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**REGJISTRIMI I TË DREJTAVE TË PALUAJTSHMËRIVE NË  
KADASTRËN E PALUAJTSHMËRIVE TË REPUBLIKËS SË  
MAQEDONISË**

**РЕГИСТРАЦИЈА НА ПРАВАТА НА НЕДВИЖНОСТИ ВО КАТАСТАР  
НА НЕДВИЖНОСТИ НА РЕПУБЛИКА МАКЕДОНИЈА**

**REGISTRATION OF REAL ESTATE RIGHTS IN THE REAL ESTATE  
CADASTRE OF THE REPUBLIC OF MACEDONIA**

**Abstract**

By registration the data of real estate, it acquires, transmits and limits ownership and other real rights over real estate.

Registration in the REC has constitutive effect. Only constitutive concrete administrative acts have constitutive effect, as are decisions. Certificates are not constitutive acts, but material acts which are used for confirmation the existence of material facts

The Agency of Real Estate Cadastre is competent state body for registration the data on the real estate. It has 30 regional units in more Macedonian cities.

The procedure for registration of rights of real estate in the Real Estate Cadastre of the Republic of Macedonia is special administrative procedure. It is proscribed by the Law on Real Estate Cadastre (REC). The Law on General Administrative Procedure prescribes general standards to guide the administrative procedures. They are mandatory for the special administrative procedures.

In the procedure for registration of rights on real estate in the REC of the Republic of Macedonia general standards from the Law on General Administrative Procedure in the initiation, during the procedure, deciding in the procedure and protection of the rights of clients in the procedure are unjustifiably abandoned. It complicates the procedure for registration of real estate rights in the REC and the exercise of citizens' rights in relation to the real estate.

Therefore, the procedure should be simplified by adopting amendments to the Law on Real Estate Cadastre that will proscribe, after submitting the application for registration, the client to be informed about lacks of application in order to remove them; in deciding, instead by certificate, to decide by decision and in protection the rights of the clients to prescribe a right of appeal to the competent second degree authority. The exercise of judicial control over the work of the Agency for Real Estate in the procedure for registration the real estate should be entitled to lawsuit to the Administrative Court for initiation of an administrative dispute which should be resolved in urgent procedure. This will allow for more efficient realization and protection of citizens' rights in the procedure for registration of real estate in the Real Estate Cadastre of Macedonia.

**Keywords:** cadastre, real estate, right, registration, procedure, certificate, solution.

## Introduction

Real Estate Cadastre (REC) is a fundamental and public registry of real estate and real rights over them. It contains information about cadastral parcels, buildings, flats, accessory buildings, specific parts of buildings and facilities and other types of buildings. In fact it is „a public book which records the right to ownership and the other real estate rights, real estate rights data, as well as other rights and facts whose registration is defined by law“.<sup>1</sup> As information - documental (indoc) service<sup>2</sup> of the state for geodetic affairs, it is integral part of Geodetic-Cadastral Information System of the Republic of Macedonia.<sup>3</sup> Registration of the real estate rights in the REC is an administrative work which actually represents a written record of the data of real estate as follows: the ownership right, the sub forms of the ownership right (co-ownership and joint ownership), other real rights (easement right, collateral right (mortgage), real encumbrance right and the right to real and lawful long-term lease on construction, leasing right, fiduciary ownership right, real estate concessions, lease on agricultural land and other rights the registration of which is stipulated by law.

In accordance with the provisions of Article 169 of the Law on REC, there are three types of registration, according to their legal meaning or legal effect. They are: final registration, conditional and temporary registration.

The final registration is a complete and definite unconditional registration of the establishment or the termination of the right to ownership and other real rights, as well as any other real estate rights under the terms and conditions stipulated by Law.

Conditional registration is a registration of acquisition or termination of the real estate right in case when an application for registration is submitted in the real estate cadastre, but the legal presumptions i.e. the conditions for registration stipulated in Law are not fulfilled and if the basis for the final registration is not sufficiently presented.

The REC shall also conditionally register the right to ownership to a building and special part of a building under construction by registering the data for the individuals who have right to construction, in compliance with the building permit and the data for the buildings and the special parts of buildings, copied from the main project design and verified by the relevant authority.

By providing an evidence for fulfillment of the legal presumptions i.e. the conditions for registration stipulated in Law, the conditional registration shall be deleted and the right to ownership shall be subject to final registration.

The legal action of the conditional registration provides precedence for final registration, provided that the conditional registration, per se, can be confirmed in compliance to the conditions for registration of the rights stipulated by Law.

Temporary registration is registration of obligations rights (leasing of real estate contracts for concession concluded according the law, lease of real estate and contractual right of first purchasing of real estate), preliminary and temporary measures (prohibitions and limitations) which are in influence on the real estate rights, the facts of impact on real estate and other rights whose registration is stipulated by other laws which refer to:

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<sup>1</sup> This is a legal definition of the Real Estate Cadastre which is administered in Article 2, paragraph 2 of the Law on Real Estate Cadastre (Official Gazette of the RM, No. 55/2013).

<sup>2</sup> See more widely for the indoc services in Chuchevska D.: Indoc services - role and functions, 1984, Macedonian Book, Skopje.

<sup>3</sup> Under Article 2, paragraph 1 of the Law on Real Estate Cadastre, Geodetic-cadastral Information System „is an integrated and unique information system in the Republic of Macedonia which provides acquisition, processing, maintenance, management, use, distribution, issuance and a single access to the real estate cadastre data, the basic geodetic works, geodetic works for special purposes, surveying the real estate for the purpose of real estate cadastre, surveying and maintenance of the state border of the Republic of Macedonia. Topographic maps,, Register for Spatial Units, Graphic Registry of Streets and House Numbers, Graphic Land Registry and other data relevant to real estate“.

- The personal status of the real estate right holder (adolescence, deceased person, custody, deprivation of business capability, extension of parental right, property management of both spouses, liquidation, reorganization, bankruptcy procedure, etc);
- The fact that the right to property on the real estate is acquired on the base on fiduciary transfer that property;
- The fact that underway is a construction of an object on a certain cadastre parcel, for which the ownership right to a building or special part of a building under construction has been previously conditionally registered by specifying the number of the list for conditional registration of the object;
- The right to collateral (mortgage) of the conditionally registered ownership right to a building and special part of a building under construction; and,
- Legal acts for transaction of the conditionally registered right to a building and special part of a building under construction.

The REC shall temporary register any other facts of significance to the acquiring, the change, the termination or the transfer of the real estate rights, whose temporary registration is foreseen by another Law.

The registration of real estate rights is based on application submitted separately by client which, with application, must submit the necessary documents (geodetic survey report for realized individually registration, a statement of identification, data or documents for the legal basis for the registration and proof of payment fee for registration).

The registration of real estate rights which have remained unregistered after the establishment of the real estate cadastre shall be performed by client's application supported with documents for legal basis of registration, geodetic report and proof of payment fee for registration.

Registration in the REC has constitutive effect. This means that by registration of the data for the property, prescribed by law, it acquires ownership and other real rights. Strictly speaking, by registration it acquires, transmits and limits ownership and other real rights over real estate. Conversely, however, these rights cease by delete of registered in the REC. For example, signing a contract for sale of real estate represents only legal basis for acquiring the right of the property. Property rights are acquired only after registration in REC. This means that the buyer of real estate does not become its owner by the act of signing the sales contract, but by the act of registration of the property right in the real estate cadastre, of course on the basis on the sales contract which is a legal basis for registration. Constitutive effect of registration in REC comes to the fore in derivative acquisition of property and other proprietary rights that comes on the basis of the legal act (agreement) between the parties or the subjects of legal relation. Besides constitutive effect, the registration in REC based on legal act has declarative effect against third parties. This amounts to putting the knowledge of third parties that someone else owns the right on real estate registered in the REC.

But, among legal relations there are cases, specified by law, where ownership and other real rights on real estate may be acquired before the registration in the real estate cadastre. Such is the case of acquisition of property or easement by the decision of a state agency, acquisition of property by building, acquisition of property by inheritance, acquisition of property with maintenance etc. In these cases the registration of property or other real right in the REC has only declaratory effect against the third party (the declarative registration).

Actual authority to act in the procedure for registering property is the Agency for Real Estate Cadastre. It basically performs the works for establishment and maintenance of the real estate cadastre, management of the geodetic-cadastre information system, as well as for establishment, maintenance and public access of the National Spatial Data Infrastructure.

The Agency operates on the principles of legitimacy, expertise, efficiency, transparency, service-orientation, professionalism and liability for performed work and achieved results.<sup>4</sup>

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<sup>4</sup> Agency is a legal entity. Its competencies are precisely defined in Article 8 of the Law on Real Estate Cadastre. They are: the establishment and management of geodetic-cadastral information system, basic geodetic works; surveying of real estate, registration of real estate rights, the establishment and maintenance of real estate cadastre,

The Agency's Headquarters is in Skopje. Besides Headquarters, the Agency has 30 regional units, such as in Skopje, Berovo, Bitola, Valandovo Veles, Vinica, Gevgelija, Gostivar, Debar, Delchevo, Demir Hisar, Kavadarci, Kichevo, Kochani, Kratovo, Kriva Palanka, Krushevo, Kumanovo, Makedonski Brod, Negotino, Probishtip, Ohrid, Prilep, Radovish, Resen, Sveti Nicole, Struga, Strumica, Tetovo and Shtip.

Local competence of regional units in the procedure for registration the rights of real estate is determined by the place where the real estate is located.

## **1. Initiation and progress of the procedure for registration of rights in Real Estate Cadastre of Macedonia**

In the procedure for registration real estate data in cadastral evidence are applied specific principles prescribed by the Law on REC. They are: Principle of Obligatory Registration, Principle of Constituency of Registration, Principle of Transparency, Principle of Accuracy and Trust in the Registered, Principle of Legitimacy of the Registration, Principle of Priority and Principle of Clarity.

To initiate the procedure for registration of real estate rights in the REC there should be a suitable legal basis for registration. The legal basis can be:

- Legal provision (Law);
- Enforceable court decisions; decisions for temporary measure, previous measure and other acts for protection of liabilities in compliance to Law;
- Decision of the Government of the Republic of Macedonia;
- Final i.e. legally enforceable acts of the bodies of the state authority, the bodies of the local self-government units and the city of Skopje, legal and other entities, authorized to perform public authorizations; and
- Legal deed (action).

During the registration in REC, if for certain real estate do not exist previously mentioned legal basis, the right to land and the right to ownership of the objects up to the ground floor which are recorded in the Land Cadastre, shall be registered on basis of the data in the Land Cadastre.

The existence of a legal basis is proved by identification documents for registration and with the competent authority acts.

Documents for the legal basis i.e. acts by relevant authorities, who contain data from the Land Cadastre, shall be used in the procedures of establishing the REC.

In case when the Land Cadastre does not comprise sufficient real estate data for a certain property, the documents i.e. acts, used as basis for registration in the REC under a procedure of establishing it, should comprise sufficient data for the real estate property, the real estate right holders (address, number, entrance, apartment, etc), which, compared to the data collected from the survey, will enable identification of the real estate property (data compatibility).

The data compatibility in reference to the right holder applies if the data for the legal predecessor specified in the legal document, is identical to the data for the real estate right holder registered in the REC prior the submission of the application.

The registration of real estate rights under a REC maintenance procedure shall not be performed, if the data in the acts issued by the relevant authorities or the data in the legal documents are incompatible.

The legal basis stipulated by Law is eligible for registration if:

- The documents for the legal basis are drafted in paper form i.e. electronic form and are verified by a competent authority in compliance to Law;
- The acts by the authorized entities are final i.e. legally enforceable; and

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surveying works for specific purposes that are of importance for the Republic of Macedonia, established by the Government the Republic of Macedonia; preparation of state topographic maps, keeping a register of spatial units, establishing, maintaining and providing public access to the National spatial Data Infrastructure and supervision of the sole proprietors-authorized surveyors and trade companies for geodetic works.

- There is data compatibility.

In connection with the foregoing, it should be noted that, in some cases, there are problems with registration of real estate rights when the real estate data and rights holders on the property does not correspond to, or differ from existing data contained in the cadastral database. In such cases, the clients are directed to the competent authorities who have issued these documents to remove these technical errors and to comply data with existing cadastral records.

The procedure for registration in the REC is initiated on the occasion of the application filed by the interested client. The application client is obliged to submit documents on legal basis that will prove the merits of the application.

With the Rulebook on the Establishment of REC<sup>5</sup> are provided three types of applications by way of the registration volume. These include application for systematic registration of real estate rights, application of individual registration of real estate rights and application for registration of unregistered property rights established by REC. For the contents of these applications in the Rulebook, specific standardized forms are prescribed.

The application shall be submitted to locally competent organizational unit of the Agency for REC.

After delivery of the application, the authorized officer of the unit of the Agency records it in a special register and issues to client a receipt for the application on a standardized form prescribed by the Rulebook.

If the legal requirements for registering the right to real estate are complied, the official from the Agency register it in cadastral evidence, but if these requirements are not complied, the registration will not be performed.

For the registration of real estate right, official of the Agency issues to the client certificate for registration. In case he does not register the right in the REC due to lack of legal basis for it (provided legal basis which are not eligible for registration), official issues to client certificate for refusing registration. Agency (its regional organizational unit) is obliged to issue this certificate, according the Law, within 15 days from the day of receipt of the application and deliver to the client within three days from the day of the registration. The certificate can be delivered to the client personally or by mail. If it is not possible to deliver the certificate in this way, then it can be published on the notice board at the Agency, where, after seven days of release, according to the Law on REC, it is considered that the delivering is made. This deadline, without a doubt, is too short and, because it, can cause complications in protecting the rights of the clients and other interested persons. We consider that it should be continued to 15 days.

Upon receipt of the certificate of registration or refusing the application for registration, in the establishment and maintenance of real estate cadastre and against certificate of correction a technical error, the applicant and holder the right to real estate have the right to submit a lawsuit to the Administrative Court.

In the individual registration of real estate rights and the registration of unregistered rights in the real estate cadastre the Law provides measures of administrative protection of the rights of clients in the case official not to perform registration, or not to refuse the application for registration within 15 days of its submission (administrative silence). In this case, the applicant has the right, within three working days, to submit a request to the office of the Director of the Agency by which would require the Director to issue certificate. The request should be submitted on a separate form prescribed by the Director of the Agency.

Towards the application applicant submit a copy of the application for registration of changes in the real estate cadastre.

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<sup>5</sup> The Rulebook is passed by the Board of Directors of the Agency for Real Estate Cadastre under the Law on Real Estate of 2008. It is published in the Official Gazette, No. 118, 2008. The new Law on Real Estate Cadastre from 2013 contains no provisions for systematic registration of data. Therefore, of course, do not expect these provisions to include the new Rulebook on the the establishment of the REC.

Upon receipt of the request the Director of the Agency shall, within five working days of its submission, to enact certificate that the application for registration is accepted or refused. If the Director of the Agency does not enact a certificate within this period, the applicant is eligible to inform the State Administrative Inspectorate (SAI) within a period of five working days. The SAI is obliged, within a period of ten days from the day of receipt of the information, to carry out an inspection in the Agency and identify whether the procedure has been conveyed according to the law and, within a period of three days from the day of the performed inspection, shall notify the applicant for taken measures.

The inspector from the SAI, after the performed inspection in compliance to law, shall enact a decision obliging the Director of the Agency to decide upon the submitted request within a period of ten days, i.e. to refuse or accept the request and to notify the Inspectorate of the enacted decision. The notification should be accompanied by a copy of the decision enacted on the basis of the submitted request.

If the Director of the Agency does not enact a decision within indicated period, the Inspector shall submit a request for initiation of a violation procedure for a violation stipulated by the Law on Administrative Inspection. The Inspector shall set an additional period of five working days in which the Director of the Agency can decide upon the request submitted by the applicant. In the same period, the Director is obliged to notify the Inspector of the enacted decision. The notification shall be accompanied by a copy of the decision enacted on the basis of the submitted request. The Inspector shall inform the applicant of the undertaken measures within a period of three working days.

If the Director of the Agency does not enact a decision within the additionally set period, the Inspector, within a period of five working days, shall submit a complaint to the relevant Public Prosecutor and, within the same period, shall inform the applicant of the undertaken measures.

If the Inspector does not act according to the notification, the applicant, within five working days, has the right to submit a complaint to the archive of the Director of the SAI.

The Director of the SAI is obliged, within three working days, to review the complaint. If identified that the Inspector has not undertaken any actions in reference to the notification submitted by the applicant or has not lodged a request for initiation of a violation procedure or a complaint to the relevant Public Prosecutor, the Director of the SAI shall submit a request for initiation of a violation procedure for a violation stipulated in the Law on Administrative Inspection against the Inspector. In same time he shall set an additional period of five working days in which the Inspector shall carry out an inspection in the Agency to identify whether the procedure has been carried out in compliance to Law and, within a period of three working days from the day of the performed inspection, shall inform the applicant for the undertaken measures.

If the Inspector does not act within the additionally set period, the Director of the SAI shall submit a complaint to the relevant Public Prosecutor against the Inspector and, within a period of three working days, shall inform the applicant of the undertaken measures. In this case, the Director of the SAI shall, urgently or within one working day, authorize another Inspector to immediately carry out the inspection and, within a period of three working days, shall inform the applicant of the undertaken measures. If the Director of the SAI does not act in this way, the applicant can lodge a complaint to the relevant Public Prosecutor within a period of eight working days.

If the Director of the Agency does not decide on the request of the client in the additional period fixed by the inspector, the client may initiate an administrative dispute before Administrative Court. The procedure before the Administrative Court is urgent.

### **3. Leaving procedural standards of general administrative procedure and its consequences in the registration of rights to real estate cadastre**

From the above, it is obvious that the legislator in the Law on REC greatly distanced from the standards of conduct of the administrative procedure established by the Law on General Administrative Procedure (Law on GAP). A fact is that the Law on REC is a special law (*lex specialis*) in terms of the Law on GAP. But, it is also a fact that the disregard of general standards established by the Law on GAP

that ensure efficient and effective conduct of the procedure, complicates the special administrative procedure prescribed by special law, in this case, by the Law on REC.

There is no doubt that, by abovementioned legal provisions, legislator wanted to achieve two goals. The first goal is to intensify the procedure for registration of rights to real estate in the REC and with it, this procedure to become more efficient. The second goal is to provide effective protection of the rights of holders the rights to real estate. However, it is obvious that the procedure for registration in terms of protecting the rights of the clients with the new legislation is complicated. It does not come in addition to protecting the rights of the clients, nor go in favor of the effectiveness of the procedure. Agency of REC is a state authority. Status of Legal entity integrates it into the ranks of independent administrative bodies. As the body of the state administration, it should be a service to citizens, as individuals and as citizens organized within entities. Basically speaking, the service placement of the public administration is effective protection of citizens' rights. If this protection is not effective, service role does not exist or it is reduced to a minimum. Service role of the bodies of state administration is proportional to the efficiency of protection the rights and legal interests of citizens in administrative procedures that run these institutions.

Alienation from the standards of general administrative procedure, prescribed by the Law on GAP, is primarily observed in the initiation of the procedure for registration in the REC. Here is the most apparent absence of the service role of the Agency for REC.

Law on GAP, in accordance with the principle of help to untaught client and the principle of service orientation, provides an opportunity, when the submission contains a formal deficiency that prevents dealing with it, or when it is incomprehensible or incomplete, it cannot just because it, to be rejected or denied. The authority which has received such submission is obliged to make up all which is necessary, deficiencies to be removed and to specify the submitter the period within which he is obliged to do so. This can be said to the submitter (applicant) by telephone and orally, if he be caught in premises of the body. The authority should to put a note in the case file for the announcement.

If the submitter corrects the deficiencies within the determined period, it will be considered that the submission was, from the beginning, an orderly. If he does not correct the deficiencies within the prescribed period, and therefore cannot act upon submission, he will be considered that the submission is not even submitted. Thereof the body should reach a conclusion against which can be said special appeal. This standard should be applied in the work of the REC in terms of incorrect and incomplete applications for registration.

The Law on REC does not oblige officials of the Agency to apply the principle of help to untaught client from the Law on GAP, which is the most directly in function of the service role of the state administration, and applying it, to point clients for the lacks of the application and to give them time for its removal. The legislator has satisfied with a brief provision contained in Article 184 which states: "Applications for registration that do not contain the required data under Article 178, paragraph 2 of the Law, and the applications towards which is not attached geodetic elaborate, the Agency will refuse by certificate for refusal."

If clients are pointed about the lacks of the application, they will certainly remove them, because it is in their interest. This will contribute to a much larger number of cases to be resolved positively. Very often the clients have the necessary documents, but due to lack of information and lack of communication with the expert services of the Agency, they have not attached them to the application. With stated provision, is created a situation in which, to display better statistics in solving cases, the applications to be rejected in a speedy manner, without the possibility to indicate the client for its omission, as we have seen, can be minor nature.

Leaving the standards of the Law on GAP is seen in the fact that the bodies of the Agency, in the procedure for registration of rights, instead the decisions, adopt the certificates for registration or for refusal of registration

It is generally known that in administrative matters, administrative bodies adopt two types of individual (specific) acts. On first type belong the acts of deciding, and on the second belong material acts

(which confirms the existence of certain material facts, state their existence or inform about their existence).

The acts of deciding, according to different criteria, are divided into several groups. Regarding the subject of our paper, their most important division is that on constitutive and declaratory acts.

By the constitutive administrative acts create, change or abolish certain legal conditions.

Declaratory administrative acts are those that determine or declare fulfillment of legal conditions for which legal status, by law, must perform.

From the previous presentation we saw that by registration the right to property or other real rights in the REC constitutes ownership or other real rights, or to put it differently, from that moment the submitter of the application for registration becomes the owner of the property or holder of another real right. In addition, the registration, has declarative character compared to other persons, because by it determines or declares that only the applicant, of course if it is granted, is the owner or holder of the right to easement, mortgage creditor etc.

The material acts not decide on rights, they do not constitute rights, but only confirms their existence as material facts recorded in the official records of the body, conclude their existence or notify for their existence. Accordingly, the material acts we can divide as the acts of confirmation or certificates<sup>6</sup> (certificates, receipts, confirmations, birth registries, etc.), acts of reporting (announcements, reports) and acts of revealing (transcripts, official remarks, the given statements or submitted charges or complaints by citizens, ascertainties of legacy<sup>7</sup>, various written statements on official work, etc.).

With this in mind, the certificates are only acts of confirmation, which verify some data is entered or exists in the official records of the institution, or no exists. The certificate cannot establish rights, because the constituting is a decision making. From the same reason, by it must not be refused the application for constitution right. By it can only be confirmed for what is recorded in the official records of the institution in the procedure of constitution – decision-making for rights. The certificate cannot be explained, but in it only notes the existence of the data for material facts in the official records of the administrative body, in this case - the Agency for REC.

Certificates of registration of real estate rights and refusal of applications for registration of such rights, prescribed by the Rulebook on the Establishment of the REC, have an introduction, saying – dispositive in which is contained the decision, explanation for reasons for which the authority explains why it is so decided, signature of the officer, number and date of issuance of the certificate and seal of the issuing authority. Particularly is distinctive certificate for refusal of the application for registration whose disposition is: "The application for registration the rights of real estate in the CM A, submitted by NN..... with UIN....., from S....., page....., number....., registered under the number..... from 15 of March 2011, is refused because incompleteness for individual registration of real estate rights". This is a typical disposition of solution. This certificate lacks only advice on legal means (complaint, lawsuit), it to have all components of a solution which is decision-making administrative act.<sup>8</sup> These components are the result of material-legal nature of registration as a legal activity of constitution of rights, i.e. the solution, not an act of confirmation of the existence of rights. Taking into consideration, this material-legal nature of the registration, the writer of the Rulebook could not avoid the certificate does not give a form of decision and, therefore, him to points to the conclusion that it should be a solution as the act of decision-making. In addition to this, is a legal provision contained in Article 237 of the REC regarding the judicial protection of clients' rights in the procedure for registration of rights to real estate in REC, according

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<sup>6</sup> Latin: certe - some, certainly exists, and facere – make, do. Thus the word means a written assurance, certificate, attestation confirmation, testimony, documentation etc.

<sup>7</sup> Act which is a compilation of previous actions of inheritance proceedings. It is compiled by the registry office in whose area the testator died. See Article 142. paragraph 1 of the Law on the Non-contentious Procedure (Official Gazette of RM ", No. 9/2008).

<sup>8</sup> Certificate of registration of real estate rights has a disposition which begins with the words "I attest that .....". It give to certificate, to some extent, character of act provides for confirmation (certificate). The certificates issued by the authorities of the Agency have advice for legal remedy.



which, certificates issued in this procedure are final and executive and, against them, applicant or holder of the right has the right to submit a lawsuit before the Administrative Court within 15 days from the date of receipt of certificate. Finally and executive can be a decision or any other decisive specific administrative act. Certificate cannot be final and executive, because by it does not decides, but only confirms the existence or non-existence of certain facts recorded in the official evidence of the administrative body.

Considering the forward exposed, the certificates in the procedure for registration a right to real estates in the official evidence of the bodies, should be replaced with decisions. The legal basis for it to be created by an amendment to the Law on REC. In this case, in registration or refusal of application for registration in the REC, would be only input the dispositive of the decision, and after that, the client would be issued a written solution with all components prescribed by the Law on GAP (introduction, saying - disposition, explanation, advice on remedy, the signature of the officer who passed the decision, and the stamp of the number and date of the decision).

Finally, in the Law on REC is a complicated procedure in case of failure to adopt a certificate after the client application (administrative silence).

According the Law on GAP, unless the competent authority against whose decision an appeal is admissible, does not pass the decision and submit it to the client in the proscribed deadline, the client has the right to appeal as it is refused his request. In this case, the legislator, rather than an opportunity to submit appeal, provides an opportunity to submit a request for adoption of certificate, within three working days after expire of the deadline for passing the certificate, to the Director of the Agency, he pass certificate within five working days from the day of receipt of the request. If it will not bring results, follow the right to information to the State Administrative Inspectorate within five working days after the expiration of this period, and inspection by an inspector from this Inspectorate, then the decision of the inspector for borrowing the director of the Agency to issue a certificate within ten days. If the Director does not respond even then, follow an additional period of five working days given by the inspectors, by that is ordered to Directorate issue a decision. And, finally, if the Director fails to act even in this period, the client has the right to initiate an administrative dispute before the Administrative Court.

Instead of this complicated procedure, the legislator should simply respect the Constitution of the Republic of Macedonia (Article 15) by which to the citizens of the Republic is guaranteed the right to appeal. In this concrete case the appeal would be submitted to the State Commission for Decision-making in Administrative Procedure and Procedure of Employment Relationship in the Second Degree. The procedure before the Commission, given the great social and economic importance of registration of rights to real estate cadastre, would be urgent. If the client - the complainant is not satisfied with the decision of the Commission, could initiate an administrative dispute before the Administrative Court. The procedure before this Court would also be urgent. By current legal solution, the procedure for the protection of the rights of the clients in registration of the rights of real estate and other proprietary rights in the REC, will greatly simplify and will become more efficient. This procedure, of course, would apply not only in cases of administrative silence for registration of rights to real estate, but also in cases where the Agency enacted a certificate or other decision by that the client is not satisfied.

### **Summary**

The procedure for registration of rights to real estate in the REC is an administrative procedure. It commenced on occasion of applied application for registration and ends with the registration of right or with refusal of the application for its registration.

After the registration, the competent authority of the Agency for REC issues the client certificate for registration, or certificate for refusal of registration.

The registration of rights in real estate cadastre has constitutive effect. This means that it constitutes rights. Rights are constituted by constituent acts, which belong to the category of acts of decision-making or decisive acts. Decision-making acts are decisions and other acts prescribed by the Law on General Administrative Procedure. The certificates are not acts of decision-making, but acts that confirm the existence of data on certain facts in the official evidences of the institution. Because that, in

the procedure for registration of rights to real estate in the REC, should respect general standards of administrative procedure contained in the Law on GAP in regard to the initiation of the procedure, course the procedure, deciding in it, and protecting clients against unlawful decisions of the organs of the Agency.

In the initiation of procedure, needs to point the client about the shortcomings of the application and the submitted proofs, and should be given him a time to remove them.

Deciding in the procedure should be carried out with decision, not with certificates. Against these decisions the clients should be allowed the right of appeal to the State Commission for Decision-making in Administrative Procedure and Procedure of Employment Relationship in the second degree. If the client is not satisfied with the decision of the Commission, should be allowed the right to initiate an administrative dispute by submitting the lawsuit to the Administrative Court. The procedures for appeal and lawsuit for initiation an administrative dispute should be urgent.

To correct procedure for registration of rights to real estate in the REC, it is necessary to make amendments and additions to the Law on REC. The correction will considerably simplify the procedure for registration, and thus will enable clients faster and more efficiently to exercise their rights in connection with real estate and registration in the official evidence of the REC. This will increase the efficiency of servicing the citizens by the Agency for REC which is administrative body and, therefore, the service of the citizens for legally valid evidence of their rights to real estate.

## REFERENCES

1. Chuhevskaja D.: INDOK - Services - role and functions, 1984, Macedonian Book, Skopje(Macedonian).
2. Gjorgjiev V.: Modern Cadastre 2006, Faculty of Civil Engineering, Skopje(Macedonian).
3. Idrizi B., Meha M., Skenderi F., Hamiti R., Skenderi R.: Developing of National Spatial Data Infrastructure of Macedonia According to Global Standardization (INSPIRE & GSDI) and Local Status, International Scientific Conference,- Proceedings, "Importance of Developing National Spatial Data Infrastructure of the Republic of Macedonia Based on INSPIRE Directive, 27 march 2009, FON University, Skopje, Macedonia.
4. Directive 2007/2/EC of the European Parliament and of the Council, of 14 march 2007, for establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), "Official Journal of the European Union, from 25. 4.2007.
5. Oxford Dictionary of Law, 2002, Oxford University Press, Fifth Edition.
6. Rulebook for the establishment of real estate Cadastre (Official Gazette of the Republic of Macedonia, No. 118/2008).
7. Constitution of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 52/1991).
8. Law on Real Estate Cadastre - consolidated text (Official Gazette of the Republic of Macedonia 40/08, 158/10, 17/11, 51/11 and 74/12).
9. Law on Real Estate Cadastre (Official Gazette of the Republic of Macedonia, No. 55/2013).
10. Law on General Administrative Procedure (Official Gazette of the Republic of Macedonia No. 38/2005).