IV IMOLA WS 1 Seminar

SECTION C
RULES AND DEFINITIONS

Krakow 14 October 2015

I.-PRELIMINARY ISSUES

1º CLASS OF TITLE

2º TERMINOLOGY

3º HOW TO DEAL WITH THE CONSEQUENCES STATED IN LAW IN RELATION TO   LEGAL SITUATIONS DERIVED FROM LAND REGISTRY INFORMATION

CLASS OF TITLE

PROPOSED RULE: **We will use "class of title" to refer the type of title awarded for registration, which affects the entire real folio and the registration effects of all information contained within, while when the limited effects are referred to a specific entry they will be out of the concept "class of title" and referred to the *type of entry*.(as we will see afterwards).**

TERMINOLOGY

1. CLASS OF TITLE.
    FIRST ENTRY LIMITATION
    PROVISIONAL REGISTRATION

1. MAIN PROPERTY RIGHT OF THE FOLIO
    ABSOLUTE RIGHT
    TITLE
    PRIMARY RIGHT

1. CO OWNERSHIP(= PLURAL PROPRIETORSHIP)
    a. Community with shares
    b. Community without shares
    c. Other type of classification ?

3° THE CONSEQUENCES STATED IN LAW TO LEGAL SITUATIONS DERIVED FROM LAND REGISTRY INFORMATION

Proposed rule:

The legal consequences derived from situations published by the Registry should not appear in the template, since they are not registered as such, but derive from law. They may appear in the fact sheets (but only to the extend needed to deal with the registered rights).

II SECTION C : RULES AND DEFINITIONS

1° HOW TO DESCRIBE/DEFINE SECTION C:

- General rule
- Intersection between A and C
- Intersection between B and C
- Intersection between D and C

2° HOW DO WE ORGANIZE THE INFORMATION IN SECTION C

- Different possible organization's criteria: Rank// Priority

3° CATEGORIZING SECTION C's CONTENT : A WAY TO PROVIDE ADITIONAL INFORMATION. LABELS

- Content of the information
- Effects of registration entries
- Source of information

1° HOW TO DESCRIBE/DEFINE SECTION C:

General rule

For the purpose of this template C is the section that contains all land registry information which is not included in section A or B.

Iteroperability Model for Land Registers

Intersection between A and C

RULE Proposal : Real Servitute will be treated as a limited property right and be always placed in C section, irrespectively of its content (although we could also agree to allow to mentioned also in A as a quality of the property.)

RULE: Public restrictions impose directly to the property which do not depend on private agreements and are created, modified or extinguished by disposition of law should be treated as a quality of the property and described in Section A

RULE A limited property rights that creates and delimits the rights's object (the land registry unit), will be placed both in A and in B section, with a cross reference to each other. However if they are also considered a limited property right, in so far as derive from a primary/main property right, they will also be listed in Section C of the main property right folio.

Intersection between B and C

RULE: Restrictions which are imposed directly to the property, affecting its proprietor, irrespectively his/her personal situation, in so far is the owner of the land, and which will continue affecting the property when it passes to a new owner must be placed in C section.

RULE: A limited property right, capable to create a new folio will be place in B section of its own folio and on C section of the folio of the absolute property right from which derives

RULE: Term, condition, personal restrictions and other limitations will be placed close to the affected right. When they affect or are referred to the main folio right they will be placed in B section, and if they are referred to a limited property right they will be placed in C section , close to the affected right.

A limited property right's holder will be described in C section following the same scheme approved in section B for proprietorship of the main right, duplicating same fields to the extend stated in law.

- Intersection between D and C

RULE PROPOSED: **When the information is registered in the same registry but in different sections, all the information will be listed in C section of the template. When the information derives from different registries, each Registry will deliver its own template, but each one will contain an explicit reference to the information provided by the other registry**.

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2º HOW DO WE ORGANIZE THE INFORMATION IN SECTION C?

- <u>Prioritize the rank,</u> so C) section information will be presented following a priority criterium, which normally is the date of registration.
- <u>Prioritize the content of the information</u>, then information should be gather into certain categories for an easier understanding.
- <u>Prioritize the specific effects in the registry</u> and the kind of registration.
- <u>The origin of the information</u>: private agreement/judicial decision/ administrative measure/ Statutory.
- <u>Prioritize nationals schemes</u>.

2º HOW DO WE ORGANIZE THE INFORMATION IN SECTION C?

PROPOSAL

RULE **the information of section C of template will be presented in chronological order, following date of registration, irrespectively of its nature, content , effects or type of entry**. **Agreements or decisions altering the rank or priority of a limited property right will be place next to it.**

3º CAN WE PROVIDE ADITIONAL INFORMATION? BROAD CATEGORIES. LABELS

1. -Using categories not as a classification, but as labels.

2.- Broad categories: the tree scheme. Basic categories, defined to the extend we find a common point of agreement, splitting the basic categories into subdivisions only to the point where we agree is not possible or it is worthless to make further distinctions.

3. Develop different types of categories in consideration of certain features, so a certain legal institution could pick labels from different categories to tailor the relevant information in the most accurate way.

4.- . Labels should be establish from commonly agreed semantic concepts and will be developed from specific common features of the registerd information related to :

    - the nature=content/

    -its registration's effect and type of entry

    - the source/origin of the information

THANK YOU

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