

MORTGAGE REGISTER OF THE REPUBLIC OF LITHUANIA

The Central Mortgage Office was established following the Resolution of the Government of the Republic of Lithuania adopted on 1997. The Office is financed from the state budget. At the time when the Office was established its main function was to manage the Mortgage register, but now the Central Mortgage Office manages four more state registers – Register of Wills, Register of Property Seizure Acts, Register of Marriage Settlements, Register of Contracts.

The Mortgage Register was established following the Law of the Republic of Lithuania on the Establishment of Mortgage Register adopted on 1996. The infrastructure (mortgage divisions, legal and technical basis) necessary to ensure functioning of the Register was established on 1997-1998. The Mortgage Register started its operation on 1st of April, 1998.

Lithuanian interwar practise was also taken into account while establishing modern mortgage system.

At the beginning of the 20th century, Lithuania did not have a unified law system, which would regulate mortgage of property. At that time the Law on Mortgage (1818), the Law on Mortgage and Privileges (1825) and the Code of Napoleon were in force. 10th volume of Russian Laws was in force in the previous provinces of Vilnius and Kaunas. Previous province of Kursiai and province of Klaipeda also had a separate legal system.

A unified system of mortgage was created in 1938, when Law on Mortgage came into force. Mortgage divisions at district courts were the basis of Lithuanian mortgage system. Data on Mortgage rights as well as on property rights and their restrictions were recorded in mortgage books by hypothecary judges, hypothecary secretaries and other civil servants.

The legal basis of contemporary Mortgage Register is the Civil Code of the Republic of Lithuania, the Code of Civil Procedure, the Law on the Establishment of Mortgage Register, the Law on the State Registers, the Resolution of the Government of the Republic of Lithuania on the Regulations of the Mortgage Register and other legal acts.

The Law of the Republic of Lithuania on the State Registers indicates that the Mortgage Register is one of the principal state registers. This register is fully computerized. The objects of the Mortgage Register are transactions involving the pledge of immovable things specified in the Civil Code of Republic of Lithuania (mortgage), as well as transactions involving the pledge of movable things and property rights specified in the Civil Code of the Republic of Lithuania (pledge). As it is stated in Civil Code of Republic of Lithuania, the

mortgage as well as the pledge becomes effective from the moment of its registration in the Mortgage Register. The moment of the closure of the mortgage as well as pledge is the moment of its deregistration from the mortgage register.

It is important to mention, that Mortgage Register registers not only mortgages of immovable things, but also pledges of movable things and property rights.

It is also important to mention that new Civil Code of the Republic of Lithuania, which came into force in 2001, provides for two types of mortgages and pledges – contractual mortgages and pledges and forced mortgages and pledges. Contractual mortgage (pledge) – agreement of the contractors to mortgage (pledge) immovable or movable property or property rights or unilateral application of the owner of the immovable property as well as movable property or property rights to mortgage (pledge) it. Forced mortgage (pledge) - mortgage (pledge) of immovable property as well as movable property or property rights without a will of owner. Civil Code of Republic of Lithuania indicates that the forced mortgage (pledge) can be found on the basis of law or rulings of the court in these cases: (*The grounds for establishing forced mortgage (pledge) are particular laws or rulings of the court in these cases.*)

1. to ensure the claims of the state which arises from the legal relations concerning taxation and social insurance;
2. to ensure claims which arise from construction and reconstruction of buildings;
3. to ensure the ruling of court to satisfy demand related to property;
4. in other cases stated in the Civil Code of the Republic of Lithuania.

These types of mortgages and pledges are registered in Mortgage Register.

The main purposes of Mortgage Register are – register contractual and forced mortgages, contractual and forced pledges, collect data about mortgages/pledges, execute forced recovery from mortgaged/pledged property, distribute information about mortgages and pledges.

Mortgage Register is managed by 15 hypothecary divisions at district courts and Central Mortgage Office. The leading office managing the Mortgage Register is the Ministry of Justice.

Hypothecary divisions at the district courts register data about mortgages/pledges amend data of Mortgage Register and deregister mortgages/pledges. It should be noted, that hypothecary judges legally investigate documents presented to the Mortgage Register and execute forced recovery from mortgaged/pledged property. Since the establishment of the Mortgage Register, data about all mortgages/pledges concluded in Lithuania are accumulated in one place, therefore hypothecary judge can receive all information about the debtor, the

object which is mortgaged/pledged, total valuation price of the mortgaged/pledged objects, the exact and maximum amount of the obligation secured by the mortgage/pledge, the date of the discharge of the obligation, the creditor, etc. The cases of the forced recovery from mortgaged/pledged property are executed in written procedure. This type of procedure is simpler and faster for the Parties of the case.

The Central Mortgage Office manages central mortgage register, provides the data of the Mortgage Register to customers, administers the system of the distribution of the data of the Mortgage register, establishes relations with other state registers, transmits the data of the Mortgage Register to the other state registers, receives data of other state registers, etc.

In 2004, 32 831 mortgages and pledges were registered in the Mortgage Register. That is 6606 mortgages and pledges more than in the year 2003, when 26 225 mortgages and pledges were registered. The total value of all mortgaged and pledged things last year amounted to 27,5 billion Lt (~8 billion €). What is interesting to note, that the total value of pledged movable property outbids the value of mortgaged immovable property in more than 8 billion Lt (~2,3 billion €).

The Mortgage Register is a public one. Every person may access the data in the Mortgage Register in accordance with the procedure laid down by laws.

The data of Mortgage Register are distributed to the customers personally, by mail, via automatic telephone and via internet. Users who have signed information distribution agreements with the Central Mortgage Office may receive information via internet. Personally data can be shown directly on the computer screen free of charge at the Central Mortgage Office or hypothecary divisions at district courts.

The main users of the information accumulated in the Mortgage Register are banks, notaries, advocates, bailiffs, companies providing business and legal consultancy services, real estate brokers and etc.

Increasing number of mortgages/pledges and creditors – natural persons - indicates that the Mortgage Register becomes a major factor stabilizing and decreasing risk of lending market. The data accumulated in the Mortgage Register becomes more and more important not only for creditors, but also to persons who intend to purchase immovable or movable property. The fact that data may be obtained not only about mortgaged immovable property, but also about pledge of movable property, which is not registered in other state registers, indicates the importance of the Mortgage Register.

In 2002, the Government of the Republic of Lithuania approved the Strategy for development of the integral system of the state registers. One of the aims of this strategy is to

update management infrastructure of registers. The Strategy provides for harmonising the establishment, functioning and use of registers – to establish integral system of state registers based on modern information technologies, which would accumulate, manage and provide data of important state objects. Main assumptions of such system establishment and priorities for main state registers, (e. g. Register of Legal Entities, Register of Citizens) and registers of restrictions (Mortgage Register, Register of Property Seizure acts), are provided in strategy.

Mortgage register, which is managed by the Central Mortgage Office, is a part of integral state registers system. Main part of provisions stated in this Strategy are partially or fully implemented in the information system of Mortgage register.

Regulations of the Mortgage Register provides that in order to ensure the functioning of the register, information from the following state registers and institutions registering respective items of property is used:

1. Population Register;
2. Register of Legal Entities;
3. Real Property Register;
4. Register of Seagoing Ships;
5. Register of Internal Waterway Vessels;
6. Register of Rolling Stock and Containers;
7. Register of Trade Marks;
8. Aircraft Register;
9. Register of Vehicles;
10. Administrations of county governors – about registered tractors, self-propelled vehicles, tractor-trailers and road building machines.

The information of other registers is related to the information of the Mortgage Register through the identification numbers of the debtor, the owner of the object of pledge, the creditor and the object of pledge itself.

The Central Mortgage Office, no later than within 24 hours, transmits the data about the registration of the mortgage or pledge as well as deregistration of mortgages or pledges to the central databank of the Real Property Register or to the central database of the respective property register. The manager of the Real Property Register provides the data about changes of the mortgaged immovable objects and rights thereto registered in the Real Property Register to the Central Mortgage Office. The other state registers and institutions registering respective items mentioned above transmit data about pledged objects to the Central

Mortgage Office also no later than within 24 hours after the change of the data of the pledge thing or after receipt of the request of the hypothecary judge to provide the data about the pledged thing.

Data exchange between the Mortgage Register and the other state registers is carried out by fax, post or by electronic means. The Regulations of the Mortgage Register provides that interaction with each state register or institution registering respective items of property should be established by a separate agreement.

As not all of the state registers are managed electronically, electronic data exchange is carried out only with the few state registers.

The agreements with property registers and institutions registering respective items of property on transmission of data about mortgaged/pledged property were concluded in 1998. In the same year agreements and devices which enabled (created possibilities to) the Mortgage Register to get data of the Population Register and the Register of Legal Entities via electronic means were established.

Later in 1999 the agreement with managing institution of central databank of the Real Property Register, which enabled the Mortgage Register to use data held in the Real Property Register via internet, was concluded. In 2002 similar to the above mentioned agreement was concluded with institution managing the central database of Register of Vehicles.

Since 2003 data of the Mortgage Register about pledge of identified vehicles is transferred to the Register of Vehicles only by electronic means. This year the agreement with managing institution of central databank of the Real Property Register, which enabled data of the Mortgage Register about mortgaged immovable property transferring via electronic means to the Real Property Register, was concluded.

With the start of electronic data transmission from the Mortgage Register to the Real Property Register and the Register of Vehicles the data are transferred not within 24 hours, as it is prescribed in the Regulations of Mortgage register, but within 1 hour.

Data transmission to other state registers is carried out by fax or post but in the future all data between the state registers will be carried out electronically.

As it was mentioned earlier the Regulation of Mortgage Register states that managers of other property registers provides data about changes of the mortgaged or pledged property and rights thereto to the Central Mortgage Office not later than within 24 hours after the change of the data or after the receipt of the request of the mortgage judge. Unfortunately, all of the mentioned state registers provide data about changes of the registered property to the Central Mortgage Office only by fax and post.

It must be mentioned that another register managed by the Central Mortgage – the Register of Property Seizure Acts is fully integrated to the mortgage Register in terms of data distribution. In the year 2002 the project on integrated data of the Mortgage Register and Property Seizure Acts Register distribution to the public was carried out. By the introduction of this project customers get information about all limitations of the property objects. It is also worth mentioning that this integrated information is extremely popular among the users of Mortgage and Property Seizure Acts Registers. Therefore, this integrated information makes up the major part of data supply to the customers from these registers.

The analysis of the activities of the Mortgage Register, the increasing number of the registered mortgages and pledges and the value of mortgaged/pledged property indicates that the Register fully meets the requirements of the mortgage market and justifies its existence.