

The beginning of 2016 is marked with the introduction in the country of a numerous legislative changes that are directly related to the conduct of business or have influence on it. For these reasons, we have dedicated this legal alert to a brief overview of the most relevant, in our view, changes to the current legislation related to the procedure of state registration of legal entities and individual entrepreneurs, procedure of registration of rights to real estate and conditions of obtaining a merger clearance from the Antimonopoly Committee of Ukraine.

1. Changes of the procedure of state registration of legal entities and individual entrepreneurs.

The Law of Ukraine “On Amendments to the Law of Ukraine “On State Registration of Legal Entities and Individual Entrepreneurs” and other legislative acts of Ukraine concerning decentralization of powers over state registration of legal entities, individual entrepreneurs and public organizations” as of 26.11.2015 № 835-VIII (hereinafter – Law on Registration of Persons) came into force at the end of the previous year. This Law has completely modified the existing procedure of state registration of legal entities and individual entrepreneurs. The list of innovations and changes to the order of registration is briefly given below.

The list of entities subject to state registration in accordance with the Law on Registration of Persons has been changed.

The previous version of the Law on Registration of Persons established procedure of state registration of legal entities and individual entrepreneurs exclusively, but with the entry into force of the new version of Law the list of such entities is expanded. Now, besides legal entities and individual entrepreneurs, public organizations and their brand marks (where provided by the law) are also subject to mandatory state registration under the Law on Registration of Persons.

System of bodies authorized to conduct the state registration has been changed.

Earlier, the state registration of persons was monopolistically exercised exclusively by the officials of the State Registration Service that belong to the Ministry of Justice of Ukraine.

Currently, beside governmental authorities belonging to the Ministry of Justice of Ukraine, executive local government bodies, notaries and other accredited entities which had been completed a number of statutory requirements also received the right to conduct state registration.

Territorial principle of conducting registration has been cancelled. Now state registration is not linked to the registration file storage area and can be conducted by any state registrar (regardless of the registration file storage area).

List of information contained in the Unified State Register of Legal Entities and individual entrepreneurs and public organizations (hereinafter – “USR”) has been significantly expanded.

Amount of the administrative fee for state registration actions has been changed.

2. Changes of the procedure of state registration of rights to real estate and their encumbrances.

Since January 1, 2016 the Law of Ukraine “On Amendments to the Law of Ukraine “On State Registration of Rights to Real Estate and Their Encumbrances” and other legislative acts of Ukraine concerning decentralization of powers over state registration of rights to real estate and their encumbrances” as of 26.11.2015 № 834-VIII (hereinafter – “Law on Registration of Rights”) came into force. It has fundamentally changed the earlier existing procedure of state registration of rights to real estate and their encumbrances. Below there is a brief overview of the key innovations and changes to the order of registration of real rights which came into effect from 01.01.2016.

System of carrying out state registration of rights has been modified.

Previously the state registration of rights was conducted by state registrars who were civil servants and belonged to the Ministry of Justice of Ukraine, as well as by notaries (as special subjects) in some cases provided by law.

Now the right to conduct the state registration of rights, besides the state registrars belonging to the Ministry of Justice of Ukraine, is also given to executive bodies of local government, notaries, accredited entities which have been completed a number of statutory requirements and state enforcement officers in case of state registration of encumbrances imposed during the enforcement of decisions in accordance with the law.

State registration of rights is not tied to the location of the object.

In the new Law on Registration of Rights the legislator withdrew from the practice of conducting registration activities on a territorial principle (at the location of real estate objects) and allowed applicants to apply for registration actions to any state registrar regardless of the location of real estate.

Moment of accrual of rights to real estate and their encumbrances is now clearly defined by the Law on Registration of Rights.

There is cancelled the issuance of the real estate title certificates by the state registrar, including certificates for newly built or reconstructed real estate property.

Decision of the state registrar and information from the State Register of Rights in paper format are being issued by the state registrar upon the applicants’ request without the use of specific letterheads, as well as without signing and affixing seal.

Amount of fees for the state registration of rights, entering amendments to the State Register of Rights and information from the State Register of Titles has been changed.

3. Changes of the thresholds for obtaining a merger clearance from the Antimonopoly Committee of Ukraine.

On January 26, 2016 the Parliament of Ukraine adopted the Law “On Amendments to the Law of Ukraine “On Protection of Economic Competition” (concerning improvement of the effectiveness of the control over economic concentrations) (hereinafter – “Law #2168a”), which significantly increased thresholds for obtaining a merger clearance from the Antimonopoly Committee of Ukraine.

According to the Law #2168a, a merger clearance should be obtained if:

- ***the aggregate value of the assets or the total volume of goods realization of participants of concentration in the last financial year, including abroad, exceeds the amount equivalent to EUR***

30 million, and the value (total value) of assets or volume (total volume) of goods realization in Ukraine of at least two participants of concentrations exceeds the equivalent of 4 EUR million per each; or

- the aggregate value of the assets or volume of goods realization in Ukraine of the target or entity – seller of assets, share (stocks, stock), or at least one of the founders of a new entity in the last financial year exceeds the amount equivalent to EUR 8 million, while volume of goods realization of at least one other participant of the concentration exceeds the amount equivalent to EUR 150 million.

In addition, the Law #2168a introduces a non-existent by this time previous consultations procedure in cases on merger, and also establishes a simplified (short) merger clearance procedure.

The Law #2168a is expected to become effective at the end of April 2016 due to existing procedure and terms of signing the laws by the President of Ukraine and the order of their publication.

This Legal Alert is intended as a general overview of latest changes in legislation of Ukraine and does not constitute a legal advice.

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