

Publicity regime



Transcription of specific deeds, contracts and judgments in the mortgage registry, held by the competent office of the Administration of Legal Security

What has changed?

What is the impact?

1

Transcription obligation is extended to additional authentic deeds such as:

- right of pre-emption
- right of preference
- call option
- deed confirming title by prescription
- judgment confirming a legal easement
- deed of succession confirming the acquisition of a right in rem



- Mortgage registry is more complete (legal certainty)
- Increased enforceability towards third parties
- Registration duties: fixed amount

Example: A deed granting a right of pre-emption or call option will need to be transcribed in the future.

2

Marginal mention reinforced:

- any claim regarding the judicial termination of a right in rem, even when the latter was not transcribed yet
- enforceability of judicial termination towards third party acting in good faith only as of marginal mention



The termination (if granted):

- will only have effect as from the date of the marginal mention
- is not enforceable towards third party acting in good faith in a transaction entered into before the marginal mention is recorded

Example: The bare owner who obtains the judicial termination of the long-term lease will have to honor the mortgage granted by the leaseholder prior to the marginal mention of the claim for termination.



| Enhanced mortgageability of rights in rem