

LAND RIGHTS REGISTRATION PROCESS IN THE REPUBLIC OF MOLDOVA

Cornelia ȘOIMU, PhD student, Doctoral School, Agrarian State University of Moldova Faculty of Cadastre and Law, Chișinău, 42 Mircești St., Republic of Moldova, phone: +37379557632, e-mail: cornelia.soimu@gmail.com

Ion BOTNARENCO, PhD, Associate Professor, Agrarian State University of Moldova, Faculty of Cadastre and Law, Chișinău, 42 Mircești St., Republic of Moldova, phone: +37369935639, e-mail: i.botnarenco@uasm.md

Abstract: *Every citizen of the Republic of Moldova has the right to property and protection from the state, for this reason the registration of land rights in the Republic of Moldova is mandatory.*

The Republic of Moldova develops land reform and takes concrete measures to protect the rights over land. For this purpose, the Register of Real Estate was implemented.

Land rights protection was and is the first basic function of the registration process, so the registration process is a mechanism for protecting land rights.

Keywords: *Register of rights, registration of rights, registration process, protection of law, cadastral registration.*

1. Introduction

In the Republic of Moldova, the Cadastral Department deals with the registration of the land right, which is composed of a headquarters and 39 Territorial Cadastral Services. Since 23.08.2017 the Department of Cadastre is part of the Public Services Agency.

The objects of the cadastral registration are the property rights over the real estate. The subjects of the cadastral registration are the owners of the immovable property and the holders of property rights.

The cadastre of real estate is the general cadastre of the country, in which all real estate in the country is identified, described, estimated and represented on cadastral plans and the rights over them are recorded. Specialized cadastre is the cadastre that contains systematized data about real estate according to their natural peculiarities and other characteristics established by the legislation. Specialized cadastral services are: land cadastre, water cadastre, forest cadastre, urban cadastre and others.

All cadastral rights over land and other information about real estate are recorded in a document called the "Register of Real Estate" which is stored on paper and in electronic form.

The register of land rights is the official source of information for the implementation of tax policy, for granting bank loans, subsidies and others.

In the Register of real estate there are 3 types of registrations: tabulation, provisional registration and notation. Tabulation and provisional registration have as object the tabular rights – the property right, the right of administration, the mortgage and other real rights, and the notation applies to the registration of the receivable rights – rent, lease and others.

In the Republic of Moldova, 249 Registrars are registered in the Register of Real Estate, of which 45 are at the Chisinau Territorial Cadastral Service (18%) and 14 are at the Chisinau Territorial Cadastral Service 1 (6%). In the rest of the Territorial Cadastral Services there are from 2 to 9 Registrars.

Registrar is a certified person who has the authority to register or modify rights in the Register of Real Estate. As Registrars can activate only persons who have been certified in the field of cadastral activity every three years. The attestation consists in the evaluation of the professional performances, in the appreciation of the results of the registrar's activity, of the level of development and manifestation of the professional qualities in relation to the requirements of the position held. [1]

2. Materials and Methods

The object of the study is the process of registering the right to the land in the Republic of Moldova.

The protection of the law is an objective necessity, and the registration process – a mechanism for solving (methodology) this need (problems).

The analysis of the cadastral registration process involves studying and describing the stages of work.

The study period covers the period from 2020 to 2021.

As study material, the following were used: information from the Cadastre Department of the Public Services Agency; Operational procedures for the registration of the right in the RBI; the legal framework of the Republic of Moldova, other informative materials.

The legislative framework used as study material is as follows: Law on the Cadastre of Real Estate no.1543 of 25.02.1998; The Civil Code of the Republic of Moldova, adopted by the Law no.1107 of 06.06.2002; Law on formation of real estate no.354 from 28.10.2004; Instruction on the registration of real estate and rights over them, approved by the Order of the Agency for Land Relations and Cadastre no.112 of 22.06.2005.

Methods applied: In the study, by the authors, several scientific methods were applied. The most important are: analysis of statistical data; the method of graphical analysis of trends; the method of analysis of variants; the method of comparative analysis and others.

3. Results and Discussion

The registration of rights is a process of registration in the Register of Real Estate of cadastral records regarding the creation, modification or cancellation of rights over real estate. Cadastral registration may take place as a result of the submission of an application or without any request, by order of other authorities or by order of the head office. [2]

I. Work processes that do not require the submission of an application include the following:

1) Primary mass registration

Primary registration is a process of entering rights to a real estate that occurs for the first time. The massive registration is initiated by the public authorities and can be done without submitting an application from the entitled person (the right holder), following a program approved by the government. The workflow for the bulk primary record process is described in Fig.1.

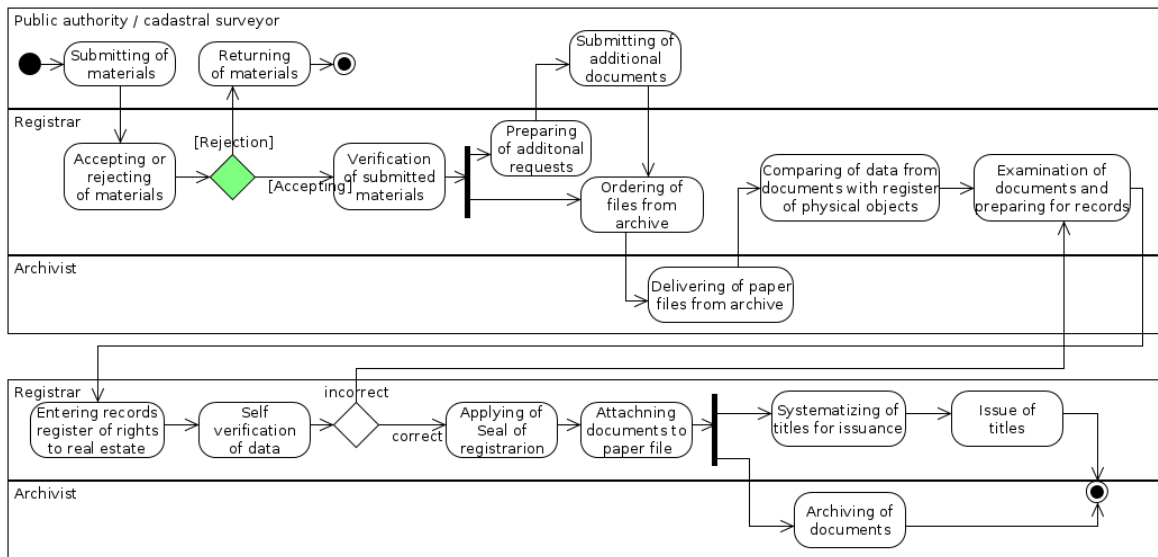


Fig. 1. Workflow – Primary mass registration

2) Improving the quality of the Register of Real Estate. This process includes the following:

- a) Correction of critical and uncritical errors in the Register of Real Estate;
- b) Making changes in the Register of Real Estate;

c) Correction of nonconformities in the Register of Real Estate by collecting information about right holders;

The workflow for the subprocess of modifying/correcting the Register of Real Estate in parallel with other applications is described in Fig.2.

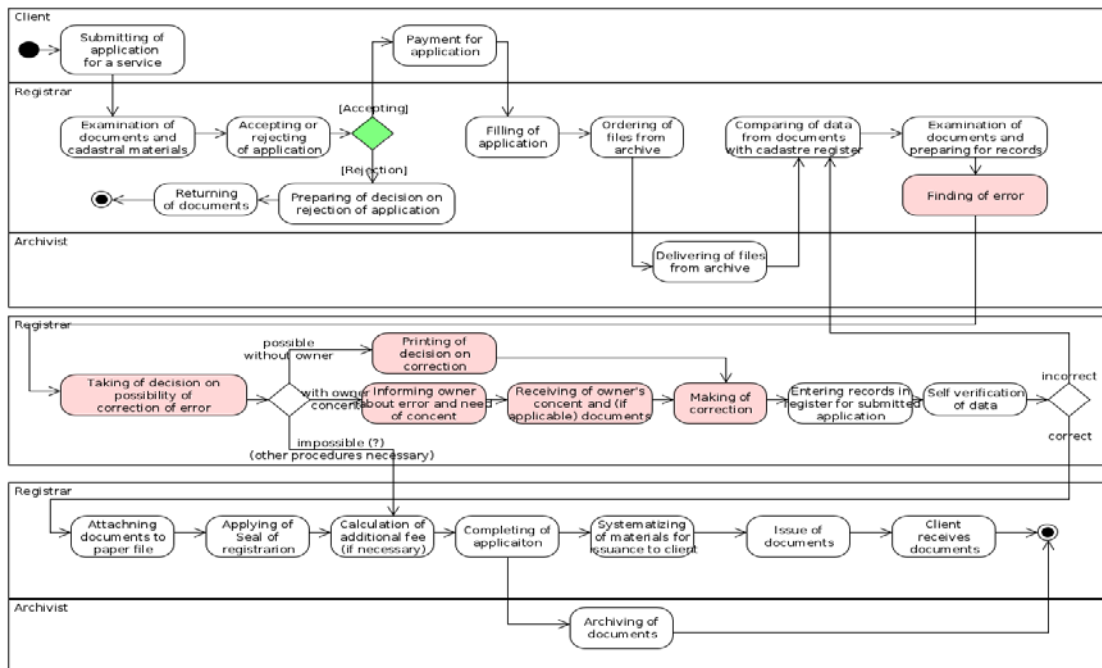


Fig. 2. Workflow (subprocess) – Modifying/correcting the Register of Real Estate in parallel with other applications

II. The registration process with the application submitted by the clients includes:

1) Selective registration

It is a process of registering the rights to real estate based on the requests submitted by the clients. This record can be primary or current (secondary).

The current registration is made when there is a right to real estate, as a result of the changes made to it in the Register of Real Estate.

The workflow for the registration process based on an application is described in Fig.3.

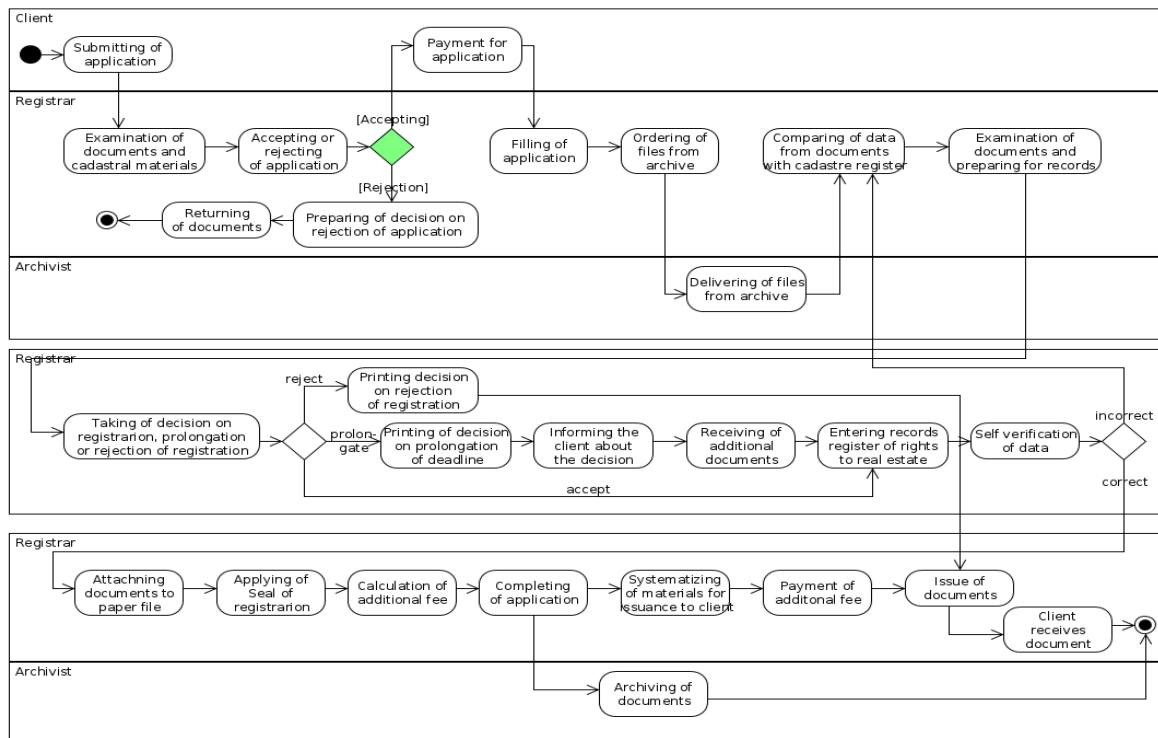


Fig. 3. Workflow – registration based on an application (primary or current selective registration)

2) Formation of real estate

Formation of real estate is a complex of works performed for the creation of a new real estate, as an independent object of rights, via separation, subdivision, amalgamation or combination of real estate objects registered in the Register of Real Estate. [3]

3) Other activities related to registration

Other procedures related to registration are also performed: registration of encumbrances, entering of notations and modifications, correction of the register.

III. Issue of extractor certificate

It is a process of data verification and printing of a document from the Register, and this usually does not affect records about rights. However, a note is made in the register that an extract is issued for the purpose of performing a transaction. Registration of ownership rights to real estate is confirmed by an extract of a certificate from the Register.

The extract contains at least the following: name and other personal data of the client requesting the extract or certificate, type of issued document, information about real estate objects, rights, encumbrances and interdictions, date of issuance, name of the registrar. The period of validity of an extract as set out in the legislation is 2 months. [2]

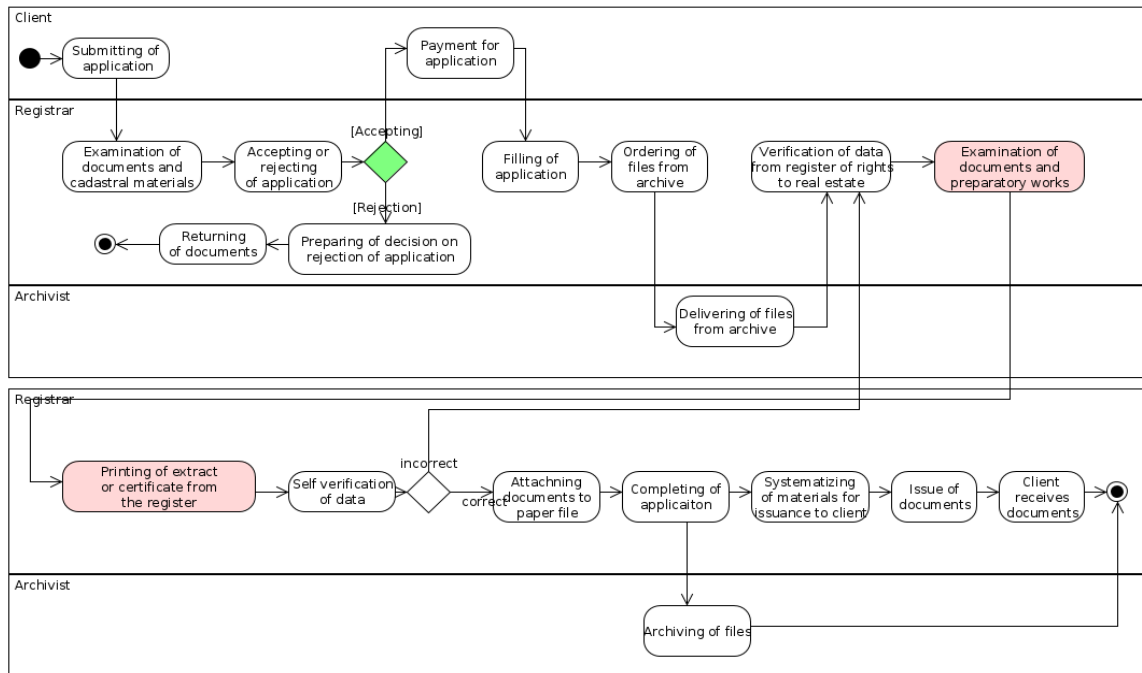


Fig. 4. Workflow – issuance of the extract or certificate from the Register of Real Estate

Some stages of the work processes have been improved by introducing the Electronic Archive that allows to avoid the delivery of paper files from the archive. However, for a period of time, the paper archive and the electronic archive exist in parallel, until all paper files are scanned and stored in the electronic archive.

If the paper files are not scanned, the user retrieves the files from the archive of paper documents and returns them back after the work is complete. The archiver searches for and delivers or stores files on paper.

If paper files are scanned and stored in the electronic archive of documents, the user retrieves the files from the electronic archive of documents and, after new documents have been generated, stores them in the same electronic archive. The archive workflow is shown in Fig.5

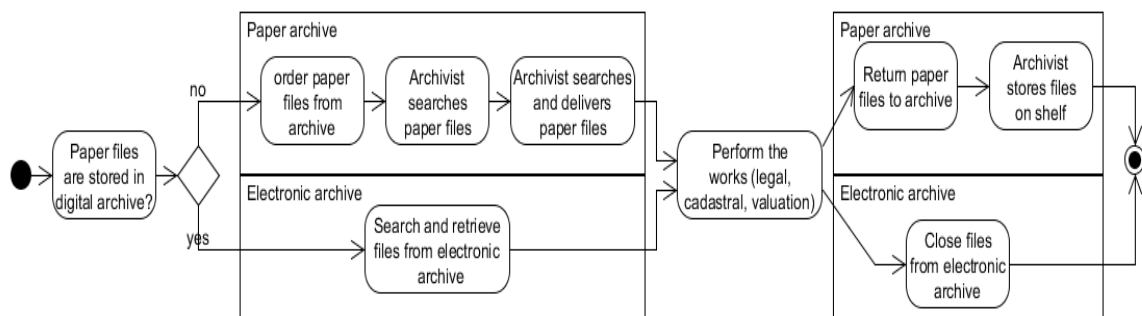


Fig. 5. Changes in the workflow following the introduction of the Electronic Archive

Another improvement in work processes is the digital signature that allows digital signing of documents. For the reason that not all clients need digital documents, paper

documents continue to be issued by the Cadastre, for this reason the Cadastre maintains both types of documents: digital and paper documents.

So, the generation and signing of paper documents still remains in place.

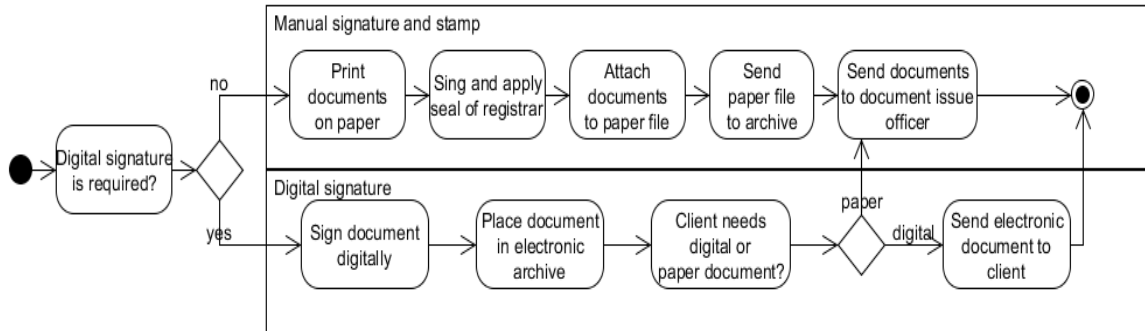


Fig. 6. Workflow changes caused by the digital signature

4. Conclusions

The registration process is a complex process in which many people are involved and interact with many modules. With the development of information and communication technology, some stages in the process are improved and refined that allow for much more operative execution of the registration work.

5. References

1. *Government Decision approving the Regulation on the certification of registrars in the field of cadastral activity (no. 853 of 30.11.2020) // M.O.No.332-342, art.1012 of 11.12.2020. [accessed 07.04.2022]. Available: https://www.legis.md/cautare/getResults?doc_id=124293&lang=ro*
2. *Law on Real Estate Cadastre (no.1543 of 25.02.1998) // M.O.No.44-46/318 of 21.05.1998. [accessed 07.04.2022]. Available: https://www.legis.md/cautare/getResults?doc_id=129079&lang=ro#*
3. *Law on Formation of Real Estate Objects (no.354 of 28.10.2004) // M.O.No.233-236, art.999 of 17.12.2004. [accessed 07.04.2022]. Available: https://www.legis.md/cautare/getResults?doc_id=123196&lang=ro*
4. *Instruction on Registration of Real Estate and Rights to it (no.112 of 22.06.2005) // M.O.No.142, art.487 of 28.10.2005. [accessed 07.04.2022]. Available: https://www.legis.md/cautare/getResults?doc_id=129647&lang=ro#*
5. *Botnarenco I., Zubco E. Registration of Land Rights Depending on the Evolution of Land Legislation, In: RevCAD, the journal of geodesy and cadastre. "1 Decembrie 1918" University of Alba Iulia, 2017, volume 23, p. 29-40, 0,5 c.a. ISSN 2068-519X [accessed 07.04.2022]. Available: http://revcad.uab.ro/upload/41_626_30_Zubco_Botnarenco_Popescul.pdf*