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DECISION

No. 745, dated 24.10.2012

ON REGISTRATION PROCEDURES FOR IMMOVABLE PROPERTIES, FOR WHICH LEGAL OWNERSHIP DOCUMENTS ARE POSSESSED, BUT WHOSE SURFACES ARE NOT DETERMINED

Pursuant to Article 100 of the Constitution and letter “b” of Article 25 of Law No. 33/2012, “On immovable property registration”, upon the proposal of the Minister of Justice, the Council of Ministers

DECIDED:

1. The purpose of this decision is to determine the registration procedures for immovable properties, for which legal ownership documents are possessed, but whose surfaces are not determined.
2. Immovable properties that do not have determined surfaces, which are found in cadastral zones for which, at the time of entry into force of this decision, the process of initial property registration has not been terminated or this process is underway, cannot be registered on a cadastral card and cadastral map in the name of the owner, without prior development of their registration procedure, as defined in this decision.
3. Immovable properties which, at the time of entry into force of this decision, are geographically positioned in cadastral zones for which the initial registration is completed, during which their surface and their geographical position are determined by site measurements and the properties are recorded in a cadastral card and cadastral map in the name of the owner, shall be assessed that they have determined surfaces, without the need to develop an initial procedure according to letter “b” of Article 25 of Law no. 33/2012 “On immovable property registration”, provided that during the public notification period there is no unresolved claim regarding the positioning of the property, the boundaries and the surface. For immovable properties which, at the time of entry into force of this decision, are geographically positioned

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in the cadastral zones for which the initial registration has been completed, but are registered in the immovable property card with the note “state” or “uncertified owner”, registrations cannot be made in favor of the owner, without prior development of their registration procedure, as determined in this decision.

4. Registration of immovable properties, determined in this decision, is made at the request of the interested person. He/she must prove the ownership with ownership documents within the meaning of Article 193 of the Civil Code of the Republic of Albania by presenting to the Registrar the following documents:

- a) the act of acquiring ownership in cases when the immovable property is registered for the first time, or the registration document, in cases when the immovable property is recorded in the mortgage registers;
- b) a survey plan of the immovable property, prepared by a licensed entity for topographic works or by the Immovable Property Registration Office, according to the request of the interested party;
- c) the notarial declaration of the adjacent owners, which certify the content of the request for the boundaries of the property, which is claimed to be registered;
- d) ç) documentation from the technical archive of construction, which maps the condition of the claimed property, if available from this archive;
- e) the payment receipt of registration expenses (fees, taxes, other expenses, if any).

5. When, at the boundaries of the property, for which a registration request has been submitted, there are state properties such as: roads, alleys, public squares, parks, public buildings, etc., the notarial declaration is replaced by an official confirmation issued by the institution, which is the owner or manages the state property.

6. When, at the boundaries of the property there are properties of individuals, natural or legal persons, private or state, who have not registered the property at the immovable property registration office, the notarial declaration of the owner of the adjacent/boundary property shall be replaced by one notarial declaration made by these persons, in the capacity of the possessor of the boundary property, reflected in the card as an “uncertified owner”. In this case, besides the notarial declaration of the possessor of the adjacent property, the Immovable Property Registration Office (IPRO) also proceeds with the announcement of the property survey plan, according to the procedure provided in point 7 of this decision.

7. When the declaration of the adjacent owners of the property, for which registration is required with the determination of the surface, according to letter “b” of Article 25 of Law No. 33/2012, for various, objective reasons, with the exception of property boundary claims, has not been possible to be provided, the IPRO will display the survey plan of the property or cartographic documents to the public for a period

of 45 days, in visible locations of the IPRO and at the municipal unit in the territory of which the property is located.

For the announcement procedure, it is necessary that the boundary of the property for which the declaration of the adjacent owner/possessor is missing, complies with the boundary shown by the cartographic documents obtained from the technical archive of the construction. If this boundary does not match, the announcement procedure is not conducted and the registrar refuses the registration.

8. The applicant signs a declaration before the notary public, certifying at his own responsibility that he/she cannot, for objective reasons, provide the notarial declaration of the owner or of the owners adjacent to the property he/she is seeking to register, and the nature of the objective impossibility. If the adjacent owner submits, within 45 days, at the IPRO a complaint or claim substantiated and based on legal documents for the boundaries of the property for which registration is required, the registrar refuses the registration.

If the adjacent/boundary owner does not submit at the IPRO, within 45 days, a complaint or claim for the boundaries of the property for which registration is required, the registrar shall, within 5 working days from the date of expiry of the above deadline, draft in two copies, a minutes, which contains a description of the performed procedures. A copy of the minutes is filed in the IPRO archive, while the other copy is administered handled in the file of the applicant requiring the property registration.

9. When two or more co-owners own the adjacent/boundary property, the applicant submits the notarial statements of the co-owners for whom it is possible to obtain such a declaration. For other co-owners, for which it is not objectively possible to obtain a notarial declaration, the procedures set forth in point 7 of this decision shall apply.

10. The procedures provided in points 7, 8 and 9 of this decision apply to any other case of immovable property registration, for which the declarations of adjacent owners are required.

11. The Registrar, if he/she deems it necessary, pursuant to Article 20 of Law No. 33/2012, verifies the authenticity of the documentation submitted by the applicant. For this purpose, he/she has the right to request documents from third parties, persons, natural or legal persons, notary offices and administration bodies. In addition to verifying the authenticity of the documentation, if he/she deems it necessary, the registrar may order the site verification of the property, with a group consisting of at least 2 cartographic employees of the registration office, in order to make the measurements and to draw up the relevant documents (alignment plan/ genplan/survey plan).

12. The Registrar shall, within the 30 calendar days from the date of submission of the request, with the exception of the display cases provided in point 7 of this decision, make a decision to register or refuse

the registration of the property. Against the decision of the Registrar or in the absence of a response, the applicant may appeal at the court.

13. The Registrar, in taking a decision to register or refuse the registration, is based on:

- a) the documentation submitted by the applicant;
- b) verifications made by him/her, pursuant to Article 20 of Law No. 33/2012 and point 4 of this decision.

14. The decision of the Registrar shall be in writing, reasoned, signed and meet the requirements for the administrative act provided in the Administrative Procedure Code of the Republic of Albania.

15. The immovable property registration office publishes on the official web site and in the premises intended for notices, for competence purposes, any decision taken during this procedure.

16. Decision No. 1025, dated 9.7.2008 "On registration procedures for immovable properties, for which legal ownership documents are possessed, but whose surfaces are not determined", is abrogated.

17. The Ministry of Justice and immovable property registration offices are responsible for the implementation of this decision.

This decision shall enter into force after its publication in the Official Journal.

PRIME MINISTER

Sali Berisha