



Position of the National Centre for Human Rights on the Draft Law Amending the Real Property Law of (2026), in the Light of International Standards and National Obligations

First: The legal basis of the position

This position is issued pursuant to the provisions of the Law of the National Centre for Human Rights No. 51 of 2006 and the amendments thereto, and in particular the competence vested in the Centre to review national legislation, to state the extent of its conformity with the Constitution and with international human rights standards, and to submit recommendations in that regard, and within the framework of its role in promoting and protecting human rights and consolidating the rule of law.

Second: The principal features of the draft Law

The Centre observes that the draft Law contains a number of amendments of a procedural and investment-related character, the most prominent of which are:

- simplification of the procedures for the termination of co-ownership and the alleviation of the financial and time-related burdens borne by co-owners (Articles: 2, 4, 35, 36, 96, 97, 103, 104, 106, 111, 120, 152, 153, 158, 202, 219);
- enhancement of the real estate investment environment through the regulation of off-plan sales and the expansion of real estate development instruments (Articles: 142, 144, 145, 146, 149);
- the move towards digitalisation and the adoption of electronic procedures in registration and authentication (Articles: 198, 203, 213);
- amendment of the requirement of unanimity to a three-quarters (3/4) majority in certain partition procedures (Articles 107 and 108 of the original Law);
- strengthening of judicial oversight over the procedures for terminating co-ownership and over expert reports (Article 190).

Third: The human rights assessment of the Centre

The Centre considers that the draft reflects a legislative orientation towards raising procedural efficiency and stimulating real estate investment, which is in principle a legitimate orientation, provided that it is not pursued at the expense of the substantive guarantees of human rights, foremost among them the right to property.

1. Positive aspects

- The simplification of procedures contributes to reducing disputes and to shortening the duration of litigation.
- Digitalisation enhances transparency and facilitates access to real property information.
- Subjecting the procedures for terminating co-ownership to judicial oversight strengthens fair trial guarantees.

2. Areas of human rights concern

(a) Protection of the rights of minority co-owners

The Centre observes that the amendment of the requirement of unanimity to a three-quarters (3/4) majority may lead to:

the imposition of the will of the majority upon the minority;

prejudice to the rights of the weaker co-owners (in particular heirs or absent persons).

Accordingly, the Centre affirms the need to:

enact express legal guarantees for the protection of the minority;

enable them to exercise an effective judicial remedy;

require that justice and equity be achieved in the outcomes of partition.

(b) Procedural guarantees in the termination of co-ownership

Notwithstanding the provision made for judicial oversight, the effectiveness of such oversight depends upon:

the independence of the technical expertise and the clarity of the valuation criteria.

The Centre therefore recommends:

the establishment of precise controls governing expert reports, so as to strengthen substantive rather than merely formal judicial oversight.

(c) Digital transformation and the guarantee of non-exclusion

The Centre welcomes digital transformation, but cautions against:

the possible exclusion of groups less able to access digital services, and emphasises the need to retain parallel traditional channels and to guarantee fairness of access to real property services.

(d) Documentation and management of real property records

The Centre stresses the importance of:

archiving and indexing all real property procedures (electronic and paper-based) so as to ensure the integrity of the land register, being the cornerstone of legal security of ownership.

Fourth: The extent of the draft's conformity with international standards

The relevant international standards affirm, in particular:

- the Universal Declaration of Human Rights (Article 17): the right to own property and the prohibition of arbitrary deprivation of property;
- the International Covenant on Civil and Political Rights: the guarantees of a fair hearing in disputes;
- the International Covenant on Economic, Social and Cultural Rights: the right to adequate housing and protection against forced eviction;
- the Voluntary Guidelines on the Responsible Governance of Tenure of Land: transparency, documentation of ownership and protection of rights;
- World Bank standards on land administration: clarity of the land register, with a view to simplifying procedures and strengthening legal security.

Fifth: Conclusion and recommendations

The Centre affirms that the draft Law constitutes a positive step towards modernising the legislative framework governing real property; the achievement of its economic objectives, however, must take place within a framework that respects the constitutional and international guarantees of the right to property.

Accordingly, the Centre recommends:

1. the inclusion of express provisions guaranteeing the protection of minority co-owners;
2. the strengthening of effective judicial oversight over the procedures for terminating co-ownership;

3. the guarantee of fairness in valuation and compensation in all cases;
4. the development of a comprehensive digital system coupled with a guarantee of non-exclusion;
5. the enhancement of the reliability of the land register, so as to achieve legal security and legislative stability.