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Land registers in EU countries

Portugal

This page provides an overview of Portuguese land registry.

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Land register (*Registo Predial*)

The land register is kept by the Land Registry Offices, under the direction of the Land Registrars, which are part of the *Instituto dos Registos e do Notariado* (Institute of Records and Notaries). These offices are spread across Portugal, in each municipality but their competence is not limited according to their geographical location and they can perform acts relating to any immovable property in Portugal.

The main purpose of the land register is to provide information on a property's legal status and guarantee the security of the property transaction. As a rule, it is compulsory for all matters relating to titles since 21 July 2008.

The final register constitutes a presumption of the existence of a right to the property that belongs to the registered holder under the precise terms set out in the register.

Situations requiring an entry in the land register:

- a) legal facts giving rise to the establishment, recognition, acquisition or modification of rights of ownership, usufruct, use and habitation, superficies or easement;
- b) legal facts giving rise to the establishment or the modification of apartment ownership (*propriedade horizontal*) and the right of periodic residence;
- c) legal facts which annul (*convenções anuláveis*) or cancel (*convenções resolúveis*) the rights referred to in paragraph a);
- d) land alteration resulting from parcelling out, setting up of co-ownership and re-parcelling out, as well as related changes;
- e) mere possession;
- d) promise of disposal (*alienação*) or encumbrance (*oneração*), preference agreements (*pactos de preferência*) and testamentary dispositions, where these have come into force, as well as the assignment of contractual status resulting from these situations;
- g) transfer (*cessão*) of property to creditors;
- h) a mortgage, transfer or modification thereof, transfer of the ranking of the respective entry and rent assignment (*consignação de rendimentos*);
- i) the transfer of credits guaranteed by mortgage or rent assignment, where it is necessary to transfer the guarantee;
- j) assignment of real estate as the guarantee of insurance companies' technical reserves, as well as the guarantee of employers' responsibility;
- l) financial leasing and conveyancing thereof;
- m) leasing lasting more than six years and conveyancing thereof or sublets, except for agricultural leases;
- n) seizure and declaration of insolvency;
- o) pledge, seizure, attachment and inventory of assets guaranteed by mortgage or rent assignment and any other acts or measures that affect these assets;
- p) establishment of 'appanage' (*apanágio*) and its modifications;
- q) encumbrance (*ónus*) of any reduction of donations subject to restoration;
- r) encumbrance of a rent-controlled house (*casa de renda limitada*) or of economic revenue on buildings thus categorised;
- s) encumbrance of payment of annuities provided for in cases of agricultural support;
- t) renunciation of the indemnity, in the event of expropriation, for the increase in value resulting from work carried out on immovable property situated in areas near national roads or covered by municipal improvement plans;
- u) any other restrictions on the right of ownership, any other burdens and any other situations legally requiring an entry in the register;
- v) concession of property to the public domain and conveyancing thereof, where a mortgage on the right conceded is to be registered;
- x) legal facts which affect the termination of recorded rights, encumbrances or burdens.
- z) title establishing a tourism undertaking and its modifications.

The following actions also require an entry in the land register, as well as final decisions following the issue of a final judgment, the principal or alternative object of which is:

- a) recognition, establishment, modification or termination of some of the rights referred to in the previous paragraph, as well as revocatory actions;
- b) reorganisation, declaration of nullity or invalidation of an entry or of its cancellation;
- c) procedures of which the object is to decree the attachment and the inventory, as well as any other measures which affect the free disposal of property, and the respective measures decreed.

Principles of the land register

Principle of enforceability against third parties

Facts requiring an entry in the register, even if not registered, may be cited between the parties or their heirs, with the exception of the establishment of a mortgage, of which the effectiveness between the parties depends on an entry being registered.

However, situations requiring an entry only become effective vis-à-vis third parties from the date of the respective entry.

Principle of priority

The right first registered prevails over subsequent entries relating to the same property, in the order of the dates of the entries, and, on a same date, of the time of the corresponding submissions.

Principle of legality

The viability of the request for an entry is assessed against applicable legal provisions, the documents submitted and previous entries. Special attention is paid to checking the identity of the building, the legitimacy of the interested parties, the formal regularity of the titles and the validity of the acts contained therein.

Principle of chain of title

The final entry of establishment of burdens by legal acts depends on the previous registration of the properties in the name of whom the burden applies. In the event that there is an entry concerning the property for acquisition or recognition of a right which may be transferred or for mere possession, the respective title holder must intervene in order for the new final entry to be drawn up, unless the situation is a consequence of another previous entry.

General rule for the deadline for making an entry

As a rule, the entry must be requested within 30 days from the date on which the facts have been registered or from the date of payment of the tax obligations where such payment has to take place after the establishment of the title (*titulação*) (in cases of distribution or donations).

Other characteristics of the registry procedure

The principle of legitimate interest (*princípio da instância*) applies to the land register, i.e. the entry is made at the request of someone who is in a legitimate position to do so. The following have a legitimate interest in requesting an entry in the register: active and passive subjects of the related legal relationship, and, in general, whoever has an interest therein or has an obligation to promote such an interest.

The request may be made in person, electronically, by fax or by post.

Entries will only be made in the register where they are substantiated by documents. The facts relating to buildings are, as a rule, recorded in a deed certified by a public official (*escritura pública*) or by a specific authenticated document (document authenticated by a notary, lawyer, solicitor or land registrar and uploaded to the Predial Online website).

A compulsory mechanism is in place to provide missing information, or, if the entry cannot be made as required, the registrar contacts the person requesting the entry to collect all the necessary documents, in order to avoid the entry being rejected or being given a provisional nature.

The registrar makes the entry within 10 days from the date of the submission.

Should the entry be rejected or made provisionally due to some remaining doubts, the requester is informed by reasoned order and may lodge an administrative contentious appeal to the registrar's hierarchical superior or appeal through the courts.

Fees

The Regulation on fees for records and notaries (*Regulamento Emolumentar dos Registos e do Notariado* - Decree-Law No 322-A/2001 of 14 December 2001) sets out fees for the land register.

Access to register information

Further to paper copies of certificates, the information can easily be accessed online at <http://www.predialonline.pt/> by means of an electronic certificate. There is up-to-date information on the legal situation of buildings and on pending applications for registration. Access is based on a yearly subscription plan and costs €15. The application must be made on the basis of the building's description number or its tax number. Following payment, a certification code provides access to the information.

Other services

In Portugal two services are available in relation to land registers: Predial Online and Casa Pronta.

Predial Online

On this site, privately owned authenticated documents evidencing legal acts and mortgage cancellation documents may be uploaded. Notices about the transfer of buildings to entities with a legal right of preference (so that they can announce their intention to exercise such rights or not) are also accepted. It is also possible to consult notifications published in respect of buildings under the special procedures for justification and correction.

Entries may also be requested, which will require that the interested parties authenticate themselves by means of a digital certificate.

Is access to Predial Online free of charge?

Much of the Predial Online website is available free of charge. However, *Regulamento Emolumentar dos Registos e do Notariado* (Decree-Law No 322-A/2001 of 14 December 2001) lays down charges for access to some sections of the website, which are reserved for use by authenticated users.

Authentication is done by means of a digital certificate, and relates particularly to online registers (application and consultation of the status of the application) and document deposit (deposit and consultation).

Information available in the Predial Online register

The website provides access to information and certificates relating to immovable property recorded in the Portuguese land register.

Casa Pronta

The Casa Pronta service provides an one-stop service, making it possible to carry out all the necessary formalities relating to the purchase and sale, donation, exchange, dation in payment (*dação pagamento*), of urban, mixed or rural buildings, with or without a bank credit, to the transfer of a home purchase bank loan from one bank to another or to the taking out of a loan against the mortgage on a house. It is also possible to use the Casa Pronta service to establishment apartment ownership (*propriedade horizontal*).

The first step of the procedures are with the land registry (*conservatória*) or a bank, which can access the website using a username and password. This process can be followed at any time.

The website offers any individual the opportunity to give notice of the transfer of a building, so that entities with legal rights of preference can announce their intention to exercise these.

Is access to Casa Pronta free of charge?

Regulamento Emolumentar dos Registos e do Notariado (Decree-Law No 322-A/2001 of 14 December 2001) lays down charges for access to the procedure. For a fee of €15, the Web Casa Pronta website offers any individual the opportunity to give notice of the transfer of a building.

This allows entities with the legal right of preference to announce their intention to exercise this. However, in the latter case, access to the site is restricted.

Furthermore, only the following entities have access to the Web Casa Pronta:

Banks

Land registry

Entities receiving legal rights of preference.

Access is obtained by entering a username and password.

No access restrictions apply to announcements to exercise legal rights of preference, which may be done free of charge.

Useful links

Predial Online

Casa Pronta

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