

# SECTION «C» OPERATING RULES PRIMARY GUIDELINES

# Basic operational rules for Section «C»

- Section «C» (Encumbrances) is divided into 4 Subsections:
  - 1<sup>st</sup> Mortgages
  - 2<sup>nd</sup> Property Rights
  - 3<sup>rd</sup> Notices (judicial restrictions)
  - 4<sup>th</sup> Other Encumbrances
- There should be some guidelines to place the national concepts related to Section “C”, the encumbrances, in the suitable subsection.

The following:

# Mortgages, 1<sup>ST</sup> Subsection

- Mortgages are what **every national legislation** regards as a mortgage
  - ▣ Regardless of whether it is property right or not
  - ▣ Including judicial mortgages: more than a notice/restriction
- Social importance. Legal status

# Property rights, 2<sup>ND</sup> Subsection

- Property rights are what **every national legislation** regards as such
  - ▣ It is also the suitable Subsection for those other rights or interests assimilated to property rights by the law applicable (e.g. lease)
  - ▣ Although *mortgage* is a property right, their place is not here but its specific Subsection (1<sup>st</sup> SubS.)

# Notices/Judicial restrictions, 3<sup>rd</sup> Subsection

- Notices are all **registered judgments** that affect the properties (LR Units)
- (that is to say), notices based on **court** decisions
- It is **not** the place of the administrative orders which imply restrictions,
  - **unless** the law applicable regard them as assimilated to the judgments or they have a legal purpose similar to restrictions (attachment, confiscation)

# Other encumbrances, 4<sup>th</sup> Subsection

Any other encumbrances on a property **different from**

□ *mortgages*

- A mortgage is always a mortgage

□ *property rights*

- Category decided according to the national *numerus clausus*

□ *judicial restrictions*

- Whenever there is a court decision, there is a notice/judicial restriction and cannot be anything else

Examples: real burdens, administrative restrictions, environmental remarks, fiscal liabilities affecting the properties...

Thank you very much for your attention

