

Latvia

Civil Code

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(Extracts)

Chapter Six – Pledge Rights

First Sub-Chapter - General Provisions

1278.

A pledge right is such right in regard to property of another (Section 841) as on the basis of which the property secures the claim of a creditor so that the creditor is able to receive from the property payment for such claim.

1279.

A pledge right in regard to movable property is called a possessory pledge, if upon such property being pledged, possession of it is transferred to the creditor. The pledging of an immovable property without transfer of possession is called a mortgage.

If movable or immovable property bearing fruit is pledged so that the creditor possesses and derives fruits from it, then such a pledge is called a usufructuary pledge.

Note:

A pledge right in registered mercantile marine ships shall be established without transferring the ship to the possession of the pledgee. Such pledge is called a ship mortgage. Specific provisions are set out in the Ship Mortgage and Marine Claims Law.

A pledge right in movable property may be established without transfer of such property to the possession of the pledgee pursuant to provisions regarding commercial pledges. Provisions regarding commercial pledges are set out in other laws.

(16 October 1997)

I. A Claim Secured by Pledge

1280.

It is necessary that in regard to each pledge right there be a claim, regarding which the pledge is liable.

1281.

A mortgage may be established as security for claims, which may arise in the future from credit available to debtors (credit mortgage). In registering such mortgage in the Land Register, the amount of the credit available shall be indicated, in regard to which extent the credit mortgage also has priority rights from the time it is registered in the Land Register.

1282.

It is not necessary, for security to be created pursuant to a pledge right, that the claim be a monetary claim, that its term be due or that an action may be brought in regard to it.

1283.

A pledge right, as an ancillary right, is in regard to its effect dependent on the effect of the claim. If the claim is restricted, only a restricted action may be brought with respect to the pledge right.

1284.

If a claim may not, pursuant to law, be maintained, the pledge right established to provide security

for this claim is also not in effect, and the pledge, if he or she has already given the pledge to the creditor, may request that it be returned.

1285.

A pledge right may not exceed the claim which it secures. Upon discharge in full of the latter, the former is also terminated.

1286.

A pledge right shall remain in effect until a creditor is fully satisfied, for whom, after partial payment is made, the pledge therefore also secures the yet unpaid part of the debt.

1287.

If a claim is secured by a pledge right on various properties and is discharged only in part, the creditor retains the pledge right on all the pledged properties since, in their entirety, each of these is security for the claim of the creditor.

1288.

If a creditor after death leaves more than one heir, each of them may exercise the pledge right established by the estate-leaver in full extent, but may claim payment from the debtor only in regard to his or her share of the estate.

1289.

If a claim for a fixed term is secured by a pledge right, it still takes immediate effect, but so long as the term provided for has not elapsed, a creditor may not look to the pledged property for settlement of the claim.

If a conditional claim is secured by a pledge right, it shall not have effect during the period the condition is not in effect. But as soon as the condition comes into effect, the pledge right shall be deemed to have already been created as of the date of its establishment. However, if the condition is such that it may not be fulfilled contrary to the will of the debtor, the pledge right comes into effect only from the date the condition comes into effect.

If a condition or period is specified not for the claim but only for the pledge right itself, then the pledge right comes into effect only from such time as when the condition or the time period come into effect.

1290.

Unless specifically agreed otherwise, a pledge right shall not only secure the principal claim but also its associated ancillary claims. The priority of a mortgage shall be determined pursuant to the date of its registration in the Land Register. Ancillary claims associated with the principal claim shall also be discharged pursuant to the same priority; however, interest shall only be paid for the last three years prior to the sale at auction of the immovable property. Interest claims on previous years shall be discharged similarly to the personal debt claims of creditors.

1291.

Ancillary claims (Section 1290) shall, similarly to principal claims, conform to law.

1292.

Pledged property shall also secure payment for the necessary expenditures incurred by the creditor for the maintenance and storage thereof.

The pledged property shall secure payment for useful expenditures only in instances where these have been made with the consent of the pledger; otherwise, the creditor may only bring an action *in personam* for compensation to such extent as, at the discretion of the court, corresponds to the value of the pledged property.

A creditor may not claim any compensation for enhancement expenses, as well as for those useful expenses which have been made contrary to the express volition of the pledger; but he or she is allowed to remove his or her enhancements if these can be separated from the pledged property without causing any injury to it.

1293.

Provisions regarding the extent of liability of a pledge (Sections 1290 to 1292), may freely be varied in establishing the pledge right. The security provided by a pledge may also be made applicable to only part of a claim.

II. Subject-matter of Pledge Right

1294.

The subject-matter of a pledge right may be all property regarding which alienation is not specifically prohibited, not only already existing but also future, and both tangible (movable or immovable) and intangible property.

1295.

If a joint owner pledges a joint property with the consent of the other joint owners, the pledge right applies to the whole property, but without the consent of the other joint owners, a joint owner is allowed to pledge only his or her undivided share of the joint property.

1296.

The provisions of the previous Section (1295) and Section 1298, are not applicable to movable property which has been provided to the creditor by way of possessory pledge. The security provided to the creditor by such pledge extends to the whole of the property, provided that the creditor has not acted in bad faith, even if the property has been pledged to the creditor by only one of the joint owners, without the consent of the others.

1297.

Establishing a pledge right on a share of an immovable property, or on a part of a share belonging to a joint owner is not allowed.

1298.

If upon a joint owner's undivided share in jointly property being pledged, such share has not yet been specified, the pledge right is applicable to all parts of this property, but upon the property being divided, the pledge right shall be restricted only to the share of the joint owner.

1299.

Where a building or a parcel of land is pledged, the pledge right in itself also applies to servitude's belonging to such building or parcel.

1300.

The owner of a property may not have a pledge right in his or her own property. But, where a

creditor acquires the ownership of property pledged to such creditor, the rights of the creditor, acquired pursuant to the prior pledge right of the creditor as against other creditors to whom the property is pledged, remain in effect.

III. Scope of Pledge Right

1301.

Not only individual properties but also aggregations thereof may be pledged.

1302.

A pledge right on an individual property also includes its appurtenances and augmentations, as well as fruits which come into being during the time an action is being brought against a defendant, or which have subsequently come into being.

1303.

A pledge right, the subject of which is an aggregate of property, applies not only to the already existing but also to future, and not only to tangible but also to intangible parts of such aggregation, provided that it is not clearly evident that the intention of the pledger was only to pledge such aggregation of property as was constituted when the pledge was given.

IV. Establishment of Pledge Right

1304.

A pledge right may be established pursuant to a contract, a will or judicial process.

1305.

Property which it is prohibited to alienate may not be pledged pursuant to a contract or a will.

Note. The provisions of Section 1076 and subsequent Sections, regarding the consequences of alienation done contrary to a prohibition, also apply to pledge.

1306.

Property may only be pledged by a person who has the right to freely act with his or her property. A person who may freely act with his or her property, may also pledge it for the obligations of another person.

1307.

A judgement of a court by which a specific sum of money, or the execution of some other thing which can be monetarily evaluated is adjudged against a debtor, may be a basis for the acquisition of a mortgage upon the judgement being registered in the Land Register.

1308.

An Orphan's Court may demand that notes, on the immovable property of guardians and parents as the guardians of their children (Sections 191 and 224), be registered in the Land Register, in order to provide security for such claims as may arise during administration of the property of wards. There shall be set out, in decisions of the orphan's court, the extent of the security amount.

V. Termination of Pledge Rights

1309.

A pledge right terminates of its own accord as soon as the claim for which it has been established is discharged, irrespective of the procedure by which this has been done.

1310.

If the rights of a creditor with regards to a discharged claim are again renewed, together therewith pledge rights are also renewed of their own accord.

1311.

If an obligation is only renewed, the previously existing pledge right may, by mutual agreement of the parties, remain in effect.

1312.

A pledge right shall be terminated, even though the claim secured by it still exists, in the following cases:

- 1) when a resolutive condition comes into effect, or the term of the pledge right, as established by a condition or for a certain time period, has elapsed;
- 2) when such revocation or restriction as is associated with the rights of the pledger to the pledged property comes into effect, but the rights of a possessory pledgee shall not be disturbed thereby if such pledgee has received the pledge unconditionally and in good faith;
- 3) where the pledged property is destroyed, and additionally thereto, if it has been insured, upon the whole of the property or part thereof being destroyed the pledge right passes to the indemnity obtained from the insurance company, provided that it is not otherwise provided for in the company's articles of association; upon a destroyed property being renewed, for example a building which has burnt down or collapsed being built a new, the pledge right on such property is also renewed; and
- 4) by confusion, when a pledgee acquires the ownership of the property pledged to him or her, or when a debtor becomes an heir of the pledge creditor; an exception from this provision is provided for in Section 1300.

1313.

A pledge right is also terminated upon it being expressly renounced by the pledgee.

1314.

A sale of a pledged property, which is legally made by a pledgee, shall terminate not only their own pledge right but also the pledge rights of the creditors subsequent to them on this property; but as long as they have not been satisfied, both they themselves and the other creditors shall retain a pledge right on the amount received from the sale of the property to the extent necessary for their satisfaction.

If the already completed sale of a pledged property is revoked, then the debtor shall retain his or her right of ownership, and the pledgee shall retain their pledge right on the property.

VI. Consequences of a Pledge Right

1. The Rights of the Grantor or debtor of the Pledge

1315.

The pledging of pledged property does not terminate the ownership rights of the pledgers thereof. Pledgers may still possess and use the pledged immovable as long as they do not voluntarily transfer it to the possession and use of the pledgee, or as long as they are not forced to do so by judicial process.

1316.

Pledgers may exercise all the rights of an owner in regard to their pledged property, including the right to bring actions regarding ownership thereof, insofar as this is generally allowable (Sections 1065 and 1066) and does not conflict with the rights of the pledgee.

1317.

If some right to a pledged property is granted, thereby decreasing the value of such property, then insofar as the security of the pledgee is decreased thereby, such granting is in effect with respect to the pledgee only with his or her consent.

1318.

If, upon a property being pledged, the pledger has not yet been its owner, but has, notwithstanding, possessed it in such manner that he or she may acquire ownership of it through prescription (Section 998 and subsequent Sections), the running of the prescriptive period may also continue and terminate in regard to the pledger during the time period the property is pledged, even if the pledger has transferred it to the possession and use of the pledgee.

2. Rights of a Pledge Creditor or Pledge

1319.

A pledgee who has not been satisfied by a debtor within the time provided for, may resort to the pledge property for satisfaction and, for this purpose take all necessary steps for its sale.

1320.

As long as the payment term has not come due, a pledgee may not sell the pledge; moreover, if he or she does sell it, he or she shall make compensation for all losses and expenditures caused to the debtor resulting thereby.

If a purchaser had knowledge that the acts of the pledgee were contrary to law, the debtor has the right to demand that the sold property be returned.

1321.

A pledgee is allowed to sell a pledge on the open market only in a case where the debtor, either when pledging or subsequently, expressly grants such right to the pledgee.

If such a right has not been granted to the pledgee, the pledge may only be sold by way of auction through a court.

1322.

If a pledgee and a debtor have not to sell the pledged property, then such agreement shall be deemed to apply to sale on the open market.

1323.

A debtor, as the owner of property, in providing security to a pledgee always has the right to demand that the property be sold at auction in order to pay for his or her debt out of the amount received.

1324.

If a pledge is disputed by other creditors, referring to superior rights to it, before the claim secured by it is discharged, the pledgee may demand that the debtor defend the disputed pledge right and make compensation for all losses and expenses occasioned to the pledgee/

1325.

The sale of pledged property requested by a pledgee may be prevented by a debtor only by him or her paying the pledge debt in full, but not by payment of some part thereof or by a promise to provide security to the pledgee by a guarantee or in some way. But if the debtor discharges his or her debt in full, even at the time of the sale itself, the sale shall be stopped and then pledged property shall be returned to the debtor.

1326.

If payment on a claim by a pledgee are divided between several time periods, then the pledge may be sold as soon as there is default in regard to any of such time periods, provided it has not been directly agreed that there is not to be a sale until there has been default in regard to the last, or the second, or the third, etc. time period

1327.

If a pledgee and a debtor have specifically agreed that, in case of default, the pledged property may immediately be sold, then the former has neither the duty to specifically remind the latter nor to notify him or her beforehand of his or her intention to sell; but if there has not been such agreement, the pledgee shall notify the debtor beforehand of his or her intention to sell the pledge.

1328.

A pledgee to whom the debtor allots the right to sell the pledged property on the open market, shall be liable for the sale as an authorised person, and he or she shall compensate the debtor for any losses as may result to the debtor due to lack of care on his or her part. If bad faith enters into the sale, and the purchaser has participated in the bad faith of the pledgee, the debtor has a right to demand that the sold property be returned, repaying to the purchaser the purchase price with interest.

1329.

If, in order to satisfy his or her claim, a pledgee sells the property pledged to him or her or requires that it be sold at auction, the as may be received, as exceeds his or her claim, shall be returned to the owner of the sold pledge, provided other creditors do not have a right thereto.

1330.

If the amount received from the sale of a pledged property is such as does not suffice to fully satisfy the pledge, he or she retain the right to claim as against the debtor for payment of both the balance of the debt and the necessary expenses incurred in connection with the sale.

1331.

Until the sold pledge is transferred to a purchaser, the pledger retains his or her ownership rights and the pledgee retains his or her pledge rights in it.

1332.

Rights pass to the purchaser of pledged property in such extent as they belonged to the debtor.

1333.

If a sold pledge is replevied from a purchaser, the purchaser must claim compensation for losses from the pledgor and not from the pledgee who has sold this property to him or her as a pledge; an exception to this may be allowed only where the pledgee has expressly assumed liability or, in selling, has intentionally misled the purchaser.

1334.

An agreement by which a pledgee, in case of default by a debtor, may retain the pledged property in place of his or her claim is invalid.

1335.

A person who accepts as a pledge a claim on debt against a third person, must inform such third person in order that he or she not repay the debt to his or her direct creditor.

1336.

If, in such a case the debtor (Section 1335) does not make payment within the set time period, the pledgee has the right to either claim for satisfaction from the third person who is in debt to the debtor of the pledgee, or to cede his or her claim, selling it to another.

1337.

A creditor who has received in pledge a claim on a debt (Section 1335) and to whom a document concerning such claim has been delivered, acquires the rights of a possessory pledgee to such claim. In such case, if he or she do not receive his or her interest when due, he or she, unless otherwise agreed, may take the interest which is due on the claim pledged to him or her and, upon receiving satisfaction therefrom, shall return any surplus to his or her debtor.

1338.

If the pledged claim is discharged, fulfilling it for the benefit of the pledgee, then, upon receiving the monetary amount, the latter shall settle with the debtor, but if the subject-matter of the pledged claim has been tangible property, shall acquire the right of a direct pledge on it.

1339.

Upon a pledged claim being discharged, the pledge right on it is also terminated. But if a claim is discharged through the first creditor being paid, after the pledgee, on the basis of Section 1335, has already notified the debtor of the pledger of such pledge, the debtor of the pledger is not released from his or her obligations as a result of such payment.

Sub-Chapter 2 Possessory Pledge

I. Establishment of Possessory Pledge

1340.

A possessory pledge (Section 1279) is established by the delivery of movable property by a debtor into the possession of a pledgee, with the intent that it shall be security for his or her claim if, in addition, this intent has been expressly stated, or clearly manifested by implication.

Delivery of possession of a possessory pledge to the pledgee shall take place pursuant to the general provisions regarding the acquiring of possession of movable property.

1341.

A person who is entitled to freely determine what is to take place with respect to property, may also provide it to another person by way of a possessory pledge.

1342.

If property provided for the processing or transport thereof, is pledged to a third person, it secures the debt only to the extent of the payment required for processing or transport, on payment of which the owner of the property is always entitled to redeem it.

1343.

If, for the security of his or her claim, a person in good faith accepts as a possessory pledge such movable property as the owner has voluntarily entrusted (Section 1065) to the pledger, the pledgee may have resort to this property with respect to the settlement of his or her claim until the property is redeemed by the pledger or the owner.

1344.

If a property obtained by criminal means or a lost property is pledged, regarding which the pledgee did not and was not able to know, the pledgee is entitled, both as against the pledger and any third person, to retain such property until the settlement of his or her claim for securing which the property has been provided to him or her; but he or she shall immediately return the property to its owner without compensation as soon as the owner becomes known, and may only bring his or her claim, as well as an action for compensation for expenditures and losses, against his or her debtor or the person from whom he or she has received the property.

1345.

A pledgee who receives a property as a possessory pledge, where it is known such property has been obtained or lost by way of crime, shall return the property to the claimant-owner thereof, without compensation..

1346.

If a property which a pledgee has received in good faith by way of possessory pledge, is taken away from him or her on account of some legal reason, or if such significant deficiencies appear in regard to the property as diminish its value to such an extent that this value does not reach the extent of the secured claim, the pledgee is entitled to claim compensation from the debtor for all losses caused him or her thereby.

II. Rights and Duties of Possessory Pledges

1347.

During all the time while a pledged property is in his or her hands, a possessory pledgee shall take care of it as would a careful proprietor.

If a pledged property is damaged or destroyed due to the fault of the pledgee, whether because of inadequate care, gross negligence or bad faith, he or she shall provide compensation for losses incurred to the pledger, and the latter has the right to deduct this compensation from his or her debt.

If, despite the care provided, damage or destruction of a pledged property is caused by a criminal offence or *force majeure*, the pledgee is not liable therefor, and the losses shall be borne by the owner of the property.

1348.

A pledgee is not allowed to use property pledged to him or her unless he or she have been specifically permitted to do so; but also in this case, he or she are liable for any improper use of this right.

1349.

If, during such use as is not in accordance with an agreement, a pledged property becomes damaged or destroyed, the pledgee is also liable for the losses caused in cases where this is caused by accident or as a result of *force majeure*.

1350.

If the claim of a pledgee has been through some procedure discharged, or his or her pledge right has been terminated in some other way, he or she shall forthwith return the possessory pledge to the debtor as soon as the latter attends therefor, provided the pledgee is not entitled to also retain the property (Section 1353) after this, or he or she have not become the owners of the property himself or herself and are able to immediately prove this.

1351.

The right of a debtor to redeem a pledge which is in the possession of a pledgee by paying for the debt shall be neither limited by any time period nor terminated through any prescription.

1352.

A pledgee does not have a duty to return the pledge prior to being fully satisfied with respect to all claims which it secures (Section 1290 and subsequent Sections).

1353.

A pledgee may also retain the pledge for all his or her other claims, even personal claims, against the pledger; but such right applies only against the pledger himself or herself and his or her heirs, and not against third persons. In addition, the right to retain the property does not include the right to sell it in order to settle other claims of the creditor.

1354.

If an owner alienates property provided by way of possessory pledge to a creditor, the latter does not have a duty to surrender the property, but may retain it until all claims secured by the pledge are settled.

1355.

A creditor may also further pledge a possessory pledge, but not otherwise than together with the obligation itself, which is secured by the pledge, nor for a greater amount than due to him or her from the pledger. Upon termination of the pledge right of the creditor himself or herself, either by payment of his or her claim or due to some other reason, the right of the second pledgee is also terminated.

1356.

General provisions regarding the right of a creditor to sell a pledge, upon not receiving satisfaction thereof when due, are also applicable to a possessory pledge.

1357.

If a pledgee, without significant cause, delays the sale of a pledge, the creditors who have brought collection proceedings in respect of the surplus may request a court to determine a time period for the sale of the pledge by the pledgee.

III. Termination of Possessory Pledge Right

1358.

General provisions regarding termination of a pledge right (Section 1309 and subsequent Sections) are also applicable to possessory pledge rights.

1359.

A possessory pledge right may also be terminated by implicit renunciation.

Implicit renunciation of a possessory pledge right shall be deemed to have occurred in the following cases::

- 1) Where the pledgee returns the pledge transferred to him or her without any other purpose being evidenced therefor; and
- 2) Where he or she, pursuant to last will instructions, lawfully bequeaths the pledged property to his or her debtor.

1360.

If a pledgee accepts some other security offered by the debtor, be it a pledge or a guarantee, such acceptance shall not of itself be deemed to be a renunciation of the earlier pledge right, provided the renunciation is not directly expressed or is the indisputable conclusion to be drawn from the circumstances of the matter.

1361.

Neither a claim secured by a possessory pledge, nor the pledge right are terminated by prescription, provided the pledgee has not relinquished possession of the pledge.

Sub-Chapter 3 Usufructuary Pledge

1362.

If movable or immovable property bearing fruits is delivered into the possession of a creditor by way of pledge, then the creditor not only has the right but also the duty to reap fruits and income from it.

Pledgees are not allowed to retain the reaped fruits and income for his or her benefit, but shall sell them, and credit the proceeds therefrom to payment of his or her claim, firstly interest and then principal; in addition, those fruits and income shall also be credited which he or she could have reaped, but due to negligence, have not.

A pledgee has a right to deduct normal interest from such income, even if such interest has not been specifically covenanted for.

1363.

Charges on pledged property bearing fruits, if not otherwise specifically agreed in regard to such charges, shall be borne by the owner and not by the pledgee in possession thereof.

1364.

Liability for losses due to the fault of a creditor, occasioned regarding property pledged to the creditor, as well as compensation due the creditor in regard to expenditures made for the property, shall be determined in accordance with the provisions regarding possessory pledges.

1365.

If immovable property is pledged and concursus proceedings regarding the property of the pledger have been commenced, the pledgee shall transfer not only this immovable property itself, but also the fruits they have reaped from the date the concursus proceedings are established, to the entirety of property subject to concursus proceedings.

Note. Pledge rights registered in the Land Register and claims secured by a possessory pledge shall be settled outside the concursus procedure.

1366.

Property bearing fruits may also be pledged with it being agreed that the pledgee, in place of interest due to him or her, shall receive the income therefrom.

In such case, unless otherwise agreed, the pledgee does not have the duty to provide an accounting regarding the fruits and income, which he or she has obtained, even if the value thereof exceeds the extent of the lawful interest.

Sub-Chapter 4 Mortgages of Immovable Property

I. Establishment of Mortgages

1367.

A mortgage gives a creditor a property right in regard to pledged immovable property only after registration in the Land Register..

1368.

In order that the registration of a mortgage in the Land Register be in effect, the following is required:

- 1) that it be registered at the relevant institution (Section 1369);
- 2) that it be registered in due time (Section 1370);
- 3) that the claim has the characteristics required for registration (Sections 1371 and 1372);
- 4) that the immovable property for which the mortgage is registered in the Land Register also has the characteristics prescribed for that specific purpose (Section 1373); and
- 5) that the forms prescribed by law have been observed in the course of registration.

1369.

The registration of a mortgage in the Land Register may only be made at the Land Register office in whose administrative area the immovable property is located. More detailed provisions regarding procedures for registering a mortgage in the Land Register are to be found in the Land Registry Law.

[24 April 1997]

1370.

Registration of a pledge right in the Land Register shall not be allowed at such time as when the impediments referred to in Section 45, Clauses 1 and 2 of the Land Registry Law exist.

[24 April 1997]

1371.

Only those claims shall be registered in the Land Register which are generally secured by a pledge on immovable property, irrespective of whether this pledge is established pursuant to a court decision or a legal transaction.

1372.

Registration of pledge rights in the Land Register shall only be allowed with the consent of the pledger, which he or she have expressed either in establishing the pledge right or subsequently. This provision does not apply to those cases where the pledge right is registered on the basis of the judgement or decision of a court.

1373.

A mortgage shall only be registered in the Land Register for a specific amount of money and in regard to a specific immovable property, the owner of which designated in such Register is the pledger.

II. Extension and Discharge of Mortgages

1374.

Each novation, of a claim registered in the Land Register, shall also be registered in such Register; otherwise it shall be binding only upon the contracting parties, but not upon third persons.

1375.

If, in novating, a change in creditors takes place, then for the registration of the novation in the Land Register the acknowledgement of both the creditor and the debtor is required; but in making an ordinary cession, the acknowledgement of the cedent is sufficient, and the consent of the debtor is not necessary.

Note. Exceptions from the procedures prescribed by this Section (1375) are set out in the Law on Forced Novation of Some Debts.

1376.

If a novation concerns the nature of a claim itself, so that lawful relations in regard to other claims which have previously or subsequently been registered in the Land Register on the same immovable property are, as a result, also altered, then for the registration of such novation in the Land Register, the consent of not only the contracting parties but also of the rest of the persons interested in the matter is required.

1377.

If any of the creditors acquires possession of the immovable property on which they have a mortgage, neither the mortgage rights of the creditor nor the rights of other creditors to their claims registered in the Land Register on the same immovable property are altered thereby.

1378.

The alienation by a debtor of immovable property to a third person does not alter the rights of mortgage creditors, and any such alienation may only be done by leaving in effect the pledge rights to the immovable property being alienated.

1379.

Mortgages shall be discharged in accordance with the same provisions as those, which are set out for all, pledge rights (Section 1309 and subsequent Sections).

For full discharge of a mortgage, it is not sufficient that the basis of the mortgage alone be discharged, because such a discharge is not binding upon third persons until the discharge of the mortgage is registered in the Land Register. The provisions regarding procedures for registering a discharge of a mortgage are to be found in the Land Registry Law.

[24 April 1997]

1380.

Discharge, both full and partial, of pledge rights registered in the Land Register shall only be allowed with the consent of the creditor. This provision does not apply to those cases where the pledge right is discharged on the basis of a judgement or decision of a court.

If immovable property on which mortgages are registered is sold at auction and registered in the Land Register in the name of the person who, as the highest bidder, has become its owner, then after the purchase price is paid, all debts registered against the immovable property regarding which the purchaser has not directly given notice that he or she assumes such debts himself or herself, shall be discharged independently of the consent of the creditors.