed secured creditor).

(2) The rules on a complaint by presumed owner apply accordingly to the right to protection of the presumed secured creditor.

Protection Against Infringement by Registration in the Land Register

Article 342

If a person interferes with the charge by means of invalid registration in the land register, the secured creditor may seek protection using the remedies provided by land registration law for the protection of registrable rights.

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Title 6 TERMINATION

Destruction

Article 343

If the collateral perishes, and no other thing or intangible takes its place, the charge terminates but the claim persists.

Renunciation

Article 344

- (1) A lien terminates by valid renunciation by the secured creditor.
- (2) It shall be deemed that a secured creditor renounced their charge if they unconditionally returned possession of the collateral to the debtor; otherwise the charge does not terminate by loss of possession of the collateral.
- (3) An individual creditor among several creditors of a secured claim may not validly renounce the charge without consent of the others.
- (4) A creditor of a claim encumbered with a sub-charge or a personal servitude may not validly renounce the charge securing the claim without consent of the holders of such rights.
- (5) If a charge is entered in the land register, it shall terminate only upon cancellation in the land register due to renunciation.

Expiration of a Term and Fulfilment of a Resolutive Condition

Article 345

- (1) A charge limited by a term or by a resolutive condition terminates as the result of expiration of the term or fulfilment of the condition, but a charge registered in the land register shall terminate only upon its cancellation.
- (2) A charge shall not terminate even if the term expired or the termination conditions was fulfilled if it belongs to a secured creditor who neither knew nor was required to know from the land register of such limitation at the time of their acquisition of the claim secured by the charge.

Extinction of the Secured Claims

Article 346

A charge terminates when the secured claim is extinguished in its entirety, along with all accessory claims for interest and costs, unless otherwise provided by law.

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Dispositions of Mortgages Prior to Cancellation

Article 347

- (1) For a mortgage to terminate, it is not sufficient that the secured claim was extinguished, but the mortgage terminates upon its cancellation in the land register.
- (2) Prior to cancellation of the mortgage in the land register, the owner of an immovable encumbered by the mortgage may transfer the mortgage to a new claim not greater than the one registered and terminated on the basis of a certificate or other document proving the extinction of the claim secured by the mortgage.
- (3) The owner cannot waive the right of disposition of a mortgage under paragraph 2 of this Article when the mortgage is established but if they promised procure cancellation of a specific mortgage, and this was noted in the land register with reference to that mortgage, they may not dispose of it.
- (4) If after the extinction of the claim secured by a mortgage the immovable is sold in an execution proceeding for the purpose of satisfying a monetary claim or is placed under involuntary administration, and the mortgage has not been deleted nor has the immovable or the charge been transferred to another, such mortgage shall not be taken into account in the distribution of the purchase price.
- (5) The owner is entitled to a portion of the purchase price only if the claim secured by the mortgage still exists against a third party or if the owner is entitled to compensation for the satisfaction of the claim.

Note of Retention of Priority

Article 348

- (1) If a mortgage is cancelled, the owner may simultaneously obtain a note in the land register retaining priority for an entry of a new mortgage up to the amount of the cancelled mortgage for a period of three years from approval of such note. If ownership changes, the retention shall also have effect for the benefit of the new owner but in case of an involuntary public auction of the immovable, the retention is disregarded unless exercised before a note of an order of execution against such immovable for the satisfaction of a monetary claim was registered.
- (2) The owner of an immovable may request that a mortgage for a new claim be entered in the same order of priority and up to the amount of the mortgage encumbering the immovable with the limitation that the new mortgage take legal effect only if the cancellation of the old mortgage is registered within one year from the approval of registration of the new one.
- (3) If cancellation of the old mortgage is not requested or approved within the period referred to in paragraph 2 of this Article, the new mortgage shall terminate as soon as the period expires and it shall be cancelled by the court on its own motion, together with all registrations

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relating to it. Cancellation of the old mortgage may be requested not only by the secured debtor but also by the creditor in whose favour the new mortgage is registered.

(4) If an older mortgage is encumbered, the new one registered in its place in the order of priority shall have legal effect only on the further condition that such encumbrance is cancelled or transferred to the new mortgage with the consent of the participants. If the older mortgage charges several immovables jointly (simultaneously), the new one shall have legal effect only on the further condition that the older mortgage is cancelled on all immovables charged.

(5) The provisions of this Article shall apply accordingly even if a new claim should take the place of two or more mortgage claims immediately following each other in the order of priority.

Protection of Third-Party Reliance

Article 349

A mortgage not registered in the land register terminates when the encumbered immovable is acquired by a person who neither knew nor needed to know that it existed.

Dissolution of the Secured Creditor

Article 350

A charge terminates if the legal person who is the secured creditor loses its personality, and has no universal legal successor; but a charge registered in the land register shall terminate only upon its cancellation.

Discharge

Article 351

(1) A mortgage shall terminate pursuant to an order of the land registration court ordering the mortgage be rendered obsolete after conducting proceedings provided by the provisions of the statute governing land registration law.

(2) In the case referred to in paragraph 1 of this Article, the mortgage shall terminate upon cancellation in the land register.

Disencumbrance by Operation of Law or by Decision of an Administrative Authority

Article 352

(1) Charges terminate on the fulfilment of conditions provided by special legislation.

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(2) If a charge is entered in the land register, it shall terminate only upon its cancellation, unless otherwise provided by law.

(3) If the discharge of a charge constitutes expropriation, the secured creditor has the right to full compensation, and the same applies to holders of property rights on the claim secured by the discharged lien.

Termination of Judicial and Statutory Liens

Article 353

(1) Unless otherwise provided by law, involuntary liens terminate when the order revoking the actions and measures that established such liens becomes final, and if satisfaction was conducted in such proceedings, when the order of satisfaction becomes final, a mortgage terminating only upon cancellation in the land register.

(2) A statutory lien terminates in the same way as the consensual charge, and also upon the termination of circumstances on account of which it was established by operation of law, unless otherwise provided by law. If registered in the land register, it terminates only upon cancellation.

Part Eight PROPERTY RIGHTS OF FOREIGNERS

Applying the Act to Foreigners

Article 354

(1) The provisions of this Act also apply to foreign natural and legal persons, unless otherwise provided by law or an international treaty.

(2) Restrictions that the law imposes on foreigners with respect to ownership of immovables in the territory of the Republic of Croatia cannot apply accordingly to ownership of movables or to limited property rights.

Foreigners

Article 355

(1) For the purposes of this Act, a natural person is a foreigner if they do not hold citizenship of the Republic of Croatia, unless otherwise provided by law.

(2) For the purposes of this Act, people who do not hold citizenship of the Republic of Croatia, but who are emigrants from the territory of the Republic of Croatia or their descendants are not considered foreigners, provided that the state administrative authority competent to decide on matters of citizenship determined that they meet the requirements for acquiring citizenship of the Republic of Croatia.

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(3) For the purposes of this Act, a legal person is a foreigner if it has its seat registered outside the territory of the Republic of Croatia, unless otherwise provided by law.

Ownership of Immovables

Article 356

(1) Foreign natural and legal persons may, subject to reciprocity, acquire ownership of immovables in the territory of the Republic of Croatia by succession.

(2) Foreign natural and legal persons may acquire ownership of immovables in the Republic of Croatia subject to reciprocity unless otherwise provided by law, if the minister of the Republic of Croatia competent for justice issues an approval therefor.

(3) The approval referred to in paragraph 2 of this Article constitutes an administrative act.

Approval

Article 357

(1) If the acquisition of ownership of an immovable is subject to an approval by the minister of the Republic of Croatia competent for justice, a juridical act the purpose of which is to acquire ownership shall be null and void without such approval by the minister competent for justice.

(2) The competent minister decides on the approval for the acquisition of ownership upon request by the person who intends to acquire ownership of a specific immovable or a person intending to alienate the immovable.

(3) A foreigner who has been denied approval for acquisition of ownership of an immovable may not submit another request for approval for acquisition of ownership of the same immovable within five years from the date of submission of the denied request.

Immovables on Excluded Territories

Article 358

(1) A foreigner cannot own an immovable located within a territory declared by law to be a territory excluded from foreigners from ownership for the protection of interests and security of the Republic of Croatia, unless otherwise provided by law.

(2) A foreigner who had acquired ownership of an immovable before the territory on which the immovable is located was declared as territory referred to in paragraph 1 of this Article loses ownership of that immovable and is entitled to compensation under expropriation law.

(3) If a foreigner cannot acquire ownership of an immovable in the territory referred to in paragraph 1 of this Article that they would otherwise acquire by succession, they have the

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right to compensation under expropriation law as if the immovable had been taken in an expropriation proceeding.

Article 358.a

(1) The provisions of Article 354 to 358 of the Act on Ownership and Other Property Rights (Official Gazette 91/96, 68/98, 137/99, 22/00, 73/00, 114/01, 79/06 and 141/06) do not apply to nationals and legal persons from European Union Member States. Such persons shall acquire ownership rights under the conditions applicable to nationals of the Republic of Croatia and legal persons with a seat in the Republic of Croatia.

(2) The provisions of paragraph 1 of this Article do not apply to immovables located in exempted areas:

- agricultural land designated by special legislation,
- protected natural areas under special legislation.

Article 358.b

(1) Immovables whose foreign ownership terminated under Article 358 paragraph 2 as well as immovables that a foreigner cannot acquire by succession under Article 358 paragraph 3 of the Act on Ownership and Other Property Rights become the property of the Republic of Croatia, which is liable for compensation. An heir shall realise the right to compensation according to expropriation legislation pursuant to a final inheritance decree establishing such right.

(2) Charges and other security interests encumbering the immovable shall encumber the compensation acquired by the heir.

(3) Other property rights of third parties encumbering the immovable do not terminate.

(4) The provisions of this Article also apply to other immovable that foreigners cannot acquire by succession.

Part Nine TRANSITIONAL AND FINAL PROVISIONS

Title 1 TRANSFORMATION OF SOCIAL OWNERSHIP

General Provisions on Transformation

Article 359

(1) The provisions of this Title on the transformation of the right of administration, use, and disposition of things in social ownership and on the transformation of the right of use of undeveloped development land in social ownership for the benefit of the holders of such rights also applies to their heirs and other legal successors.

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(2) Ownership and other rights acquired under to the provisions of this Act on the transformation of the right of administration, use, and disposition of things in social ownership and on the transformation of the right of use of development land in social ownership are acquired under the condition that they do not conflict with the rights of other persons over former socially-owned things under denationalisation law.

Transformation of the Right of Administration, Use, and Disposition

Article 360

(1) The right of administration, use, and disposition over a thing in social ownership has become, by transformation of the holder of that right, ownership of the person who, by way of transformation, became the universal legal successor of the former holder of the right of administration, use, and disposition over that thing, provided that the thing is capable of being owned, unless otherwise provided by special legislation.

(2) The right of administration, use, and disposition of a thing in social ownership of a person who had not transformed into a person capable of holding ownership prior to the entry into force of this Act becomes ownership of the former holder of the right of administration, use, and disposition over the thing upon the entry into force of this Act provided the thing is capable of being owned, unless otherwise provided by special legislation.

(3) The provisions of paragraphs 1 and 2 of this Article apply accordingly to all property rights.

(4) Registrations of the right of administration, use, and disposition in the land register and in other public registers effected prior to the entry into force of this Act shall be deemed registrations of ownership.

Transformation of the Right of Use of Undeveloped Development Land

Article 361

(1) The right of use of undeveloped development land in social ownership that has not terminated prior to enactment of this Act transforms into ownership of the former holder of that right or their legal successor upon its entry into force.

(2) The provision of paragraph 1 of this Article apply accordingly to preferential rights of use of development land in social ownership.

(3) Entries of the right referred to in paragraphs 1 and 2 of this Act in the land register performed before the entry into force of this Act shall be deemed to be entries of the right of ownership.

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Presumptions

Article 362

- (1) It is presumed that the owner of an immovable in social ownership is the person registered as the holder of the right of administration, use, and disposition of that immovable in the land register, and anyone claiming otherwise has the burden of proof.
- (2) It is presumed that the person registered in the land register as the holder of a right of use of undeveloped development land in social ownership, or the holder of a preferential right of use of such land is the owner of said land, and anyone claiming otherwise has the burden of proof.
- (3) All things in social ownership on the territory of the Republic of Croatia whose owner has not been determined, and for which the presumption under paragraphs 1 and 2 of this Article is not applicable, are presumed to be owned by the Republic of Croatia, and anyone claiming otherwise has the burden of proof.
- (4) The provisions of paragraphs 1 through 3 of this Article regarding things also apply accordingly to rights that were in social ownership.

Protection of Transformed Rights

Article 363

- (1) A person whose ownership originates from the former right of administration or use and disposition of things in social ownership, or the former right of use or preferential right of use of development land in social ownership may protect their right as any other owner, with the corresponding application of the provisions of Articles 161 through 168 of this Act, unless otherwise specifically provided by law.
- (2) A person referred to in paragraph 1 of this Article who cannot rely on the presumption of ownership or who challenges it, shall prove their ownership by proving that they or their legal predecessor acquired a right of administration or use and disposition, or the right of use or preferential right of use of development land in social ownership under valid title, and the fulfilment of all other conditions for the acquisition of such right required at the moment of acquisition.

Registration of Unregistered Rights on Immovables

Article 364

- (1) Registration of ownership of an immovable originating from the former right of administration or use and disposition of things in social ownership shall be effected according to the rules of land registration law, unless otherwise provided in this Article of the Act.

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(2) The land registration court shall grant registration of ownership against a registered predecessor registered as owner or holder of the right of administration or use and disposition in the land register. If the right of administration or use and disposition was transferred to multiple persons in succession off-register, registration shall be effected for the benefit of the person who proves an uninterrupted chain of unregistered acquisitions from the registered predecessor to himself.

(3) The land registration court shall grant registration of ownership based on private instruments without an authenticated signature of the person whose right is limited, encumbered, terminated or transferred, provided that after a change in the authorised signatory the instrument was countersigned and authenticated by the person authorised to sign such instruments at the time of authentication or by the person authorised to sign such instruments as a legal successor of the person who disposed of the immovable at the time of authentication, or by the state attorney of the Republic of Croatia in cases where the person who disposed of the immovable has no legal successor.

(4) To allow registration under paragraph 3 of this Article, the land registration court requires, alongside the countersigned statement in compliance with the rules of said paragraph, a public or publicly authenticated document showing the authority of the countersigner and evidence of legal succession or its absence.

(5) It shall be presumed that the person whose right is limited, encumbered, terminated or transferred allowed registration for the benefit of the acquirer also in case the statement in prescribed form was issued by a person authorised to countersign under paragraph 3 of this Article.

(6) Persons not registered as holders of the right of administration, use, or disposition in the land register and who do not hold an instrument valid for land registration of ownership may register ownership of the immovable in the land register pursuant to a court decision issued once they prove they were unregistered holders of such right over the immovable in social ownership.

(7) The provisions of paragraphs 1 through 6 of this Article apply accordingly to unregistered holders of limited property rights on immovables, unless otherwise provided by law.

Registration of Ownership Transformed from the Right of Use of Development Land

Article 365

(1) Registration of ownership of an immovable originating from the former right of use of undeveloped development land in social ownership or the preferential right of use of such land shall be effected according to the rules of land registration law, with corresponding application of the provisions of Article 364 of this Act, unless otherwise provided by this Article.

(2) The land registration court shall, at the request of a person with a legitimate interest, allow the cancellation of social ownership and the right of use or the preferential right of use, and

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shall register ownership for the benefit of the person who was registered in the land register as the holder of the right of use or the preferential right of use.

(3) The land registration court shall allow the cancellation of social ownership for the benefit of a person not registered in the land register as the holder of the right of use of undeveloped development land, and shall register their ownership pursuant to a decree granting the use of development land, a decree of dispossession of land against the former owner or user granting it to that person (the decree effecting dispossession in their favour), and an agreement on mutual rights and obligations concluded in accordance with the conditions established in the decree granting the use of development land.

(4) The land registration court shall allow registration of ownership for the benefit of a person not entered as the holder of the right of use of undeveloped development land, and who cannot produce the documents referred to in paragraph 3 of this Article, pursuant to a court order, issued once the person proves that she acquired that right of use under a valid title and in a prescribed mode.

(5) If the right of use or the preferential right of use was transferred to multiple persons in succession, registration shall be effected for the benefit of the last holder of such right on undeveloped development land if they can prove an uninterrupted chain of unregistered acquisitions from the registered predecessor to themselves.

(6) Any person claiming that the right of use of undeveloped development land or the preferential right of use of that land has terminated off-register in the interim must prove this before a court in order for that right, or the ownership transformed therefrom, to be deleted pursuant to a court order.

Title 2 ESTABLISHING THE UNITY OF OWNERSHIP OF THE IMMOVABLE

Unity of Ownership of the Immovable

Article 366

(1) The principle of legal unity provided in Article 9 of this Act shall apply in the Republic of Croatia as of the entry into force of this Act, unless otherwise provided by special legislation.

(2) The establishment of unity of ownership of the immovable is effected according to the provisions of this Title, unless otherwise provided by special legislation.

(3) As of the date of entry into force of this Act, any juridical act contrary to the principle of unity of ownership of the immovable shall not have legal effect.

(4) If a bilaterally or unilaterally binding agreement produces no legal effect because it is contrary to the principle of unity of ownership of the immovable, each contracting party, as well as a third party in whose favour the agreement was concluded, may demand a fair modification of the agreement to remedy the defect.

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Section 1 Establishing the Unity of Land and Building

Legal Unification of Land and Registered Buildings

Article 367

- (1) If prior to the entry into force of this Act a building owned by someone was constructed on land in social ownership, and it was registered in the land register as a land registration unit separate from the land on which it was constructed, the owner of the building shall acquire ownership of the whole immovable by merging all such land registration units into a single unit, along with the registration of ownership on the merged unit for the benefit of the owner of the building.
- (2) In the case under paragraph 1 of this Article the competent court shall order the merger of land registration units into a single unit at the request of the owner of the building.
- (3) If multiple land registration units are merged into one for the purpose of establishing unity of ownership of the immovable, the rights existing prior to the merger in favour of or as a burden on each land registration unit shall not be affected, but they shall be registered at the court's own motion in favour of or as a burden on the respective co-ownership share; if this is not possible, they shall be registered in favour of or as a burden on the merged unit, each according to its priority based on the time of its creation, or its priority effected by way of assignment of priority.

Legal Unification of Land and Unregistered Buildings

Article 368

- (1) If prior to the entry into force of this Act a building constructed on land in social ownership is owned by someone at the time of entry into force of this Act, but is not registered in the land register although the land on which it is constructed is registered, the owner of the building shall acquire ownership of the whole immovable by registration of the existence of the building on the parcel on which it is constructed, along with registration of ownership of the entire land registration unit for the benefit of the owner of the building.
- (2) If prior to the entry into force of this Act a building constructed on land in social ownership, was owned by someone at the time of entry into force of this Act, and a right of use of development land in social ownership or a preferential right of use of development land in social ownership is registered on such land for the benefit of the owner of the building, the competent court shall order registration referred to in paragraph 1 of this Article at the request of the owner of the building pursuant to a notification by the competent cadastral authority that a building is constructed on the respective building parcel.
- (3) If prior to the entry into force of this Act a building constructed on land in social ownership, was owned by someone at the time of entry into force of this Act, but the right of use of development land in social ownership or the preferential right of use of development land in social ownership is not entered on such land for the benefit of the owner of the

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building, the competent court shall order registration referred to in paragraph 1 of this Article at the request of the owner of the building pursuant to an enforceable decree by an authority granting a right of use or declaring a preferential right of use for the purpose of constructing a building, an agreement on mutual rights and obligations concluded in accordance with the conditions in that decree, and a notification by the competent cadastral authority that a building is constructed on the respective building parcel.

(4) If prior to the entry into force of this Act a building constructed on land in social ownership, was owned by someone at the time of entry into force of this Act, but the land is not registered in the land register, the owner of the building shall acquire ownership of the whole immovable by applying the provisions of paragraph 3 of this Article accordingly, where ownership of the immovable shall be acquired, in lieu of registration, by recording with the court an instrument otherwise suitable for registration under the provision of paragraph 3 of this Article; the provision of Article 120 paragraph 4 of this Act shall apply accordingly.

Legal Unification of Immovables and the Transformation of Rights of Administration, Use, or Disposition

Article 369

(1) If prior to the entry into force of this Act a building constructed on land in social ownership is in social ownership at the time of entry into force of this Act, and the right of administration, use, or disposition of the building belonged to a legal person different from the one who held the right of administration or use and disposition of the land, ownership of the whole immovable shall be acquired by the owner of the building according in the manner provided in Articles 367 and 368 of this Act which apply accordingly.

(2) In the case under paragraph 1 of this Article, the owner is the person whose right of administration, use or disposition was transformed into ownership according to the provisions of this Act or special legislation.

Section 2 Establishing Unity of Ownership of the Immovable and Condominium Units

Linking Condominium and Co-Ownership

Article 370

(1) Ownership of a unit (condominium), as well as the right of disposition of a unit in a building in social ownership acquired under prior legislation, shall as of the entry into force of this Act, be condominium, as regulated by the provisions of this Act, and shall be governed accordingly, unless the transitional provisions of this Act provide otherwise.

(2) The owner of a unit referred to in paragraph 1 of this Act shall remain the owner of their unit following the entry into force of this Act, and the holder of the right of disposition of a unit shall become the owner of such unit, where ownership of a unit is inseparably linked to a specific co-ownership share of the whole immovable according to the provisions of paragraphs 3 and 4 of this Act.

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(3) The owner of a unit referred to in paragraph 2 of this Article holds as of the date of entry into force of this Act an adequate co-ownership share of the whole immovable in lieu of their former participation in joint indivisible ownership of the common parts of a family house and co-ownership of the land, or, in lieu of their former participation in the permanent right of use of common parts of a multi-unit building with the right of permanent use of the land.

(4) The size of the adequate co-ownership share referred to in paragraph 3 of this Article shall be determined by applying accordingly the rules of this Act on the size of the adequate co-ownership share that entitles the co-owner to own a unit; until such time, it is presumed that the shares of all co-owners are equal, but each co-owner, even if they are not the owner of a unit, may request that the court determine the size of co-ownership shares and to distribute them equitably amongst them.

(5) Persons who had, under prior legislation, a valid title to acquire ownership of an apartment or other unit are entitled to acquire the apartment or the unit under said title, together with an adequate co-ownership share of the whole immovable, the size of which shall be determined according to the provisions of paragraph 4 of this Article.

(6) Ownership of a specific unit, linked to a specific co-ownership share of the immovable, is registered in the land register by applying accordingly the provisions foreseen by this Act for the establishment of ownership on a unit; until such time, registrations of ownership of a unit or entries of the right of disposition of a unit of a building in social ownership are presumed to be entries of ownership of a unit linked to a co-ownership share of the immovable determined under paragraph 4 of this Article.

Article 371

Repealed.

Units Created by Repurposing, Horizontal or Vertical Extensions, or Annexes

Article 372

(1) Any person who, prior to the entry into force of this Act, pursuant to an approval issued by the competent authority within the scope of its power for such legal disposition and at their own expense, conducted a repurposing of common parts of a building in social ownership into an apartment or other independent room, shall have acquired on such basis and within such scope, ownership of the repurposed rooms as a unit, along with the corresponding co-ownership share of the whole immovable, within the meaning of the provisions of Article 370 of this Act.

(2) The provision of paragraph 1 of this Article shall apply accordingly to horizontal or vertical extensions, and annexes completed prior to the entry into force of this Act, pursuant to a valid approval of a competent authority and at the person's own expense.

(3) If a repurposing, horizontal or vertical extensions, or annexes referred to in paragraphs 1 and 2 of this Article was completed prior to the entry into force of this Act, the competent

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court shall, at the request of an interested party, order registration in the land register of such condominium established on an adequate co-ownership share of the whole immovable, pursuant to an enforceable court order declaring the acquisition of condominium and an order declaring the size of the adequate co-ownership share, or, pursuant to an instrument executed by all co-owners of the immovable recognising the acquisition of condominium and jointly specifying the size of the adequate co-ownership share on which such ownership is established.

Appurtenances of a Unit Created by Repurposing, Horizontal or Vertical Extensions, or Annexes

Article 373

(1) Any person who prior to the entry into force of this Act, pursuant to an approval issued by the competent authority within the scope of its power for such legal disposition and at their own expense repurposed common parts of a building in social ownership into a part intended to serve their unit, shall have extended their condominium to such part as its appurtenance, unless under the provisions of this Act it cannot be an appurtenance of such unit.

(2) The provision of paragraph 1 of this Article apply accordingly to horizontal or vertical extensions, or annexes completed prior to the entry into force of this Act, pursuant to a valid on approval of the competent authority and at their own expense

Title 3 EXERCISE OF POWERS OVER THE WHOLE IMMOVABLE IN THE TRANSITIONAL PERIOD

Article 374

(1) The provisions of this Title govern the mutual relations between co-owners until they regulate their relations in accordance with the provisions of Part Three Title 4 of this Act.

(2) Notwithstanding paragraph 1 of this Article, the provisions of Articles 91 and 92 in Part Three Title 4 of this Act shall apply to relations between co-owners governed by the provisions of this Title.

Condominium Agreement

Article 375

(1) The mutual relations between co-owners concerning the administration and use of an immovable are determined in an agreement which must be concluded in writing (condominium agreement).

(2) The condominium agreement referred to in paragraph 1 of this Article shall include in particular:

- the size of co-ownership shares of the immovable,

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- the conditions and the manner of management of the immovable,
 - detailed information about the person who will manage the immovable,
 - the scope of tasks that shall be performed by such person, liability for their performance and similar,
 - the conditions and the manner of collecting and disposing of the funds in the reserve fund,
 - the name of the co-owner authorised to represent the co-owners vis-à-vis the manager or third parties, and the limits of such authority,
 - the conditions and the manner of use of the common parts, including the apartment intended for the building superintendent, as well as facilities and land appertaining to the specific immovable.
- (3) Decisions derived from the condominium agreement are binding for all co-owners if the agreement was concluded by a majority of co-owners whose co-ownership shares make more than half of the value of all units in the immovable.
- (4) The provisions of the condominium agreement are also effective against a co-owner who acquired their right after the conclusion of the condominium agreement.

Article 376

- (1) If an immovable was managed by a housing fund, the co-owners must submit the agreement referred to in Article 375 of this Act to the housing fund and notify it of the reserve fund account.
- (2) In the case under paragraph 1 of this Article, the housing fund shall discontinue management of an immovable after the co-owners of that immovable submit an agreement they concluded with a manager, and no later than twelve months from the entry into force of this Act.

Agreement Concerning Common Parts

Article 377

If an immovable has common parts and facilities shared with other immovables (roof, gutters, façade, boiler room) or a superintendent's apartment that appertains to other immovables, the co-owners of such immovables must conclude an agreement on management and use of common parts and facilities, or the superintendent's apartment.

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Manager

Article 378

- (1) The co-owners of an immovable must entrust management of the immovable to a manager in accordance with an agreement they conclude with such manager.
- (2) The manager may be a natural or a legal person registered for such activity.
- (3) The manager manages the immovable on behalf of and for the account of the co-owners within the limits of authority stipulated in the agreement.
- (4) The manager disposes of the funds in the reserve fund.
- (5) The manager represents the co-owners in matters concerning the management of the immovable in proceedings before state authorities, unless stipulated otherwise in the agreement referred to in paragraph 1 of this Article.
- (6) If the manager manages multiple immovables, they must keep the administration of each immovable separate.

Duties and Powers of the Manager

Article 379

- (1) The manager must in particular:
 - take care that the common parts of the immovable are maintained in the technical and functional condition required for normal use,
 - to conduct occasional and annual inspections of the immovable and prepare a record thereof,
 - to determine the amount in the reserve fund to be covered by each co-owner,
 - to allocate other expenses of the immovable among the co-owners, to collect debts and to regularly pay such expenses to third parties, with the available funds,
 - to notify in an appropriate manner the co-owners of the activities performed,
 - to perform other activities in line with the obligations assumed in the agreement referred to in Article 378 of this Act,
 - to present an accurate management account for the previous calendar year to each co-owner and to make available in an appropriate manner all supporting documents no later than June 30 each year,

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- to prepare an overview of planned maintenance and improvements, as well as of foreseeable expenses and burdens in the following calendar year (annual programme) or a multi-year period, and display it appropriately in the building no later than the end of the current calendar year,

- to collect multiple offers for the maintenance of the immovable recurring at intervals longer than one year, as well as for larger improvement works,

- to initiate all necessary proceedings before competent state administration bodies and courts for the purpose of registration of a building on a building parcel and all its units into the land registers.

(2) The co-owners on whose behalf the manager manages an immovable must notify any tenants and lessees appropriately of any changes of the manager or their powers that concern them also; any performance rendered by unnotified tenants and lessees to a person who is no longer the manager or who is not authorised to receive performance shall be validly performed and shall release the debtors from obligations, but only if they did not know of such change.

(3) A manager who acts contrary to the obligations set out in this Article may be relieved of duties by the co-owners and shall be liable to compensate them for any damage caused by their negligence or omission.

Reserve Fund

Article 380

(1) The co-owners must pay contributions to the reserve fund into an account opened for such purpose, according to an annual or multi-annual programme.

(2) The co-owners must pay the contributions referred to in paragraph 1 of this Article at least in an amount equivalent to 0.54 % of the value of their unit annually.

(3) If the co-owners collect contributions to the reserve exceeding 10 % of the value of the immovable, they are temporarily not required to contribute to the reserve fund until they fall below the prescribed minimum referred to in paragraph 3 of this Article.

(4) The co-owners must pay the contributions referred to in paragraph 1 of this Article monthly.

Management Expenses

Article 381

Until the values of the units of an immovable are determined, the share of a unit owner in management expenses shall be determined such that the size of the share corresponds to the

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ratio of the useful floor area of the apartment or other independent room that they own to the sum of useful floor areas of all apartments and other independent rooms in the immovable.

Emergency Repairs

Article 382

- (1) If the co-owners fail to ensure management of the immovable concerned, the local self-government unit and the regional self-government unit shall appoint a natural or legal person to perform emergency repairs on that immovable.
- (2) Emergency repairs means works that arise unexpectedly and which prevent consequences to life and health of persons, as well as major damage to the immovable.
- (3) In the case under paragraph 1 of this Article, the co-owners must pay expenses of the person who performed emergency repairs within eight days from the date on which the person notified them in writing of the amount of the debt.
- (4) An invoice for an emergency repair is considered an authentic document in execution proceedings.
- (5) To secure the payment of any outstanding amounts, a legal person who performed an emergency repair has the right to register a mortgage against an apartment or other unit belonging to the co-owners who failed to pay the expenses of the repair.

Necessary Repairs

Article 383

- (1) If damage to the common parts and facilities of an immovable poses a danger to life and health, the building inspector shall order the manager of the immovable or, if there is no building manager, the co-owners to perform the necessary repairs.
- (2) An appeal against the order of the inspector does not suspend its enforcement.
- (3) For the purpose of securing the payment of the expenses of repairs referred to in paragraph 1 of this Article an execution creditor has the right to register a mortgage against the apartment or other unit of the immovable owned by the co-owners who failed to pay the expenses of the repair.

Term for Concluding Agreements

Article 384

The co-owners must conclude the condominium agreement referred to in Article 375, the agreement concerning common parts referred to in Article 377 and the agreement with the

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manager referred to in Article 378 of this Act within twelve months from the entry into force of this Act.

Compulsory Building Management

Article 385

(1) If the co-owners do not ensure management of the immovable within the period referred to in Article 384 of this Act, the local self-government units shall appoint a natural or legal person to manage that immovable (compulsory building manager).

(2) The compulsory building manager has all the powers of a building manager provided in the provisions of this Title of the Act.

Cessation of Operation of Housing Funds

Article 386

Housing funds shall cease operations within twelve months from the entry into force of this Act.

Adoption of Subordinate Regulations

Article 387

(1) The use of the reserve fund, the types and methods of performing urgent and necessary repairs, the submission of data on apartments to the competent administrative authority of local and regional government units, the transfer of funds and employees of a housing fund, the transfer of funds remaining in the housing fund's accounts, as well as the conditions and method of cessation of operation of housing funds shall be regulated by a special regulation of the Government of the Republic of Croatia.

(2) The Government of the Republic of Croatia shall adopt the regulation referred to in paragraph 1 of this Article within three months from the entry into force of this Act.

Title 4 FINAL PROVISIONS

Effects of the Act

Article 388 (OG 152/14)

(1) From the entry into force of this Act, the acquisition, modification, legal effects and termination of property rights shall be governed under its provisions, unless otherwise provided by the transitional and final provisions of this Act or special legislation.

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(2) The acquisition, modification, legal effects and termination of property rights prior to the entry into force of this Act shall be governed by the rules applicable at the moment of acquisition, modification, and termination of the rights and their legal effects.

(3) The terms provided in this Act for the acquisition and termination of property rights, if they commenced prior to the entry into force of this Act, shall continue to run in accordance with the provision of paragraph 2 of this Article, but not longer than the period that would have expired had the term started at the moment this Act entered into force.

(4) The period for acquiring by adverse possession immovables that were in social ownership on 8 October 1991, as well as property rights on those immovables acquired by adverse possession, shall not include possession prior to that date.

(5) The protection of reliance on the accuracy and completeness of the land register provided by this Act shall not apply in favour of acquisitions completed until 1 January 2017 in cases of acquisition of an immovable with a registration of social ownership which was not cancelled before the entry into force of this Act.

(6) Notwithstanding paragraph 5 of this Article, the protection of reliance on the accuracy and completeness of the land register shall apply as of 1 January 2007 for immovables in cadastral municipalities for which an EDP land register has been opened as well as for immovables entered into the Land Database pursuant to special provisions of the Land Registration Act.

Acquired Rights

Article 389

(1) The entry into force of this Act does not affect existing relations between the owners or co-owners of things on the one hand and the persons who acquired rights on such things under a valid title and in a valid mode on the other.

(2) Rights on immovables which are registered in the land register shall retain their position in the order of priority even after the transformation of social ownership and the establishment of the unity of ownership of the immovable.

(3) Mutual relations between the owners or co-owners of immovable on one hand and the occupants, tenants or lessees on the other are governed by the rules of the law of obligations, unless governed by special legislation.

Exceptions from the Transformation of the Right of Administration, Use, and Disposition

Article 390

(1) The provisions of Articles 360 through 365 of this Act do not apply to things on which former social and socio-political organisations held the right of management, use, and disposition, to things not entered into the social capital of legal persons in the transformation

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proceeding under the Act on the Transformation of Social Enterprises, and to things of legal persons in social ownership with their seat in the formerly occupied, and now liberated territories of the Republic of Croatia.

(2) The transformation of the right of management, use, and disposition of things referred to in paragraph 1 of this Article shall be regulated by special legislation.

Ownership of Companies as Legal Successors of Social Enterprises

Article 390.a

A company, as the legal successor of a social enterprise, upon the completion of the transformation of social ownership, is the owner of immovables that, on the date of valuation of the share capital in the transformation or privatization proceeding, were:

- social ownership with the right of management, use, and disposition of the social enterprise and
- capable of being subject to acquisition of ownership and
- whose value has been appraised in the company's share capital and which were recorded in the share capital by the competent authority.

Dispositions of Immovables Owned by Local Self-Government Units

Article 391

(1) Immovable owned by local self-government units and regional self-government units may be alienated or otherwise disposed of by the competent authority only on the basis of a public tender and for compensation determined at market value, unless otherwise provided by law

(2) The provisions of paragraph 1 of this Article do not apply to cases where ownership of an immovable owned by local and regional self-government units is acquired by the Republic of Croatia and local and regional self-government units, as well as by legal persons owned or predominantly owned by the Republic of Croatia, or legal persons owned or predominantly owned by units of local and regional self-government, if this is in the interest and purpose of general economic and social progress of its citizens.

(3) Land owned by local and regional self-government units may be sold by competent authorities at an established market price without a public tender:

- to a person who needs a part of that land for the formation of an undeveloped building parcel in accordance with the location permit or detailed site plan, if that part does not exceed 20 % of the area of the planned building parcel and
- to a person who has built, on their own land, a structure in accordance with the detailed site plan or location permit, without a building permit or other appropriate act from the competent

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state authority, and is missing up to 20 % of the area of the planned building parcel, provided that promise to obtain a building permit within one year from the date of concluding the sales contract.

(4) The market price referred to in paragraph 3 of this Article is the value expressed as the price that can be achieved for a certain immovable on the market and which depends on the relationship between supply and demand at the time of determination in the area of the local self-government unit.

(5) Juridical acts concluded contrary to the provisions of this Article are null and void.

Lost Property Bureaus

Article 392

(1) The Ministry of the Interior shall establish lost property bureaus and organise their operations within three months from the entry into force of this Act.

(2) Until the lost property bureaus referred to in paragraph 1 of this Article are established, the operations of lost property bureaus shall be conducted by police stations.

Exemptions from the Application of Commercial Leases Act

Article 393

The provisions of the Commercial Leases Act do not apply to lease agreements concluded pursuant to the provisions of Article 32 of this Act.

Repeals

Article 394

(1) Following the entry into force of this Act, the following legislation shall cease to have effect:

- the Act on Basic Property Relations (OG 53/91),
- the Act on Ownership of Parts of Buildings (OG 52/73),
- the Act on Transfer of Land and Buildings (OG 52/73),
- the Act on the Repurposing of Common Rooms into Apartments (OG 37/88),
- the Basic Act on the Acquisition of Ownership of Agricultural Tools and the Use of Agricultural Tools by Citizens (OG 52/71),
- Titles II and III of the Housing Act (OG 51/85, 42/86, 22/92 and 70/93),

Act on Ownership and Other Property Rights

OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15, 94/17

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- the Act on the Use of Parts of Amortisation Funds for Major Repairs of Residential Buildings (OG 39/88 and 33/89), and

- the Act on Housing and Utility Funds (OG 53/90 and 76/93).

(2) Following the entry into force of this Act, the Development Land Act (OG 48/88, consolidated version 16/90 and 53/90) shall cease to have effect, and proceedings commenced under its provisions shall be completed under to the provisions of this Act if they are more favourable for the holder of the right of use.

(3) Following the entry into force of this Act, the Regulation on the Use of Amortisation Funds of Apartments and Residential Buildings (OG 19/95) shall cease to have effect.

(4) Following the entry into force of this Act, the provisions of the following statutory articles shall cease to have effect:

- Articles 966 through 996 of the Civil Obligations Act, assumed as legislation of the Republic of Croatia by the Act on the Assumption of the Civil Obligations Act (OG 53/91 and 73/91),

- Articles 34 and 53 of the Building Act (OG 77/92).

Interpretation and Application of the Provisions of the Act

Article 395

(1) As of the date of entry into force of this Act, the provisions of legislation presently in force that regulate social ownership differently from other ownership, may only be interpreted and applied in accordance with the principle of uniformity of ownership.

(2) As of the day of entry into force of this Act, the provisions of legislation presently in force that regulate the ownership of buildings or parts of buildings differently from the ownership of land, may only be interpreted and applied in accordance with the principle of unity of ownership of the immovable.

Entry into Force

Article 396

This Act shall enter into force on 1 January 1997.

Transitional and Final Provisions from the Act on Amendments to the Act on the Sale of Apartments Subject to the Right of Tenancy (OG 68/98 of 12 May 1998)

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Article 12

On the date of entry into force of this Act, the provisions of Article 371 of the Act on Ownership and Other Property rights (OG 91/96) and Article 225 of the Land Register Act (OG 91/96) shall cease to have effect.

Transitional and final provisions from OG 73/00 of 21 July 2000

Article 2

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette.

Transitional and final provisions from the Act on Amendments to the Bankruptcy Act (OG 129/00 of 22 December 2000)

Article 71

(1) If, with respect to a particular immovable, at the moment of opening a bankruptcy proceeding, the unity of ownership of the immovable has not been established, the provisions on the legal consequences of violating the principle of unity of ownership of the immovable (Articles 366 to 373 of the Act on Ownership and Other Property rights (OG 91/96, 137/99, 22/00 and 73/00)) shall not apply to:

- 1) liquidation of an immovable of the debtor in bankruptcy proceedings and in execution proceedings initiated by a creditor after the opening of bankruptcy proceedings (Article 164),
- 2) the exercise of mortgages and other rights of satisfaction of the debtor against immovables of other persons,
- 3) the exercise of rights acquired by third parties over immovables of the debtor by way of judicial and notarial transfer of ownership of immovables for security (Article 81.a),
- 4) the exercise of rights that the debtor acquired over immovables of third parties by way of judicial and notarial transfer of ownership of immovables for security.

(2) Liquidation of immovables of the debtor with respect to which the principle of unity of ownership of the immovable has not been established and the exercise of mortgages and other rights referred to in paragraph 1 of this Article of the debtor on immovables of other persons may also be conducted pursuant to legislation in force prior to the entry into force of the Act on Ownership and Other Property rights.

(3) The purchaser or the acquirer of the immovable referred to in paragraph 2 of this Article acquires with respect to that immovable the rights and obligations of the debtor, or of the person on whose immovable the debtor had a mortgage or other right referred to in paragraph 1 of this Article.

(4) Immovables of the debtor and of third parties referred to in paragraph 1 of this Article, may be subject to an attempt at establishing the principle of unity of ownership of the immovable prior to liquidation or the exercise of rights acquired over them referred to in paragraph 1 of this Article, and at conducting their liquidation or exercise of rights acquired over them referred to in paragraph 1 of this Article in accordance with that principle.

Transitional and Final Provisions from OG 114/01 of 20 December 2001

Act on Ownership and Other Property Rights

OG 91/96, 68/98, 137/99, 22/00, 73/00, 129/00, 114/01, 79/06, 141/06, 146/08, 38/09, 153/09, 143/12, 152/14, 81/15, 94/17

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Article 3

This Act shall enter into force on the day of its publication in the Official Gazette.

Transitional and Final Provisions from OG 79/06 of 17 July 2006

Article 10

Article 1, paragraph 1 of this Act shall not apply to the establishment of condominium in buildings plotted in the cadastral map before the entry into force of this Act.

Condominium referred to in paragraph 1 of this Article cannot not be established until a competent authority has certified that a specific apartment or other room in a specific building and on a specific parcel is an independent functional unit. The certificate must contain a list and a description of units and a note indicating which unit was built without or in violation of the permit of the competent authority.

On the basis of the permit referred to in paragraph 2 of this Article the competent court shall ex officio register a notice in the land register stating that the unit was built without or in violation of the permit of the competent authority.

Notwithstanding paragraph 1 of this Article, at the request of the owner of the immovable, a permit shall be issued in accordance with Article 1, paragraph 1 of this Act if the unit was built in compliance with the permit issued by the competent authority.

Article 11

Proceedings initiated in accordance with the provisions of Articles 356 and 357 of the Act on Ownership and Other Property rights (OG 91/96, 68/98, 137/99, 22/00 and 114/01) shall be completed in accordance with the provisions of this Act.

Article 12

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette.

Transitional and final provisions from OG 141/06 of 27 December 2006

Article 4

This Act shall enter into force on the day of its publication in the Official Gazette.

Transitional and final provisions from OG 146/08 of 17 December 2008

Article 8

This Act shall be published in the Official Gazette and shall enter into force on 1 February 2009, with the exception of the provisions of Articles 1 and 4 of this Act which shall enter into force on 17 May 2009.

Transitional and final provisions from OG 38/09 of 27 March 2009

Article 3

This Act shall be published in the Official Gazette and shall enter into force on the day of entry into force of the decision to call the next general and regular elections of members of

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municipal and city councils, county assemblies and the City Assembly of the City of Zagreb as well as municipal mayors, city mayors, county prefects and the mayor of the City of Zagreb, and the current municipal, city, and county authorities shall continue their functions until municipal mayors, city mayors and county prefects elected at direct elections assume office.

Transitional and final provisions from OG 153/09 of 21 December 2009

Article 4

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette

Transitional and final provisions OG 143/12 of 20 December 2012

Article 2

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette.

Transitional and final provisions from OG 152/14 of 22 December 2014

Article 2

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette.