

Legislative changes in the department of geodesy, cartography and cadastre of real estates since 1st September 2009

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The registration of property rights to real estates and administration of particular documentation is one of the most important tasks of the cadaster. The purpose of the submitted article is to provide a complex view on legislative changes in the cadaster since 1st September 2009.

One of most outstanding legislative changes is the legislation of the Act No. 162/1995 on the real estate cadastre and the entries of ownership and other property rights to the real estates (the Cadastre act). Cadastral Act is amended by the Act. No. 304/2009 since 1.09.2009. The novelty of this amendment is a computerization of the whole cadastral proceeding as well as the acceleration of the entry for property rights into the Cadastre, what will obviously result in simplifying and shortening of the whole process. In connection with the amendment of that act came into effect a public notice of the Cadastral Act. It is the public notice No. 461/2009, which came into force from December 1st 2009. The last amendment of the cadastral act is Act No. 103/2010 effective since 1.05.2010. Currently the Authority of Geodesy Cartography and Cadastre of the Slovak Republic plans to bring into effect a coordinate system JTSK09.

Key words: cadastral act, real estate cadastre, ownerships, deposit, record, note.

Introduction

The issue of systematic management of property and lease to the land and property is a character of every developed society and with the increase of land prices increase also requirements for its quality. One of the historical reasons of creation of the real estate cadastre was a tax collection and of course the definition of property rights to real estate, currently the real estate cadastre has an irreplaceable function in the market economy. The Real Estate Cadastre in the Slovak Republic is currently modified by the Act of the National Council of the Slovak Republic **No. 162/1995 on the real estate cadastre and the entries of ownership and other property rights to the real estates (The Cadastre act)**, as amended. Present form of the Cadastral Act preceded a series of legislative changes [7]. This contribution deals with the legislative changes which are reflected in the resort of the real estate cadastre since 1st September 2009.

Legislative changes in the department of geodesy, cartography and real estate register since 1st September 2009

On 28th July 2009 The **Act No. 304/2009** was published in the Code of Law, in part 108, amending and supplementing The Act of the National Council of the Slovak Republic **No. 323/1992 on notaries and notarial activity (the Notarial Code)** as amended and amending certain laws. This Act, inter alia, amended The Act. **No. 162/1995 on the real estate cadastre and the entries of ownership and other property rights to the real estates (The Cadastre act)**. The amendment of the Cadastral Act came into force on **1st September 2009**.

The amendment of the Cadastral Act is related to the **amendment to the Act No. 145/1995 on administrative charges** [1] as amended, which was performed with the same effect, since 1st September by article IV of The Act. No. 304/2009.

On 19th November 2009 decree **No. 461/2009** [3] of the Geodetic and Cartographic Institute was published in the Code of Law, in the amount 163, implementing **The Act No. 162/1995 on the real estate cadastre and the entries of ownership and other rights to the real estates (the cadastre act)**. The decree came to force on 1st December 2009.

By the force of the decree **No. 461/2009** validity of the decree of the Geodetic and Cartographic Institute **No.79/1996** on the real estate cadastre and the entries of ownership and other rights to the real estates (the cadastre act) was repealed.

One of the recent legislative changes in the department of cadastre is the **Act No. 103/2010**. The Act came into force on 1st May 2010, and again it **amends Act No. 162/1995 on the real estate cadastre**

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and the entries of ownership and other property rights to the real estates (the Cadastre act), last amended on 1st September 2009.

Declaration of the national realization of the coordinate system JTSK09 is planned to take place in the near future by the Geodetic and Cartographic Institute (hereinafter "the Institute"). Together with this fact, the Institute is preparing the guideline which purpose is to establish basic procedures for the use of Slovak spatial observational service and technologies for determining the position of objects through a global positioning system in selected geodetic jobs, results of which are taken over into the Real estate cadastre, in obligatory geodetic datum such as ETRS89 or in the national realisation of the Datum of Uniform Trigonometric Cadastral Network (hereinafter "JTSK09") coordinate system.

Obligatory geodetic datum, classification of geodetic keystones, their content and management are defined in the decree of the **ÚGKK SR No. 300/2009** [2] of 14 July, which implements the **Act No. 215/1995** of the National Council of the Slovak Republic.

Amendment of the Cadastre Act No. 304/2009

Entries of rights to the real estate are one of the main activities of the administrative in the field of cadastre. The cadastre act has undergone in its development of a number of legal changes and amendments. The amendment to the Act No. 162/1995 **on the real estate cadastre and the entries of ownership and other property rights to the real estates (The Cadastre act)**, as amended, came into force on 1th September 2009. The amendment to the Cadastre act was made by the **Article No. III of the Act No. 304/2009** amending and supplementing The **Act No. 323/1992 on notaries and notarial activity (Notary rules)** as amended and amending certain acts [1],[6], [8].

Following changes are enshrined in the above amendment to the Cadastre act:

- a) dealing in cadastre **can also be done electronically** - using advanced electronic signature and time stamp,
- b) the amendment to the Cadastre act for participant in the dealing had introduced a new possibility to register so called notice of intended contribution proposal of property rights to real estate in electronic version,
- c) amendment of the Cadastre act also introduced **new procedural rules** concerning the permit of entry of legal relations to real estates, in particular the **new 20-day period** to allow the entry together with a new way of **assessing the transfer agreements** of property rights to real estate that **were made in the form of notary deed, or were authorized by lawyer**, and in the case of decision about the entry on the basis of such an agreement, the cadastre consider this agreement whether it is consistent with the cadastral documentation and whether the procedural rules to allow the entry are fulfilled.
- d) **cadastral documentation** is recorded in the analogue (paper) or electronic form,
- e) a group of persons who may look into the collection of documents about legal predecessors of current owners of real estate,
- f) amendment modified general provisions of contribution proposal and its annexes,
- g) amendment to the Cadastre act modified the scope of cadastral inspection, dealing about modification of boundary of cadastre unit and dealing about reclamations and also a declaration of the renewed cadastral documentation.

This amendment to the Cadastre act is one of the most significant regulations, since it allows substantially simplify and accelerate the dealing in cadastre. Dealing in cadastre realizes the competent cadastral registry in whose territory is the real estate situated.

Entry of legal relations to real estates can be executed in three ways:

- entry of legal relations to real estates by contribution,
- recording of legal relations to real estates,
- note of rights to real estates.

These entries of legal relations to real estates have law-forming, registration or preliminary effects. In the case that the entry of legal relations relates to real estates located in several cadastral territorial districts, any of relevant cadastral registries is competent to act about whole entry. Cadastral registry, which acts about the general provisions of contribution proposal immediately notifies concerned cadastral registry about initiation in dealing in cadastre. Cadastral registry, which has decided about the permission of entry, sends a copy of the agreement showing the judgement about the permission of entry to the concerned cadastral registry (section 3, §22, Act No. 304/2009) .

Entry of legal relations to real estates

Entry of legal relations is the act of cadastral registry, while the property right to real estate originates, changes or vanishes by the entry.

The legal effects of the contribution originate:

- a) on the date of the legally valid decision about permission,
- b) when transferring the state property on the date determined in the contribution proposal,
- c) on the transfer of an apartment and non-housing premises on the date of delivery of the contribution proposal.

Entry can be made only by a legal cadastral decision. Dealing about entry permission begins by a proposal of participant in the dealing. The participant in the dealing is participant in the legal act, on the basis of which the property right to real estate should originate, changes or vanishes.

General provisions of contribution proposal

The proposal for contribution shall be submitted in writing and shall include particularly the following:

- a) the name (business name) and the permanent address (the seat) of the participant in the dealing,
- b) the specification of the Cadastre Registry that is the addressee of the proposal,
- c) the specification of a kind of legal action on the basis of which the right to the real estate originates, changes or expires; if the subject of the contribution proposal consists of legal relations from more than one legal action, all of them shall be specified.

Annex to the contribution proposal is the contract on the basis of which the right to the real estate shall be entered into the cadastre. The Amendment of the Cadastre Act also regulates the number of copies. Since September 1st 2009 the part of the contribution proposal are **two copies** of the contract on the basis of which the right to the real estate shall be entered into the cadastre. Before the amendment, it was necessary to attach the same number of copies as was the number of participants in the dealing including three extra copies.

Further attachments are as follows:

- a) public deed or other deed authenticating the right to the real estate, if this right to the real estate has not already been entered into the certificate of ownership,
- b) specification of parcels, if the ownership right to the real estate has not been entered into the certificate of ownership
- c) survey sketch if the land is divided or merged in case of land easement,
- d) authorization contract, if the participant in the dealings is represented by an authorized representative; the signature of the authorizing person shall be verified as is specified under separate legal regulation part 3 of the Cadastre Act §42
- e) notice of intended contribution proposal in a written form (par. 3, §30, Act No.304/2009).

Cadastral registry will indicate the date, hour and the minute of delivery of the contribution proposal.

The most significant changes enshrined by the amendment of the Cadastre act **include electrization of dealing in cadastre**. According to **§ 22 section 4** (Act No. 304/2009), after the amendment, dealing in cadastre can be made also **electronically**.

The contribution proposal in electronic form can be registered through the **Central website of the public administration** by the electronic service **General Filing** (<http://www.upvs.sk/Portal/sk/Default.aspx?CatID=114>). Central website of the public administration serves as an electronic registry for the cadastre of real estates.

Due to the possibility of electronic contribution proposal, general provisions of contribution proposal are newly modified and also the electronic contribution proposal is modified including its annexes, allowing a significant speed up communication between the cadastral registry and participants in the dealing.

Electronic filing of contribution proposal

- a) **Particulars of the electronic filing** are the same as in written form, which results from **§ 23** of the Cadastre act amendment
- b) When filing electronically one copy of the proposal and one copy of annexes is submitted,
- c) In case a verified signature is required with the written form, the electronic form requires verified electronic signature. All annexes in electronic filing must be submitted in electronic form and with the electronic signature. The dealings of the contribution permission are proposed.

Since 2.9.2009 under the provisions of § 22 ods.4, § 23, § 33 ods.3 and § 35 paragraph. Act No. 3. 304/2009 dated from 24.6.2009, amending and supplementing Act of the Slovak National Council. 323/1992 on notaries (Notary Rules) as amended and amending some acts, the cadastral dealings may be:

- a) carried out also electronically,
- b) **from § 30 section 3** after the amendment results, that before filing of contribution proposal of entry of legal relations to real estates, participants in the dealing or any other authorized person to the legal relations to real estates **can** electronically file notice of intended contribution proposal in electronic version (Fig. 3), which can be found on the website of Geography Cartography and Cadastre Authority of the Slovak Republic www.katasterportal.sk (Fig. 2).



Fig. 1. The cadastral portal of the Geodetic and Cartographic Institute of the Slovak Republic (www.katasterportal.sk - available only in Slovak).

The screenshot shows the 'Oznámenie o zamýšľanom návrhu na vklad' (Notice of intended contribution proposal) form. The form is titled 'Všeobecné údaje' (General information) and includes a list of legal transactions for which a contribution proposal can be filed. The transactions are categorized into 'Právny úkon' (Legal act) and 'Právny úkon' (Legal act). The list includes:

- zmluvy o zriadení alebo zrušení vecného bremena
- zmluvy o zriadení alebo zrušení predkupného práva
- darovacej zmluvy
- zámennej zmluvy
- vyhlásenia vkladateľa o vložení majetku do právnickej osoby
- zabezpečenia záväzku prevodom vlastníckeho práva
- zmluvy o výstavbe
- zmluvy o nadstavbe
- zmluvy o vstavbe
- nepomenovanej zmluvy podľa §51 OZ
- zmluvy o prevode vlastníctva bytu alebo nebytového priestoru
- zmluvy o zriadení alebo zrušení vecného bremena
- zmluvy o zriadení záložného práva
- zmluvy o zriadení alebo zrušení predkupného práva
- dohody manželov o vyporiadaní bezpodielového spoluvlastníctva manželov
- dohody o zrušení a vyporiadaní podielového spoluvlastníctva k nehnuteľostiam
- dohody o vydaní veci
- zmluvy o predaji podniku podľa § 476 OZ

At the bottom of the form, there is a field for 'Heslo k požiadavke:' (Password for the request) with a star icon and a text input field.

Fig. 2. Notification about an intended contribution (www.katasterportal.sk - available only in Slovak).

Notice of intended contribution proposal in electronic form must be sent electronically to the appropriate cadastral registry. If **within 90 days** of receipt of notice the participant in the dealing **does not submit** the contribution proposal, cadastral registry **erase** this notice from the records. If within 90 days of receipt of notice to the appropriate cadastral registry the participant in the dealing **submits** the already announced contribution proposal, **the administrative fee for proposal** of initiation of dealing in cadastre about permission of entry of legal relations to real estates will be reduced. However, **it is necessary to bring also a printed version of electronic proposal** about intended contribution proposal together with the proper contribution proposal. Notice filing of intended contribution proposal in electronic form is **only voluntary** in the meaning of amendment, is conceived as an optional possibility, and is therefore not a mandatory part of the process of the entry of legal relations permission.

Notice of intended contribution proposal in electronic form **should not be replaced with the electronic filing of contribution proposal**, this can be submitted electronically with legal relevance only **by using an advanced electronic signature and time stamp, which are not required in the notice of intended contribution proposal.**

The amendment of the Cadastre act modifies also the general provisions of contribution proposal and its annexes. General provisions of contribution proposal are defined in §30 of amended Act section 4.

From the above assessment were, as annexes, removed:

- real estates valuation,
- extract from commercial register or another register,
- certificate of payment of levy, if the acquirer has such an obligation pursuant to special legislation.

Decision about permitting the contribution

If the conditions for the contribution are met, cadastral registry permits the contribution, otherwise reject. § 32 of amendment of The Cadastre act determines, that cadastral registry decides about the contribution proposal within 30 days since its delivery, in the case of a request for summary procedure about the contribution proposal and after the payment of administrative fee, cadastral registry may decide within 15 days of receipt of contribution proposal, and if within this period do not decide, cadastral registry will decide within already mentioned 30 days.

If the agreement of transfer of real estate was made in the form of a deed or authorized by lawyer, is not contrary with the cadastral documentation and procedural requirements to permit the contribution are met, **cadastral registry will decide about the contribution proposal within 20 days**, of course except in the case if the participant in the dealing did not request about summary procedure within 15 days. In the case of agreement about transfer of a real estate made in the form of a notarial deed or authorized by lawyer, certified signatures of the agreement participants or their potential representatives are not required, as notaries and lawyers have a duty to ascertain the identity of all agreement participants.

Decision about permitting the contribution shall include the following:

- a) designation of the cadastral registry which permits the contribution,
- b) number of the contribution,
- c) designation of the participants in the dealing,
- d) designation of the legal act as well as the designation of the real estate which the legal act refers to,
- e) the date when the cadastral registry decided about the contribution,
- f) Name, surname and signature of the person who permitted the contribution,
- g) the imprint of a round stamp of the appropriate cadastral registry.

The decision about the contribution permission **comes into force on the day of its indication.** The decision permitting the contribution **cannot be** abjured, retried or examined outside of the appeal proceeding. The copy of the decision about the contribution **shall be delivered to all participants in the dealing within 15 days** since the day of its indication.

Administrative charges

Administrative charges are collected in correspondence with the special rule (Act No. 145/1995 on administrative charges):

- for proposal of initiation of dealing in cadastre about permission of entry of legal relations to real estates - **66 €**
- in the case of electronic filing - **33 €**,
- speed-up proceeding on the proposal of entry within 15 days of receipt of contribution proposal – **265 €**
- speed-up proceeding submitted electronically – **130 €**
- notice of intended contribution proposal - an administration charge reduced **15 €**

Entry of property rights to real estates by record

Recording is the act of cadastral registry performing the registration functions which do not affect the origin, change or cessation of the property rights to real estate.

The new § 35, section 3 of the Act allows to send an electronic notice also in the case of the entry by record, prior to receiving the relevant public or other document for the entry by record. The notice of intended recording shall be sent electronically to the appropriate cadastral registry by an electronic form published on the website of Geodetic and Cartographic Institute of Slovak Republic. Also the § 37 of the Act is related to the notice of intended recording, that after the amendment imposes to the cadastral registry an obligation to notify those persons, whose property rights to real estate was affected by recording, that the entry to the cadastre by recording was made, within 15 days from the day of entry of property rights to cadastre.

Entry rights to property by note

Note is the act of cadastral registry, that is intended to indicate the facts or relationship relating to the real estate or person, and which do not affect the origin, change or cessation of the property rights to real estate. The § 39 of the Cadastre act specifies in which cases the Cadastral may enter such note and how such note may be cancelled.

In the amendment to The Cadastre act are also enshrined other changes:

- the amendment establishes the sphere of action of cadastral inspection, whose task is **to ensure state supervision and State control** over the level of processing of the cadastre of real estates,
- provides for dealing in cadastre about modification of boundary of cadastre unit,
- provides for dealing about reclamations and declaration of validity of the cadastral documentation as the final stages of renewal of the cadastral documentation,
- after force of the amendment, the Deeds of Ownership are provided only as public documents. Deeds of Ownership with marked sealing are not provided at all.
- The amendment also deals with territorial jurisdiction in relation with the entry of legal relations to real estates situated in several cadastre units. In this case, any competent cadastral registry can initiate and execute dealing in cadastre. Cadastral registry, which decides about the contribution proposal, shall immediately notify the other relevant cadastral registry.
- It extends the range of persons who may inspect the collection of documents about legal predecessors of current owners of a real estate (thus about its previous owners).

The implementing decree of The Cadastre Act

The decree No. 461/2009, with effect from the date of 1. December 2009, is the implementing regulation of The Cadastre Act.

The Decree specifies the procedure of entry of legal relations to real estates and details of management, procedures, methods and implementation of electronic form of cadastre of real estates and responsibilities resulting therefrom.

The Decree regulates, inter alia, **the procedure for entry of legal relations to real estates**. In this context the Decree also:

- specifies that the notice of intended contribution proposal is submitted in electronic format by electronic form;
- provides, that the notice of intended contribution proposal has an informative character for the cadastral registry and shall not affect the order of entries of legal rights to the same real estate into the cadastre of real estates;
- provides, that to each participant in dealing is sent one copy of the decision about the contribution.

The Decree also modifies the:

- file of geodetic information,
- file of descriptive information,
- method of registering of cadastre units and real estates,
- renewal of cadastre documentation by a new mapping,
- management and updating of cadastral documentation,
- the provision of data from cadastre of real estates.

This Decree repeals the Decree of the Geodetic and Cartographic Institute No. [79/1996](#), by which was the Cadastre Akc performed until now.

The Act No. 103/2010

By the Act No. 103/2010, amending and supplementing the Act of the Slovak National Council No. 162/1995. on the real estate cadastre and the entries of ownership and other property rights to the real estates (The Cadastre act). This is the most recent amendment of the Cadastre Act that came into force on 1. May 2010.

In the latest amendment of the Cadastre Act are enshrined the following changes:

- renewal of the issue of Deed of Ownership with marked seal noting changes of titles to real estates to the owner or other authorized person, which was repealed by the amendment of the Cadastre Act Np. 304/2009 effective from 1. 9. 2009,

The practice necessitated the re-issuance of Deeds of Ownership with sealing. The Deed of Ownership with sealing was a guarantee to citizens that there can be no further dealing with that real estate and that their filing will be dealt with on the order in which it was deliver to the cadastral registry. Also the requirements of financial institutions contributed to the reintroduction of the issue of Deeds of Ownership with sealing, that oblige, for example, payment of the loan (mortgage) on the submission of Deed of Ownership with sealing.

- delete the registration of engineering and small constructions in the cadastre of real estates. In the file of geodetic information of cadastral documentation feature as the map symbol in the cadastral map according to the code of land and code of land use,
- The land registry book or railway register is no longer identified in the Act as an archival material. If the property rights to real estate is not registered in the Deed of Ownership, then is being registered in the land registry book or railway register,
- The annexes of electronic contribution proposal shall be signed by advanced electronic signature. The time stamp is used, where in other cases the verified signature figures,
- any other authorized person no longer has an opportunity to file the notice of intended contribution proposal in electronic form to the cadastre of real estates. No enactment empowers another person to file the contribution proposal – it can be done only by the participant in dealing. Therefore, only the participant in dealing is entitled to file the notice of intended contribution proposal.
- the procedure for withdrawal of the proposal of participants in abjuration is simpler – abortion of the dealing does not require a decision, only an indication in the document,
- the amendment specifies, which entries of property rights to real estates shall be registered by record. If the creditors agree to it, there can be also changes in the order of entries of liens.
- the possibility to file an electronic notice before delivery of a public deed or other deed for the entry by record is repealed,
- the amendment allows to register the owner of a real estate not only according to details about a builder in the construction permit, but also according to other deed (e.g. contract for work, concession contract...),
- The amendment clarifies the provision on territorial jurisdiction in dealing about the contribution proposal. In principle, the contribution proposal may be file on any cadastral registry, as cadastral registry must accept each filing. However, the execution can be significantly faster, i fit is filed to that cadastral registry, in which territorial district the real estate is located. Otherwise, the cadastral registry has to withdraw from the proposal to the relevant local cadastral registry, and so the period for execution about the contribution proposal shall be extended.

JTSK 09

JTSK09 represents the forthcoming national coordinate system of the Datum of Uniform Trigonometric Cadastral Network, previously known as JTSK03. Currently, i is planned to declare the validity of this coordinate system by the Geodetic and Cartographic Institute of Slovak Republic.

The whole process of realization is currently in stage of preparation, the original deadline for implementation of this coordinate system into practice was May 2010 and it was preceded by a number of important legislative changes. One of them is the already mentioned decree No. 300/2009 to the Act on Geodesy and Cartography (the Act No. 215/1995) which came into force from 1.8.2009.

The most significant points enshrined in the new decree are:

- definition of the obligatory geodetic datum and their realization (JTSKyy, Bpvy, SKTRFyy,...),
- regulates the transformation of coordinates ETRS89—JTSK and transference of heights,

- defines passive and active geodetic keystones,
- In § 18 of the decree is enshrined, that the results of selected geodetic and cartographic activities taken over to the state documentation shall be submitted in obligatory geodetic systems in response to geodetic keystones.

The above-mentioned decree No. 461/2009 to The Cadastre Act, which came into force from 1.12.2009, except procedure for entry of legal relations to real estates and the above facts in § 57:

- defines the survey net consisting of points of geodetic keystones, detailed survey points and auxiliary survey points.
- in the Decree is further enshrined, that the survey net must be connected to points of national spatial network or to points determined in the national realisation of the coordinate system JTSK through the Slovak spatial observational service,
- accuracy of the land survey and the resulting coordinates of detailed survey points is assessed according to § 59 of decree, coordinates of detailed survey points are determined so that the mean coordinate error does not exceed 0,08 m criterion (§59 section 1-4 of decree 461/2009) [3].

Realisation of the JTSK09 is given by the implementation schedule into the cadastre of real estates. There are upcoming web transformation service for transformation between systems, which will be, on behalf of the Geodetic and Cartographic Institute of Slovak Republic, managed by the Geodetic and Cartographic institute that is also the administrator of geodetic keystones. Working commission established by the Geodetic and Cartographic Institute of Slovak Republic is preparing the guideline, setting out the basic procedures to use the Slovak spatial observational service (SKPOS) and technologies for determining the position of objects through GNSS and a method to take over results of processing into the cadastre of real estates.

Conclusion

The amendment to The Cadastre Act No. 162/1995, the implementing decree of The Cadastre Act, The implementing decree of the Act on Geodesy and Cartography and the implementation of JTSK09 are among the most recent legislative changes in the department of Geodesy, Cartography and Cadastre of real estates of the Slovak Republic. Particular changes in the amended Cadastre Act, electronization of dealing in cadastre and modified deadlines for permission of entry of legal relations to real estates point [4] to the fact that the whole process can be simplified and especially accelerated.

The most recent legislative change is the forthcoming declaration of validity of the national realisation JTSK09, that systematically bridge over deformations of Datum of Uniform Trigonometric Cadastral Network in the fundamental horizontal control within the entire territory of the Slovak.

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