

(RS Official Gazette, No. 71/2019)

Pursuant to Art. 30 of the Law Amending the Law on Pledge of Movable Assets Registered in the Pledge Register (RS Official Gazette No 31/19),

The Minister of Economy hereby enacts the following

RULEBOOK

on the Content of the Register of Pledges on Movable Property and Rights and Documents Required for Registration

I. INTRODUCTORY PROVISIONS

Scope

Article 1

This Rulebook shall govern the content of the Register of Pledges on Movable Property and Rights (hereinafter: Register) and documents required for registration or strike-off of data from the Register.

Subject of Registration

Article 2

The subject of registration shall be the rights related to contractual pledges over movable assets and rights, with or without transfer of possession of the pledged asset to the creditor, judicial pledges arising pursuant to the law governing the enforcement and security procedure that arises in accordance with the law governing the tax procedure, as well as other pledge-related rights arising in accordance with special regulations designated by the law as subject to registration (hereinafter: right of pledge)

Retention of ownership under a contract of sale of movable assets with retention of ownership as security for the seller's claim until the full price has been paid (hereinafter: Sale Contract) shall also be subject to registration.

II. CONTENT OF THE REGISTER

Data Contained in the Register

Article 3

The Register shall contain data on:

- 1) the exact time of receipt of the application for registration (day, hour and minute);
- 2) the type of pledge right (contractual pledge with and without transfer of possession of the pledged asset to the creditor, judicial, and statutory pledge right);
- 3) parties to a pledge, specifically, data on the pledge creditor, or third person authorized by the creditor to take legal action to protect and recover the secured claim, the pledger and debtor, when the debtor and pledger are not one and the same person (hereinafter: party to a pledge);
- 4) on the pledged asset
 - (1) for an individually defined pledged asset – data specifying in detail the movable asset or right constituting the pledged asset,
 - (2) movable assets defined by kind – quantity or number, location of the assets and/or other data on the basis of which these assets can be differentiated from other assets of the same kind,
 - (3) for a portfolio of movable assets, including inventories – description and location of the assets;
- 5) on the legal grounds of the right of pledge (name of contract, act and/or decision of the competent authorities, date of drafting);
- 6) on the pecuniary amount of the claim secured by the right of pledge which may be expressed in domestic and/or foreign currency, in particular, on the basic and maximum amount of secured claim, whereas, and the maximum amount of the principal claim secured by the pledge for future or conditional claims.

The Register also contains data on the sale contract, specifically:

- 1) date of stipulation of the sale contract;
- 2) data on parties to the sale contract, specifically, the buyer and seller (hereinafter: parties to the sale contract);
- 3) data specifying in detail a movable asset as the subject of a sale contract;

4) date on which the purchase price was paid in full.

If the party referred to in para. 1, item 3) and para. 2 item 2) hereof is a domestic natural person, then the Register shall contain data on the first and last name, unique personal identification number, fixed domicile and/or temporary residence, and in the case of a foreign natural entity, data on the first and last name, passport number, issuing country and fixed domicile and/or temporary residence of the person.

If the party referred to in para 1, item 3) and para. 2, item 2) hereof is a domestic legal entity, the Register shall contain data on the corporate name and registration number, and in the case of a foreign legal entity, the corporate name, the designation in the foreign register and name of that register, as well as the registered address of that entity.

The Register may also contain other data relevant for the registered pledge: data on the owner, or holder of the pledged movable asset in case the pledger is not the owner or holder of the asset; on any restrictions of the use of or disposal of the pledged asset and other data relevant for the registered right.

Changes and Additions to Registered Data

Article 4

Any amendments to the data referred to in Article 3 of this Rulebook shall be registered in the Register.

Annotations in the Register

Article 5

The following types of annotations shall be entered in the Register:

- 1) annotation on the start of the settlement procedure;
- 2) annotation of a lawsuit filed for the strike-off of a registered pledge, or other dispute in connection with a registered pledge, or sale contract.
- 3) annotation on data concerning facts and documents relevant for legal transactions, in connection to the registered pledge, and registered sale contract.

III. REGISTRATION AND STRIKE OFF OF DATA FROM THE REGISTER

Filing an Application for Registration

Article 6

The application for registration (hereinafter: Application) is submitted on the prescribed application form.

A properly filled in Application must be accompanied by:

- 1) a document that provides legal grounds for registration or strike-off of data, pursuant to this Rulebook;
- 2) other appropriate document that can corroborate the data stipulated under Article 3 of this Rulebook;
- 3) proof that the prescribed registration fee has been paid.

Registration of a Contractual Pledge

Article 7

The following documents shall be submitted for the registration of a contractual right of pledge with or without transfer of the pledged asset into the possession of the creditor:

- 1) ugovor o zalozi ili drugi odgovarajući pravni osnov koji ima sve zakonom propisane bitne elemente ugovora o zalozi,
- 2) A pledger's statement to the effect that he agrees that the pledge creditor may register the right of pledge in the Register, if he files the Application, provided that the statement must be certified by the person or authority licensed to notarize signatures, if the pledger is a physical person;
- 3) an extract from the competent Register for the legal person, if not registered in a register kept by the Serbian Business Registers Agency, i.e., extract from a foreign register competent for the subject of the right of pledge who is a foreign legal entity, i.e. other appropriate document validating with certainty the data referred to in Article 3, paragraph 4 of this Rulebook;
- 4) proof of identity for the physical person who is a party to a pledge if the application is submitted by a physical person (copy of personal ID card for domestic nationals, i.e., copy of passport for foreign nationals);

5) other documents corroborating the data that are subject of registration.

The pledge contract must be notarized by the person or authority licensed to notarize signatures, manuscripts and copies, if the pledged asset is a share or if so prescribed by a separate law.

Registration of a Judicial Pledge

Article 8

For the registration of a judicial pledge, the applicant shall submit the following documentation:

- 1) writ of execution issued pursuant to the law governing enforcement and security and/or the minutes of inventory and appraisal of movable assets;
- 2) decision imposing a measure on the basis of which the right of pledge is acquired, pursuant to the law governing enforcement and security;
- 3) other decision of the court and/or public bailiff qualifying as grounds for the registration of a pledge right.

Registration of a Statutory Right of Pledge

Article 9

For the registration of a statutory pledge in the procedure of forced collection, the applicant shall submit the following documents:

- 1) a decision by the competent tax administration authority ordering registration of a right of pledge in the Register and/or other decision entitled for registration of a statutory right of pledge rendered pursuant to the law governing tax procedure;
- 2) the minutes of the inventory and appraisal of movable assets.

For the registration of a statutory right of pledge by imposing a temporary measure in a tax procedure, the applicant shall submit the following documents:

- 1) a decision by the competent tax administration authority imposing the temporary measure;
- 2) the minutes of the inventory and appraisal of movable assets.

For the registration of a statutory pledge in a deferred tax debt payment procedure, the applicant shall submit the following documents:

- 1) tax debt balance record or agreement between the tax authority and taxpayer or other document confirming beyond any doubt that the parties have agreed to establish a pledge over the taxpayer's movable assets as security for tax debt;
- 2) record on the inventory and appraisal of movable assets or other document used in the appraisal of movable assets.

For the registration of a statutory pledge in the procedure for securing the payment of the tax debt by a third party (tax guarantor) , the applicant shall submit the following documents:

- 1) agreement between the tax authority and taxpayer;
- 2) record on the inventory and appraisal of movable assets or other document used in the appraisal of movable assets.

Registration of a Right of Pledge Arising Pursuant to Special By-Laws

Article 10

For the registration of a pledge right arising pursuant to special by-laws, the applicant shall submit appropriate documents, as foreseen by those by-laws.

Registration of Data Contained in the Sale Contract

Article 11

For the registration of data contained in the sale contract, the applicant shall submit the following documentation:

- 1) sale contract stipulated pursuant to the law governing contracts and torts;
- 2) if the seller is submitting the application for registration, a statement of the buyer of the asset that the seller may register the contract with the register, notarized by the signature notarization authority if the buyer is a natural person.
- 3) excerpt from the relevant register for the legal entity, if the latter is not registered in a register kept by the SBRA, or an excerpt from the relevant foreign register if the party to the sale contract is a foreign legal entity, or other appropriate document on the basis of which the data referred to in Article 3, para. 4 of this Rulebook can be verified.

4) proof of identity for the contractual party who is a natural person, if the application is submitted by a natural person (copy of the identity card for domestic nationals, and copy of passport for foreign nationals);

5) other documents on the basis of which the data subject to registration can be verified.

Registration of Changes and/or Additions to Registered Data

Article 12

For the registration of new data, amending existing ones or striking off certain registered data, the applicant shall submit the following documents:

1) an annex to the agreement and/or other agreement or document pursuant to the law if the object of registration is a contractual right of pledge;

2) annex to the sale contract and/or other contract or document in accordance with the law if the subject of registration is the retention of ownership under the sale contract:

3) a decision by the competent state authority changing the decision which provided grounds for registration or other appropriate act or document, if the subject of registration is a judicial or statutory right of pledge;

4) any other appropriate document which corroborates with certainty that registered data have been changed.

If the registration of changes and/or additions of registered data is performed on the basis of an annex to the contract referred to in Article 7, para. 2 of this Rulebook, the annex must be notarized

Registration of an Annotation

Article 13

For the registration of an annotation to the effect that the settlement procedure has started, the applicant shall submit the following documents:

1) notification by the pledge creditor of its intention to recover its matured claim from the value of the pledged asset;

2) statement of the pledge creditor or other document proving the date of maturity of the secured claim.

For the registration of an annotation on a dispute, the applicant shall submit a copy of the lawsuit bearing a court's receipt seal or other appropriate document proving, beyond any doubt, that a dispute is underway before a court of law in connection with a right of pledge, a pledged movable asset or right, or the registered retention of the ownership under a sale contract.

The supporting documents required for the registration of annotation on data on facts and documents of relevance for legal transactions must corroborate with certainty the fact or document whose registration is sought.

Strike-Off of a Registered Annotation

Article 14

For the strike-off of an annotation on the start of a settlement procedure, the applicant shall submit the annex to the pledge agreement or other appropriate document that proves, beyond any doubt, that the pledge creditor desisted from the satisfaction of his claim and that there is a consensual willingness to extend the maturity date of a secured claim.

If the pledge agreement which provided grounds for registration of a right of pledge is certified, the document from paragraph 1 of this Article which is submitted for the purpose of striking off a registered annotation on the start of a settlement procedure must be notarized by the person or authority licensed for the notarization of signatures, manuscripts and copies.

For the strike-off of an annotation on a dispute, the applicant shall submit the final court decision or a settlement finally concluding the dispute.

For the strike-off of an annotation on data and documents of relevance for legal transactions, the applicant shall submit the appropriate decision by the state authority or some other document that corroborates the fact that circumstances or documents that had prompted the registration of the annotation have changed.

Strike-Off of a Registered Pledge

Article 15

For the strike-off of a registered pledge right, depending on the reason for strike-off, the applicant shall submit the following documents:

- 1) an affidavit or other act by which the pledge creditor confirms that the debtor has repaid his debt to him, that the pledged asset was sold in an extra-judicial settlement procedure or that his claim has been satisfied in some other manner;

2) an affidavit by the pledge creditor to the effect that he waives his right of pledge, and if the affidavit is made by a third party authorized by the creditor to take legal action to protect and settle the secured claim, such an affidavit shall be accompanied by a special power of attorney granted to the creditor for issuing such a statement, unless such a power of attorney is contained in the contract on the basis of which the pledge was registered;

3) a document proving that the pledge creditor has acquired the right of ownership of the pledged object;

4) a documents proving that the same person has acquired the capacity of the pledge creditor and that of the debtor;

5) a document proving that the pledged asset has deteriorated;

6) a decision of the court, public bailiff or other state agency, pursuant to the law, or other relevant proof that the right of pledge has expired, i.e. that the claim secured by the registered right of pledge has expired.

7) final decision of the court establishing that the contract on the basis of which the data were registered has been terminated or annulled;

8) any other appropriate document, pursuant to the law.

If the pledge creditor is a natural person, and the application for strike-off of data on the pledge right has been submitted by the pledger, the affidavits under paragraph 1, items (1) and (2) hereof shall be notarized by the person or authority licensed to notarize signatures.

Strike-off of the Sale Contract

Article 16

For the strike-off of a sale contract, the applicant shall submit the following documents:

1) statement by the seller confirming that the buyer has paid the price in full;

2) final court decision establishing that the contract has been terminated, i.e. annulled;

3) any other appropriate document, pursuant to the law.

If the seller is a natural person, and the application for strike-off of the contract is submitted by the buyer, the statement referred to in para. 1, item 1) hereof must be authenticated by the person or authority licensed to notarize signatures.

Automatic Registration or Strike-Off of Data

Article 17

The procedure for the automatic registration or strike-off shall be initiated when the court, public bailiff or other state agency delivers a decision or resolution or other appropriate act constituting the legal grounds for registration or strike-off of data from the Register and if a separate law envisages that the registration or strike-off of data shall be effected automatically.

Consent of the Competent Authority as a Requirement for Registration

Article 18

If a separate law foresees a permit, consent or some other act by a competent state authority as a requirement for the institution of a right of pledge, along with the application and documents foreseen by this Rulebook, then the applicant shall also submit the appropriate permit, consent or act issued by the competent state authority.

Documentation to be submitted along with the Application

Article 19

Documents foreseen to be submitted along with the application must be originals or transcripts or copies thereof certified by a person or authority licensed to notarize signatures.

When foreign documents are submitted in the data registration process, they must be legalized according to the law and accompanied by translations thereof certified by a court certified translator.

Submission of Electronic Applications

Article 20

An electronic application shall be completed and submitted through the user application for the receipt of electronic applications that processes the receipt of electronic documents.

An electronic application or document shall be signed and authenticated in accordance with the law governing the procedure of registration with the Serbian Business Registers Agency.

IV. PUBLICATION OF DOCUMENTS

Article 21

The following documents shall be published in the Register:

- 1) notification by the pledge creditor of its intention to recover its matured claim from the value of the pledged asset;
- 2) notification of the venue and time of the out-of-court sale;
- 3) document containing detailed data on the pledged asset (specifications and similar).

The document referred to in para. 1 of this Article shall be submitted in support of the application for the publication of the document, along with proof of payment of the prescribed fee.

V. EXPIRY DATE OF REGULATION

Article 22

The Rulebook on the content of the Register of pledges over movable assets and rights and documents required for registration (RS Official Gazette No 31/13) shall become null and void on the date of entry into force of this Rulebook.

VI. FINAL PROVISION

Article 23

This Rulebook shall enter into force on the eighth day after its publication in the Official Gazette of the Republic of Serbia, with the exception of Art. 2, 3, 4, 5, 6, 7, 11 and 12, Article 13, paras. 2 and 3, Article 14, paras. 3 and 4, Art. 15, 16, 17 and 18, in the section that applies to contractual pledges of movable assets and rights with transfer of possession to the creditor and to the contract of sale of movable assets with retention of ownership, as well as provisions of Article 20 regulating the submission of electronic applications, which shall be applicable as of 1 January 2021.

Number 110-00-123/2019-10

In Belgrade, on 24 September 2019

The Minister,

Goran Knežević, sgd.