



ERASMUS+ STRATEGIC PARTNERSHIPS IN  
RESPONSE OF THE COVID-19 SITUATION  
„EDULAW“



## **Agrarian law – ownership (Rights in REM)**

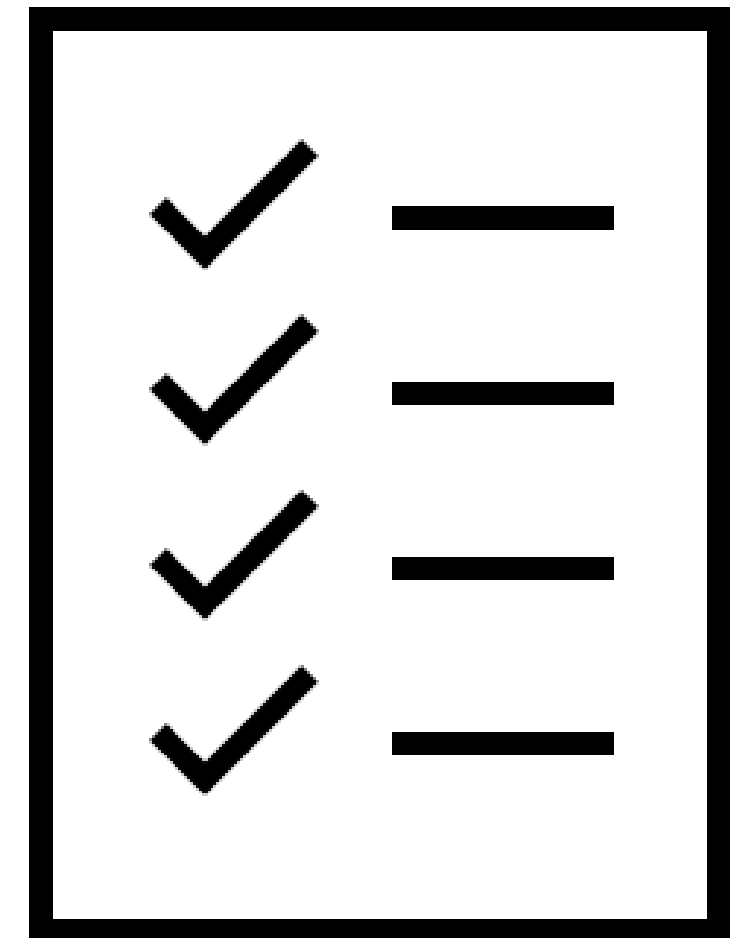
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# Program

1. Definition of the property
2. Content of Civil Legal Relationships
3. Rights in REM
4. Ownership
  - 4.1. Acquisition of ownership
  - 4.2. Termination of ownership
  - 4.3. Joint ownership
  - 4.4. Co-ownership



# Program

5. Tenancy by the entirety

6. Property settlement

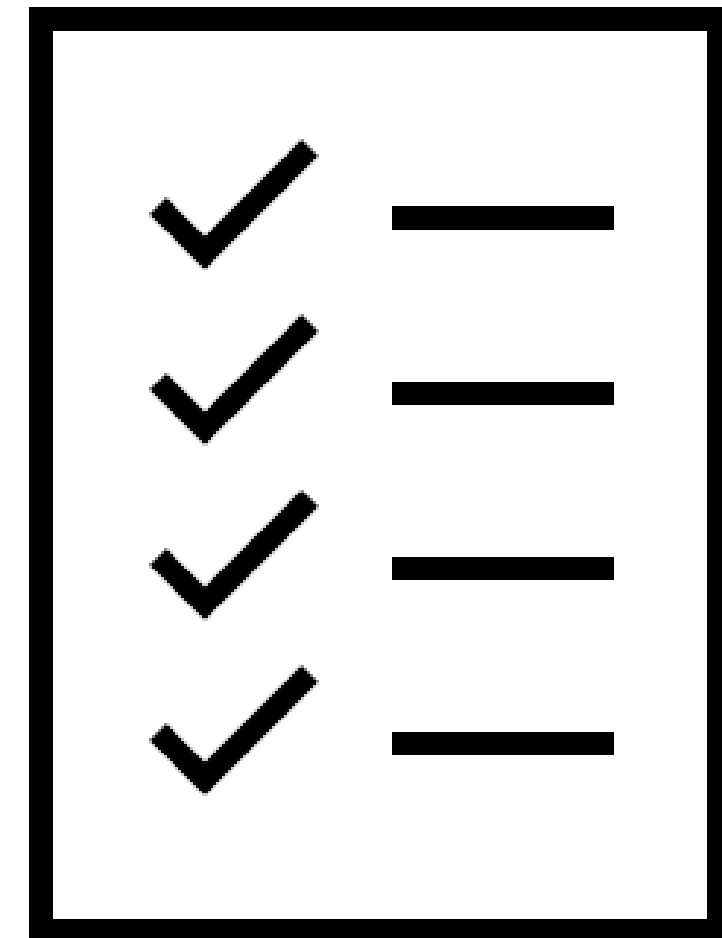
7. Proprietary rights in re aliena (Rights in the property of another)

7.1. Lien

7.2. Pledge

7.3. Easements

8. Contractual relationship



# Definition „Thing“ (Property)

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- All corporeal things and natural powers, if they are:
  - manageable
  - useful for human needs
  - it is not excluded from the legal system
- also flats and non-residential premises may be subject to civil legal relationships
- **real estate property** (lands and buildings connected with the ground by a firm foundation)

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- **Component of a property**

- all that appertains to the thing according to its nature and can not be separated from the thing without devaluation of the thing

- **a building shall not be component of land** („superficies solo cedit“)

- **Accessories of a thing**

- things that belong to the owner of the main thing and are designed by the owner to a permanent use with the main thing

# Content of Civil Legal Relationships

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= **subjective rights and duties**

- **Subjective rights**
- absolute rights – take effect „erga omnes“ (ownership)
- relative rights – take effect „inter vivos“ (in particular commitment rights)



# Rights in rem

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- **Division**
- ***Ownership rights, possession***
- ***Proprietary rights in re aliena (rights in the property of another)***
  - Lien
  - Easements
  - Right of retention



# Ownership

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- *the widest legal lordship over the thing*
- Within the limits of law, the owner shall be entitled:
  - **to occupy** the subject of his/her ownership,
  - **to utilise** the property and a **to use its fruits and benefits**
  - **to dispose** of the property
- protection of ownership (petitotry actions)
- limitation of ownership
  - temporary
  - expropriation



# Acquisition of ownership

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## 1. *Original*

## 2. *Derivative*

- Based on **contract** (purchase, donation, exchange)
- **Legal succession**
- **Decision of state authority**
- **Based on other legal facts** (usucapio, winnings, licitation)



# Moment of acquisition

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## **1. *transferred on the basis of contract***

### ➤ ***Moveable thing***

- the ownership shall be acquired by taking over the thing

### ➤ ***Real estate thing***

- the ownership shall be acquired by entering it in the Land Register according to special regulations

## **2. *acquired on the basis of a decision of a state authority***

- ownership shall be acquired on the day specified therein

# Termination of ownership

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## ***a. Legal act***

## ***b. Legal occurrences***

-destruction of the thing

-death of an owner

-the loss of property

-expiration of time for usucapion

## ***c. Decision of a state body***

# Joint ownership

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- **Definition**
- kind of ownership where ownership belongs to more than one subject
  
- **Types of co-ownership**
- Co-ownership
- Tenancy by the entirety
- Combination of a. and b.



# The legal regime of joint ownership

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- management of common property (***principle majorization***)
- rights and obligations in relation to third parties (***solidarity rights and obligations***)
- everyone has the right to dispose of the share of ownership (***pre-emptive right***)

# Co-ownership

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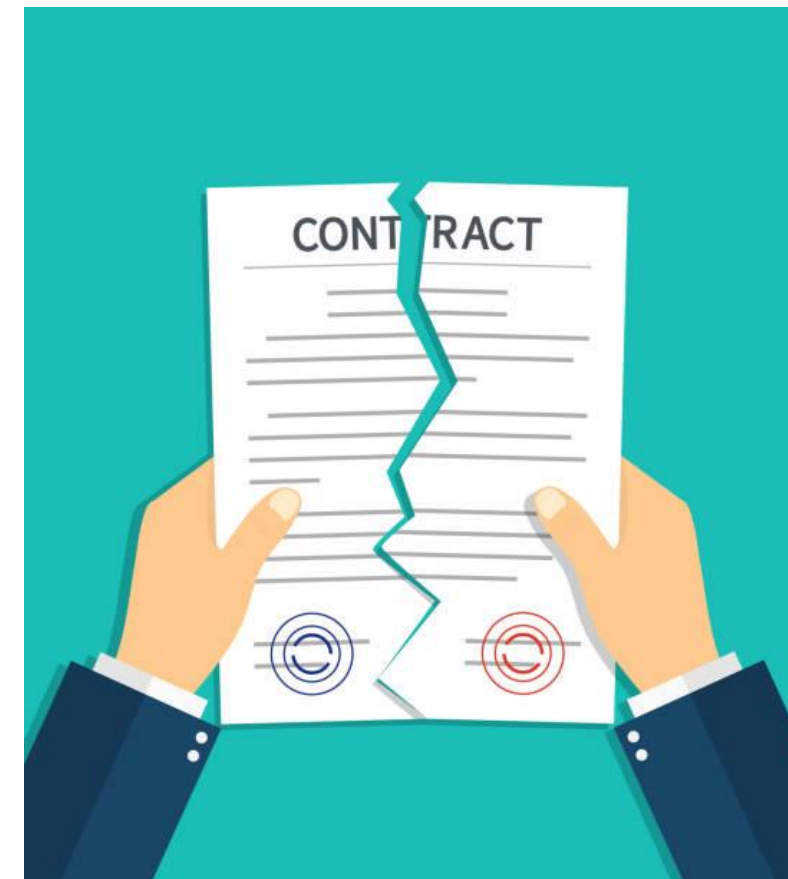
- Participation of particular co-owners is expressed by a **share**, which expresses the rate in which the co-owners share the rights and duties resulting from the joint ownership to the same thing (fraction, %)
- **Size of a share** is determined by
  - legal act
  - legal act
  - decision of the court
  - if it is not determined, shares are equal



# Termination of co-ownership

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- *Extinction of co-ownership*
  - the same reasons as for the termination of ownership
  - agreement co-owners
  - judgment
- *Property settlement*
  - fragmentation/division of the thing
  - commandment to the thing to one owner
  - the sale of the thing and the distribution of proceeds



# Tenancy by the entirety

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- conceptual features:
  - *the existence of a marriage*
  - *no shares (undivided ownership)*
- ***everything that can be subject of ownership and which is acquired by one of the spouses during the marriage belongs to the tenancy by the entirety***
- Exceptions:
  - thing obtained prior to the formation of marriage
  - thing acquired by inheritance
  - thing acquired by donation
  - thing acquired by property restitution
  - thing serving the personal needs of 1 spouse
  - thing belong to profession of the 1 spouse

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- **Formation:** marriage
  - **Termination**
    - **by law** (divorce, marriage annulment, death, final decision on the declaration of death)
    - **during lasting the marriage**
      - based on the proposal of one spouses when tenenacy of the entirety is in contrary to morality (reasonable grounds)
      - one of the spouses obtained authorization to business
      - bankruptcy

# Property settlement

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- comprehensive solution to property relations between the former co-owner

➤ *agreement*

➤ *judicial decision*

➤ *passage of time*



# Proprietary rights in re aliena

(Rights in the property of another)

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- Lien
- Easements
- Right of retention

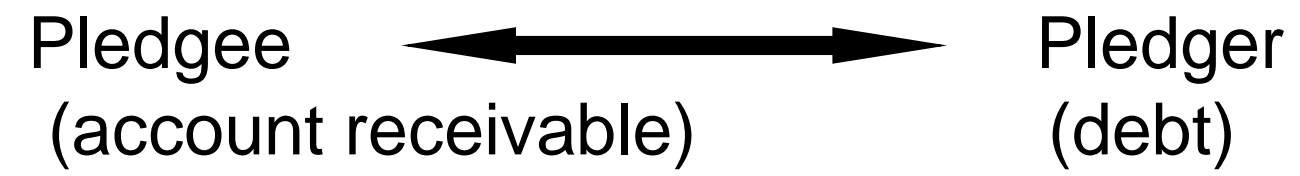
# Lien

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- The lien serves for securing account receivable and its civil fruits by entitling the pledgee to satisfy his/her claim or seek satisfaction of the account receivable from the pledge if the account receivable is not fulfilled timely and duly.
- Subsidiarity
- Accessories feature
- **Functions:**
  - Security
  - satisfaction of the account receivable







- Loan = 1000 euro, till: 31/12/2017
- Lien to secure the loan (Accessories feature)

# Pledge

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- thing, right, another property value, flat and non-residential premises (need to be transferable)

A red, rectangular stamp with rounded corners and a double-line border. The word "PLEDGE" is written in bold, uppercase, sans-serif letters across the center of the stamp.

# Acquisition of lien – a)

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## **1. lien contract**

- moveable property
- real estate property

## **2. inheritance approved agreement**

## **3. decision of the court / administrative body**

## **4. act**

# Acquisition of pledge – b)

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## a) **Legal title**

## b) **Another legal fact:**

- **Land Registry-** deposit in the Land Cadaster
- **Movable things-** transfer or registration in the Central Notary Register of Pledges
- **and other property rights:** registration of pledge or another special register

## Content of pledge

- Obligations of the pledgee / pledger
- Can not reduce value of debt

## Termination of pledge

- extinction of the debt
- exercise of the lien
- destroying of the pledge
- if the pledgee waives of the lien
- passage of time

# Easements

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- Easements shall restrict the ***owner of a real estate property*** in favour of someone else in the manner that he/she must suffer something, omit something or do something
- Connected:
- with ownership of certain real estate property (in rem),
- belong to certain person (in personam).

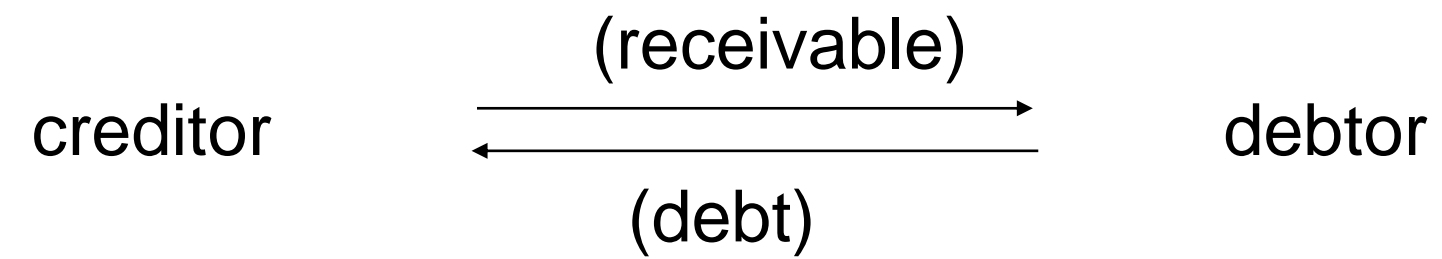




# Contractual relationship

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= legal relationship from which the creditor is entitled to fulfil (receivable) and the obligation to fulfil the debtor (debt)



# Content of contracts

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- The object of obligation are:
  1. something to give (dare)
  2. to do something (facere)
  3. not to do something (omittere)
  4. to tolerate something (pati)

# Purchase contract

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- a **seller** commits *to deliver to a buyer things* determined individually, or at least according to kind, and to assign to the buyer the ownership
- a **buyer** commits *to pay the purchase price*
- must include the purchase price, or at least the method of determining such a price later



# Obligations of the seller

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- **to deliver thing** (deliver the goods in the *quantity, quality* and *execution* as stipulated by the contract and must arrange for the goods *to be packed and made ready for forwarding* in a manner stipulated in the contract)
- **to pass over the documentation related to the goods**
- **to enable the buyer to take ownership to the goods in accordance with the contract and this Act.**

# Obligations of the buyer

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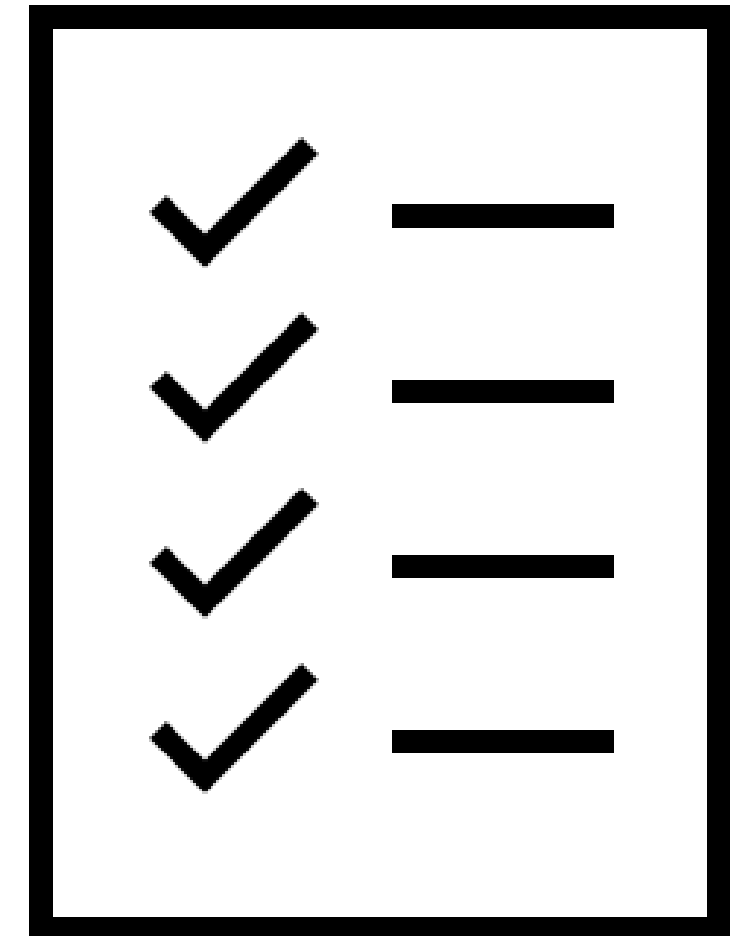
- **to pay the purchase price**
- **to take over the delivered goods in accordance with the contract**



# Short Summary / key messages of the lecture

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1. Define the main characteristics of the „thing“ (property).
2. What are the basic ways of acquisition the ownership (2)?
3. Define co-ownership.
4. Name at least 3 ways of the pledge termination.



# Thank you for your attention

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Any question? Doubts?  
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