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### Portugalia

This page provides an overview of Portuguese land registry.

#### Land register (Registo Predial)

The land register is essentially intended to give publicity to the legal situation of buildings, with a view to ensuring the security of the legal property trade and is, as a rule, compulsory for all acts with effect from 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.

In Portugal, the land register is provided by registrars, headed by conservators.

Registration services are decentralised services of the Instituto dos Registos e do Notariado (Instituto dos Registos e do Notariado), which is a public institute integrated in the indirect administration of the State and under the supervision and supervision of the Ministry of Justice. These services are dispersed throughout the national territory, in each municipality, but their competence is not delimited according to the territory of the municipality and may be carried out in respect of any land situated in Portugal.

#### Situations requiring an entry in the land register:

##### Pursuant to Articles 2 and 3 of the Land Registry Code, registration is required:

Legal facts giving rise to the establishment, recognition, acquisition or modification of rights of ownership, usufruct, use and habitation, superficies or easement;

Legal facts giving rise to the establishment or the modification of apartment ownership (propriedade horizontal) and the right of periodic residence;

Legal facts which annul (convenções anuláveis) or cancel (convenções resolúveis) the rights referred to in paragraph a);

Land alteration resulting from parcelling out, setting up of co-ownership and re-parcelling out, as well as related changes;

Mere possession;

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;

Transfer (cessão) of property to creditors:

A mortgage, transfer or modification thereof, transfer of the ranking of the respective entry and rent assignment (consignação de rendimentos);

The transfer of credits guaranteed by mortgage or rent assignment, where it is necessary to transfer the guarantee;

Assignment of real estate as the guarantee of insurance companies 'technical reserves, as well as the guarantee of employers' responsibility;

Financial leasing and conveyancing thereof;

Leasing lasting more than six years and conveyancing thereof or sublets, except for agricultural leases;

Seizure and declaration of insolvency;

Pledge, seizure, attachment and inventory of assets guaranteed by mortgage or rent assignment and any other acts or measures that affect these assets;

Confiscation in criminal proceedings;

Establishment of 'appanage' (apanágio) and its modifications;

Encumbrance (ônus) of any reduction of donations subject to restoration;

Encumbrance of a rent-controlled house (casa de renda limitada) or of economic revenue on buildings thus categorised;

Encumbrance of payment of annuities provided for in cases of agricultural support;

Renouncement 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;

Any other restrictions on the right of ownership, any other burdens and any other situations legally requiring an entry in the register;

The provision of property in the public domain and its transfers when the right is granted if it wants to register a mortgage;

Legal facts which import the extinction of registered rights, charges or charges;

Title establishing a tourism undertaking and its modifications.

The following are also subject to registration:

The recognition, constitution, modification or revocation of any of the above rights, as well as avoidance actions;

Reorganisation, declaration of nullity or invalidation of an entry or of its cancellation;

Final decisions on previous actions as soon as they become res judicata;

Procedures for granting the attachment order and the description of the seizure and any other arrangements which affect the free disposition of property; and

The procedures described above.

#### Principles of the land register

##### Principle of enforceability against third parties

Pursuant to Article 5 of the Code of the Land Registry, the acts subject to registration have effects against third parties only after the date on which they were registered, except:

the acquisition, based on possession, of the ownership, usufruct, use and housing, surface or easement;

visible easements; and

the facts concerning indefinite assets, until such time as they are specified and determined.

##### Principle of priority

Under Article 6 of the Real Estate Registry Code, the first duty shall prevail over those which follow in respect of the same goods, by order of date of registration and, by the same date, by the time order of the corresponding submissions.

##### Principle of legality

Under Article 68 of the Land Registry Code, the viability of an application for registration is to be assessed in the light of the applicable legal provisions, the documents produced and the previous records, in particular the identity of the building, the legitimacy of the parties concerned, the formal regularity of the titles and the validity of the acts contained therein.

#### **Principle of chain of title**

Under Article 34 of the Land Registry Code, final registration of costs by legal transactions depends on the prior entry of the goods on behalf of those who burden them.

The definitive registration for the acquisition of rights depends on the prior entry of the goods on behalf of the transferor, where the document proving the transferor's entitlement has not been filed with the registration service, with the exception of the cases of registration of acquisition on the basis of the sharing where prior registration is always waived.

Where there is a record of acquisition or legal recognition of a right which may be passed on or possession of such property, it is necessary for the relevant holder to intervene in order to be able to make a fresh entry, unless the event is the result of another registered right.

#### **Principle of effectiveness between parties**

Under Article 4 of the Land Registry Code, the facts which are subject to registration, even though they are not registered, may be relied on between the parties themselves or their heirs, with the exception of the constitution of a mortgage, the effectiveness of which, between the parties themselves, depends on the implementation of the register.

#### **General rule on time limit for registration**

As a general rule, and in accordance with Article 8c(1) of the Land Registry Code, registration must be requested within 2 months from the date on which the facts were held.

#### **Other features of the registration process**

##### **Principle**

In the land register, there is, as a general rule, the principle of the proceedings, that is to say, registration is made at the request of a person who has standing to bring proceedings (Article 41 of the Code on land registration).

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.

Applications can be made in person or by e-mail or post.

Only facts supported by documentary evidence can be registered. 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).

##### **Deficiency of defects**

There is a compulsory mechanism to address deficiencies provided for in Article 73 of the Land Registry Code, which consists of a procedure preceding the decision on qualification and which must be used where there are deficiencies which may be remedied of its own motion, on the basis of documents submitted or already existing at the competent registration authority, or by direct access to the information contained in the databases of the authorities or departments of the public authorities.

As it is not possible to supplement its own motion, provided that the deficiency does not involve a new application for registration, nor does it constitute a ground for refusal on the grounds that the fact that the document is already registered is already registered or is not subject to registration, that the fact is declared null and void or that the register has already been established as provisional in respect of any doubt, and the fact that the person concerned cannot be removed from the register, the competent registration service shall inform the applicant in writing by email or in a postal register in order that the latter, within a period of five days, should do so.

In the event of a deficiency which is not rectified by the applicant's action, the registration shall nevertheless not be made provisionally or refused if the deficiencies in question concern the omission of documents to be issued by the authorities or services of the public administration and the information contained therein cannot be obtained by accessing the relevant databases. In this case, the services must ensure that documents are obtained directly from those authorities.

#### **Period of implementation of records**

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

Where registration is qualified in terms other than that requested, the applicant shall be notified, with reasoned order, and may appeal, hierarchically or judicially.

#### **Costs**

The land register is subject to the costs provided for in the Regulation Emolumentar dos Registos e do Notariado (Decree-Law No 322-A/2001 of 14 December 1999).

#### **Access to registration 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 possible by means of an annual subscription and a cost of EUR 15 or EUR 20, depending on whether the request for subscription or renewal of access to the permanent certificate of the land register is made via the electronic address *mentioned* above or orally in a registry office for land registration acts. The application must be made on the basis of the building's description number or its tax number. Following payment, the information is available once a certification code is entered.

Access to the information contained in the register may also be made by means of the **Simplified Land Information**, consisting of the online making available of uncertified, constantly updated information containing the description of the building and the identification of the owner, enabling any citizen to check, in a simpler and cheaper way, whether they are registered over a particular estate, mortgages or any other encumbrances or charges. For each building, the fee of EUR 6 is payable for each building. In addition to this fee, EUR 4 shall be charged where the application is made orally in a department which is responsible for establishing an act of establishment of the land register.

#### **Other services**

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

#### **Land Property**

Records *can* be requested on the page <http://www.predialonline.mj.pt/>, and the persons concerned must authenticate themselves on a digital certificate.

In the same place it is possible to deposit electronically authenticated private documents relating to legal transactions and authorisations to cancel mortgages.

It is also possible to generate advertisements intended to advertise the essential elements of business relating to property so that entities with a legal right of pre-emption can express their intention to exercise, or not, the right. It is also possible to consult notifications published in respect of buildings under the special procedures for justification and correction.

### **Access to Land Registry Online**

Access to most of the online page of the Land Online is free of charge. However, access to some services has costs, fixed by the Regulation on Registration and Notaries (Decree-Law No 322-A/2001 of 14 December) and is reserved for authenticated users. The authentication is done by means of a digital certificate and relates in particular to online registration (request and consultation of the property status of the property) and to document deposits (deposit and consultation).

### **Prota House**

The Pronta service provides a one-stop shop for all the necessary formalities for the purchase, gift, gift, exchange, lieu of payment, of urban, mixed or agricultural land, with or without bank credit, the transfer of a bank loan for the purchase of a bank house from one bank to another or the realisation of a loan secured by a mortgage on the 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 allows anyone to announce the transmission of a property so that entities with a legal right of pre-emption can express their intention to exercise, or not, the right.

### **Access to the Prota House**

Access to the procedure has the costs set out in the Regulation Emolumentar dos Registos e do Notariado (Decree-Law No 322-A/2001 of 14 December 2009).

The 'Casa Pronta' website allows anyone to announce the transmission of a property against payment of a fee of EUR 15.

Entities with a legal right of pre-emption may indicate their intention to exercise this right free of charge. 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.

There are no restrictions on access to the consultation of notices for the exercise of legal rights of preference which can be displayed free of charge.

### **Useful links**

[Property Online](#)

[Prota House](#)

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