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(33. Fachtagung der Vermessungsverwaltungen von Kroatien, Österreich, Slowenien, Südtirol, Trentino, der Tschechischen Republik, Ungarn und Slowakei, 18. – 20. Mai 2016 in Trenčianske Teplice, Slowakei)

Provision of cadastral data

Real Estate Cadastre is one of the most important information systems in public administration. As it was already mentioned it contains a number of data of technical and legal nature. Provision of cadastral data is regulated by the Cadastral Act and several other regulations. Slovak legislation allows access of public to cadastral data in an extremely wide range. Specific legislation which regulates the provision of information and provision of data from information systems of public administration in general terms does not sufficiently reflect specifics of cadastral data. Due to these facts there are a number of issues in application practice concerning the provision of cadastral data and collecting fees for the data. One of the most discussed issues is the provision of mass cadastral data as Open Data which is in particular required by the third sector. In 2014 a standard for open data was defined in the Decree on Standards for Public Administration Information System.

Currently no cadastral data is provided in mass as Open Data. For the future, however, we are preparing a provision of selected cadastral data in Open Data format. Provisionally we are thinking of providing data on plots and structures but not apartments and non-residential premises. We do not plan to provide data concerning owners and legal relations to plots and structures either. Neither the graphic part of the cadastre will be provided in the Open Data form, yet. A cadastral map is freely available only as a Web Map Service (WMS). Selected cadastral data should be published as Open Data on the Geodesy, Cartography and Cadastre Authority of the Slovak Republic website and should be updated once a month.

The provision of cadastral data in general is not free of charge. State authorities, municipalities and higher territorial units are for example exempted from administration fees. Cadastral data are provided to them free of charge under contract without delay. To entities that are not exempted from the payment of administrative fees the cadastral data are provided under contract for a fee. In accordance with the current legislation the entity, to which the cadastral data were provided under contract, must not provide them further to other natural or legal persons.

For courts and law enforcement authorities the nationwide viewing of cadastral data is free of charge. This free of charge nationwide viewing is also possible for notaries, executors, preliminary administrators and bankruptcy administrators to carry out their tasks under special regulations. For other entities this service is provided for a fee but only in traditional paper form.

A number of sensitive information is available to state administration bodies in the field of real estate cadastre. To such sensitive information belongs an indication of which institutions made loans secured by the right of lien. This data is part of the registration of lien as an encumbrance to the ownership document. Consequently by issuing an ownership document with registered lien the information about the institution which provided the loan is revealed too. However, from the ownership document it is not clear whether the property owner is only a pledger or a debtor as well. Under law of the Slovak Republic a pledger does not have to be also a debtor. The information whether the owner of the mortgaged property is also a debtor is not provided to the public. The amount of loan is not provided to the public as well.

Error Correction in Cadastral Documentation

In connection with cadastral registration it is necessary to envisage the possibility of mistakes made by persons preparing contracts, public documents or other documents which form the basis for registration in the cadastre, or mistakes made by the cadastral authority. Due to this fact, the legislator has established in the Cadastral Act a procedural mechanism for elimination of errors in cadastral documentation. Besides the cadastral act there is a regulation of Geodesy, Cartography and Cadastre Authority of the Slovak Republic from 2014 that is another important standard governing the procedures for eliminating errors in cadastral documentation. This regulation is for correcting detailed points and areas of plots registered as C-register parcels and E-register parcels and it directs and unifies the procedures of district offices cadastral departments (hereinafter referred to as "KOOÚ") used in correcting detailed points and plot areas without changing the position of correctly demarcated plot boundaries on the ground while this has no effect on creation, modification or termination of property rights.

As we have indicated the errors in cadastral documentation may arise from the activities of cadastral authority or from the activity of other entities. However, in practice we often meet with errors in geodetic and descriptive data files. The Cadastral Act itself or any other legal regulation doesn't contain a definition of the term "an error in cadastral documentation". Based on the current legislation contained in the cadastral act it is generally possible to say that "an error in cadastral documentation" is data registered into the cadastre in breach of contract, public document or other document on which basis this data was registered into cadastral documentation. Also wrongly delineated plot boundaries or data registered into the

cadastre although in accordance with the contract, public document or other document, but which is actually a mistake in writing and counting or other obvious inaccuracies in the written copy of the contract, public document or any other document. The term "an error in cadastral documentation" should be seen in a wider context. "An error in cadastral documentation" is for example incorrectly determined parcel area or graphical representation of boundaries in cadastral map. Duplicity in registration of property ownership into the cadastre is also considered as an error in cadastral documentation.

Before we get to the current legislation on error correction in cadastral documentation, it should be noted that when the currently valid Cadastral Act was created the emphasis was unfortunately put on legislation of error correction only in the descriptive data file. In general, it can be stated that the legislator has underestimated the legislation of error correction in the Cadastral Act as only one paragraph was explicitly devoted to this issue.

Proceedings on error correction in cadastral documentation have a no-litigation character. The Cadastral authority cannot within the proceedings on error correction resolve the dispute on the existence of a certain right to real estates. If there is any dispute on existence of a right registered into the cadastre then this dispute can be resolved only through a court, because only the court has jurisdiction in disputes on the existence of certain rights.

If the correction is related to data contained in an ownership document then the Administrative Code is applied for the proceedings on error correction. This does not apply in case of correcting a plot area registered in the map of determined documentation. The proceedings on error correction in cadastral documentation is initiated either at the request of a person affected with the registration in cadastral documentation or on the suggestion of cadastral authority that will notify all parties about the beginning of proceedings. The Cadastral authority generally starts the proceedings on error correction on its own initiative if it discovers an error in cadastral documentation on the basis of results from the investigation of changes in cadastre or by other means under its own activities. The Cadastral authority may also start proceedings on error correction following the proposal of a land surveyor who notes an error in cadastral documentation.

Pursuant to the Cadastral Act the cadastral authority, on a given proposal or on its own motion, corrects

a) cadastral data if they are in contradiction with the public document or other document or with the results of checking the changes of cadastral data or with the results of the revision of cadastral data,

b) wrongly delineated plot boundaries in the cadastral map in cooperation with owners and other entitled persons,

c) cadastral data made by mistakes in writing and counting and by other obvious faults in the written forms of the legal actions, in public documents and in other documents in cooperation with state authorities, municipalities, notaries, owners and other entitled persons.

For the future we are thinking of extending the range of cases when the cadastral authority may correct errors in cadastral documentation. For example in connection with the removal of registered ownership duplication or in connection with the removal of errors in the certificate of inheritance arising from faulty documents supplied to the court or notary by the Cadastral authority.

In practice a situation may occur that the Cadastral authority makes registration into the cadastre based on documents which do not meet the conditions for registration. In judicial practice there are different views on whether it is possible during proceedings on error correction to assess whether the document, under which the registration into the cadastre was carried out, met the conditions for registration or not. Gradually, a view is becoming prevalent that it is necessary to interpret the provisions of Cadastral Act on error correction in cadastral documentation extensively. It means that errors in cadastral documentation (whether these errors are in geodetic or descriptive data files) could be removed in the widest possible range because the real estate cadastre should be a source of reliable data on real estates and property rights.

A special set of errors are errors related to incorrect determination of the position of plot boundary break points and subsequently wrongly determined areas of plots that are registered as C and E-register parcels. In the context of data quality our office drafted and issued a regulation of the Geodesy, Cartography and Cadastre Authority of the Slovak Republic no. USM_UGKK SR_3 / 2014 dated 07. 04. 2014 on correction of detailed points and areas of plots registered as C and E-register parcels which reflects in detail on the error status in geodetic data file.

The purpose of this regulation was to unify the procedures of district offices' cadastral departments in correcting detailed points and plot areas without changing the position of correctly demarcated plot boundaries on the ground while this has no effect on creation, modification or termination of property rights. It is important to realize that the correction, within the meaning of this regulation, can be applied in such case when during the original survey the coordinates and thus the location of detailed break boundary points were incorrectly determined and the correction has caused no change in the field. The regulation then subsequently specifies particular cases which follow the Act no. 71/1967 Coll. on administrative proceedings (Administrative Code) as amended - in accordance with art. II sec. 4 (hereinafter referred to as "correction in a formal way"), the cases which do not follow the Administrative Code (hereinafter referred to as "correction in an informal way"), or cases in which it is possible to carry out a new determination of detailed points and corresponding calculation of an area of a plot registered as a C-register parcel ("C-register parcel area") and an E-register parcel within the process of survey sketch creation.

The regulation is based on the assumption that a plot area, registered as a C-register parcel, is a plot area on the ground projected into the plane of the coordinate system of Unified trigonometric cadastral network (hereinafter referred to as "S-JTSK"). The plot area is determined by calculating the coordinates of boundary break points and is expressed in square meters. Due to the fact that the area of a C or E-register parcel was determined, in accordance with the provisions in force at the time when it was received into the cadastre, also as a mediated value using graphical methods from the map sheet on which the plot was displayed or as a sum of surfaces of

geometric figures to which the parcel was distributed or by calculation from directly surveyed values, the need for a correct determination of areas is very acute. It is of course assumed that the quality requirements defined in the regulation are fulfilled. The regulation is an essential tool for more accurate and correct identification of plot areas.

Correction of wrongly determined parcel area is carried out:

- a) in a formal way, if the subject of correction is a C-register parcel area registered on the ownership document,
- b) in an informal way, if the subject of correction is a C-register parcel area that is not registered on the ownership document or an E-register parcel area,
- c) in an informal way within the process of survey sketch creation, when a correction of an E-register parcel area is proposed provided that the conditions laid down by a specific regulation were fulfilled.

Correction of wrong graphical representation of boundaries is carried out:

- a) in an informal way by correcting detailed points with quality code T=1 to T=4 in numerical vector cadastral map (VKMč) or by correcting detailed points with quality code T=1 and T=2 in non-numerical vector cadastral map with implemented numerical measurement results (VKMi) and in the adopted measurement file (SPM),
- b) within the process of survey sketch creation if, by meeting the conditions specified in art. VI, the wrong graphical representation of boundary defined in VKMi and in SPM by detailed points with quality code T=3 and T=4 is being corrected.

For clarification:

- a) quality code T=1 and T=2 denotes points determined with an accuracy that is offered by GNSS systems (T=2 meets this accuracy after the setting-out),
- b) quality code T=3 and T=4 denotes points determined with satisfactory accuracy.

If the correction of wrong boundary graphical representation necessitates corrections of a C-register parcel area it is then necessary to carry out a correction in a formal way or in an informal way.

For the purposes of correcting wrongly determined area of a C-register parcel only area calculations could be used from the coordinates of boundary break points determined by

- a) surveying of break points marked on the ground,
- b) setting-out of break points and marking them on the ground,
- c) geodetic calculation with simultaneous revision of a linkage between the position of a detailed point and the situation on the ground.

The mentioned regulation actively helps in improving the quality of cadastral data because it creates a mechanism and conditions that eliminate errors in geodetic data files.

The period for carrying out an error correction in cadastral documentation is 30 days from the beginning of proceedings on error correction - in justified cases the time limit can be extended to 60 or 90 days. For the error correction in cadastral documentation relating to data entered in the ownership document the competent cadastral authority issues a decision with the particulars according to the Administrative code. An appeal is admissible against this and the correction of error will be carried out only after the decision will enter into force. Legally valid decision on error correction in cadastral documentation is reviewable by a court but bringing a complaint to the court doesn't have a postponing effect in relation to carrying out an error correction.

Error correction in cadastral documentation has no impact on creation, modification or termination of property rights. Carrying out the error correction in cadastral documentation therefore does not interfere with the legal relations to real estates.

Regarding the statistics, in 2015, 4075 corrections were carried out in an informal way that is without issuing a decision and 4268 corrections in a formal way which means following a decision on error correction. In 2014, more than 8,000 corrections were carried out in an informal way and about 4300 corrections in a formal way. In 2013, more than 10,000 corrections were carried out in an informal way and almost 5000 corrections in a formal way. We can therefore conclude that the number of error corrections in cadastral documentation has been gradually decreasing.