

Approved by Resolution No 293 of
the Cabinet of Ministers of
the Republic of Azerbaijan
dated 13 August 2020

Regulation on compiling a mortgage paper that establishes the mortgage right over real estate

1. General provisions

1.1. This Regulation has been developed in accordance with Articles 17.4-1 and 19.1 of the Law of the Republic of Azerbaijan on Mortgage (hereinafter – the Law) and governs the development, state registration and additional state registration of mortgage papers that establish mortgage right over real estate (hereinafter – mortgage paper), as well as the issues related to the termination of the mortgage paper.

1.2. The mortgage paper is drawn up by the mortgagor, if he/she is a third party, also by the debtor under the underlying obligation in the electronic system of the mortgage paper (hereinafter - the e-system).

1.3. The owner and operator of the electronic system is the Ministry of Economy of the Republic of Azerbaijan (hereinafter – the Ministry). The e-system has been integrated to the Electronic Government Information System. Integration and information sharing of the e-system to/with other government information resources and systems is organized in accordance with the 'Regulations on formation, maintaining, integration and archiving of public information resources and systems' approved by Decree No. 263 of the President of the Republic of Azerbaijan dated 12 September 2018.

1.4. The e-system is open for the mortgagor, if he/she is a third party, also to the debtor of the underlying obligation to obtain notices on compilation of a mortgage paper in the e-system, making changes to it, operations related to that mortgage paper conducted in the e-system (records related to the execution of the underlying obligation, endorsement in the mortgage paper related to transfer of rights on the mortgage paper to another person, state and additional state registration of the mortgage paper, termination of the mortgage paper), and printing statements on the mortgage paper. The e-system is open to the registered mortgage holder with respect to the mortgage paper. All operations performed in the electronic system are archived.

1.5. The form of the mortgage paper is determined in the e-system based on the information provided in sub-item 2.1.1 herein. The mortgage paper should have sections for

making notes on execution of the underlying obligation, as well as making notes (endorsement) on the transfer of rights on the mortgage paper to another person.

1.6. The Ministry provides options for payments related to transactions in the electronic system in real time through the electronic system.

1.7. The definitions used in this Regulation bear the meanings specified in the Civil Code of the Republic of Azerbaijan and the Law.

2. Compiling a mortgage paper

2.1. If specified in the mortgage agreement, the mortgage paper is compiled as follows:

2.1.1. On the day the mortgage agreement is notarized, the mortgagor draws up a mortgage paper as per the form specified in the e-system, using a strengthened e-signature in his/her personal cabinet created on the 'Electronic Government' portal, and indicating the following information based on the mortgage agreement:

1. the date and place of the document compiling;
2. mortgagor's name and address, or if a legal entity, its name and location;
3. mortgagee's name and address, or a legal entity, its name and location;
4. if mortgagor is not a debtor on the underlying obligation, the debtor's name and address, and if the debtor is a legal entity, its name and location;
5. the time and place of the mortgage agreement;
6. nature, size (amount), grounds and execution period of the underlying obligation;
7. parties to, time and place of the underlying obligation's underlying agreement;
8. in case the underlying obligation is to be executed in installments, terms and periodicity of relevant payments, their amounts and terms allowing to define these amounts (principal, interest etc.);
9. description and location of the object, the subject of the mortgage;
10. under which right the mortgage object belongs to the mortgagor and the name, state registration number of the authority that registered this right, the date and place;
11. information on other encumbrances of the subject of mortgage;
12. a note on exercising the rights of the mortgagee on the basis of a notary's execution note on selling the subject of the mortgage;
13. terms of directing the mortgagee's claim to the account of the subject of mortgage;
14. method of the sale of the mortgage subject;
15. the initial sale price of the mortgage subject or independent appraisers who will determine this price;
16. the person to carry out sale when the mortgage subject is sold in the open market;
17. the order and sequence of distribution of income to be obtained from sale of the subject of mortgage;
18. e-mail addresses of the mortgagor, if he/she is a third party, also the debtor of the underlying obligation;

2.1.2. the mortgage paper is signed by the mortgagor, if he/she is a third party, also by the debtor of the underlying obligation with a strengthened electronic signature.

2.2. After the mortgage paper is drawn up, the mortgagor and the mortgagee are notified in the e-system. Relevant information on preparation of the mortgage paper is obtained by the Ministry in the e-system.

3. State registration of the mortgage paper

3.1. After state registration of the mortgage, the mortgagee applies to the Ministry via the e-system with an application signed with a strengthened e-signature after paying a state fee required for state registration of the mortgage paper via the dashboard created in the 'Electronic Government' portal through the 'ASAN payment' system.

3.2. Within 1 (one) business day after receiving the application, the Ministry investigates compliance with the requirements stipulated in the Law for the mortgage paper, whether there is a court dispute about the subject of mortgage, or whether the right to dispose of the subject of the mortgage is restricted.

3.3. In the event of the cases as per Item 3.2 herein, the Ministry refuses state registration of the mortgage paper, and on the same day, a notification is sent to the mortgagee in the e-system, stating the reasons for the refusal.

3.4. In the absence of the cases as per Item 3.2 herein, the mortgage paper is state registered within 1 (one) business day and the mortgagee's ownership right on the mortgage paper is formalized. The Ministry makes the following notes on the mortgage paper confirming its state registration:

3.4.1. in the e-system, a six-digit state registration number is assigned to the mortgage paper in accordance with the sequence of registration;

3.4.2. the name of the state registration authority and the moment of registration (date and time) are indicated in the mortgage paper;

3.4.3. the mortgage paper is signed with a strengthened electronic signature of an authorized person of the registration authority.

3.5. On the day of state registration of the mortgage paper, a notification is sent to the mortgagee and the mortgagor, if he/she is a third party, also to the debtor on the underlying obligation in the e-system.

3.6. When the state registration of the mortgage paper is refused, the mortgagee may re-apply for state registration of the mortgage paper after reasons for refusal are eliminated.

4. Additional state registration of the mortgage paper

4.1. When the nature, size, execution period of the underlying obligation changes, as well as when the subject of mortgage is alienated, the mortgagee pays a state fee required for additional state registration of the mortgage paper when applying for additional state registration of the mortgage. In the mentioned cases, additional state registration of the

mortgage paper is carried in parallel with additional state registration of the mortgage, and appropriate changes are made to the mortgage paper in accordance with the Law.

4.2. When the rights on the mortgage paper are transferred to another person, the mortgage holder makes a record of giving (endorsement) with a strengthened e-signature on the mortgage paper. After paying the state fee required for additional state registration of the mortgage paper through the 'ASAN payment' system, the mortgagee applies to the Ministry in the e-system with an application signed with a strengthened electronic signature.

4.3. Within 1 (one) business day after receiving the application, the Ministry investigates compliance with the requirements stipulated in the Law for the mortgage paper, whether there is a court dispute on the mortgage subject, or whether the right to dispose of the subject of the mortgage is restricted.

4.4. In the event of the cases mentioned in Item 4.3 herein, additional state registration of the mortgage paper is refused by the Ministry, and on the same day, a notification is sent to the mortgagee in the e-system, stating reasons for refusal.

4.5. In the absence of the cases mentioned in Item 4.3 herein, the mortgage paper is subject to additional state registration within 1 (one) business day, and the ownership right of the new mortgagee to the mortgage paper is formalized. The following notes are made by the Ministry in the mortgage paper confirming its additional state registration:

4.5.1. according to the sequence of registration in the electronic system, a six-digit state registration number is assigned;

4.5.2. the name of the body conducting additional state registration and the moment of registration (date and time) are indicated in the mortgage paper;

4.5.3. the mortgage paper is signed with a strengthened electronic signature of an authorized person of the registration authority.

4.6. On the day of additional state registration of the mortgage paper, a notification is sent in the e-system to the mortgagee (if the rights on the mortgage paper are transferred to another person, also to the new mortgagee) and to the mortgagor, if he/she is a third party, also to the debtor under the underlying obligation.

4.7. When additional state registration of the mortgage paper is refused, the mortgagee may apply again for additional state registration of the mortgage paper after reasons for refusal are eliminated.

5. Termination of the mortgage paper

5.1. After the mortgagee applies to the state body registering the mortgage to terminate the mortgage and state registration of the mortgage is canceled, the mortgage paper is immediately terminated.

5.2. The Ministry ensures that records are made in the appropriate register regarding termination of the mortgage paper, and on the day of recording, a notification is sent to the mortgagee and the mortgagor in the electronic system.