



DELTA legal

Legal News

Be careful not to lose your property!

The strengthening of the material publicity principle will soon apply to historic registrations in the Land Register

We highly recommend that you verify whether you are the registered owner of your property in the Land Register.

Do you own real estate that is subject to registration in the Land Register? Have you verified recently whether the registration in the Land Register corresponds to the factual situation? If not, then it's high time you do!

As of 2 January 2015 the provisions strengthening the material publicity principle will fully apply to rights registered in the Land Register in the past, i.e. at any time before 2 January 2015.

This change may affect you if the records in the Land Register contradict the factual situation and you have not taken appropriate legal steps to remedy this. Since 2 January 2015, rights registered in the Land Register will be presumed to be registered in compliance with the factual situation regardless of their correctness. This means that if a third person registered in the Land Register as the owner of your property (even though they are not legally the owner) transfers your property to a new acquirer, **you can lose the ability to claim the return of the property to your possession**. This will occur **in the event that the new acquirer purchases the property for remuneration and in good faith that the seller is the owner of the property**, and if the seller is registered as the owner in the Land Register.

The material publicity principle simply means that ignorance of the data registered in the Land Register is no excuse. According to the explanatory report to the governmental proposal of the Civil Code, this principle applies not only to rights *in rem*, but also to notes of controversy (see below), change order notes, priority notes, and the like.

If you have not yet verified this year whether the registration in the Land Register corresponds with the factual situation, now is the time!

How can we help you?

We will be pleased to assist you to (i) verify the registration in the Land Register and compare it with the factual situation and (ii) take legal steps necessary to remedy potential discrepancies.

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Beware of the short period for contesting a new entry in the Land Register that is to your disadvantage.

If you own a property or you are the beneficiary of a right that is subject to registration in the Land Register and you learn about a new entry made without legal grounds and to your disadvantage after 1 January 2015, then you should immediately take appropriate legal steps!

As of 2 January 2015, the periods to raise notes of controversy regarding entries made without legal grounds will also apply to rights registered in the Land Register in the past, i.e. before 2 January 2015.

If a new entry is made in the Land Register in favour of a third person without legal grounds and this adversely affects your registered right, then you need to act immediately by:

- (i) **filing a request for registration of the note of controversy** into the Land Register **within one month** after you become aware of the new entry; and
- (ii) **challenging the new entry before the court** and proving to the Cadastral Authority **within two months that you have claimed your rights**.

We highly recommend monitoring the Land Register records on a regular basis and carefully reviewing every change affecting your rights.

To make such monitoring easier, the Cadastral Authority offers a special "Changes Monitoring Service" that notifies about changes of the required properties by e-mail, SMS, data mail or in XML format (suitable for people who have to monitor records concerning a large number of properties).

The note of controversy allows the beneficiary of the right registered in the Land Register, which is harmed by a new entry, to demand the cancellation of the registration of the new entry and to ask the Cadastral Authority to publish this in the Land Register in order to inform third parties that rely on the publicity of the Land Register. The purpose of the note of controversy is to prevent third parties from acting in good faith in the new entry if it is controversial (i.e. harmful to the beneficiary of another registered right). Registration of the note of controversy in the Land Register will cause third persons who subsequently file a request for registration of a new entry concerning the real estate in question to act with the knowledge of a potential conflict between the status registered in the Land Register and the actual legal status.

How can we help you?

We will be pleased to help you (i) establish the Changes Monitoring Service, and (ii) prepare the note of controversy and further legal steps towards eliminating the conflict, including representing you before the Cadastral Authority and the court.



If you would like more information, please do not hesitate to contact Pavel Fára at pavel.fara@deltalegal.cz, mobile no. +420 724 968 717, or your usual contact person in our office.

This document is intended as a general communication. It is not legal advice and cannot substitute detailed legal advice in specific circumstances.

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