

RECOGNITION OF OWNERSHIP RIGHTS OVER PARCELS OF PUBLIC WATER BEDS AND SHORES

PUBLIC LAW

Those interested in the recognition of ownership rights over parcels of water beds and seawater shores or any other navigable waters must file a claim **until 1 January 2014**. This is what derives from article 15 of Law no. 54/2005 of 15th November that establishes the ownership of water resources.

The failure to file such a claim implies the loss of rights over the area in question, which will become a part of the State's public water domain.

In order to obtain the recognition of ownership rights, the interested parties must present the necessary documentation to prove that the land was, by means of a legitimate title, subject to private or common property before 31 December 1864 or, in the case of steep cliffs, before 22 March 1868.

These requirements already existed in the previous legislation, but the novelty in the law in force is the fact that this recognition has to be made by the courts and, above all, the fact that there is a deadline for the claim to be filed.

Article 15 also establishes the rules to be followed when filing these claims:

- i) It shall be deemed as private, without prejudice to third parties, the land on which it is proved that, in the absence of documents able to attest its ownership, it was possessed in the individual's own name or in the joint use of individuals included in a certain administrative area.
- ii) When it is shown that the documents prior to 1864 or 1868, depending on the case, have become unreadable or have been destroyed by fire or similar facts occurred in the notary office or competent registration office, the land shall be deemed as private, without prejudice to third parties, as long as it is proven that, before 1 December 1892, it was privately owned or possessed.

Deadline for the claim to be filed is 1 January 2014

The above mentioned rule of evidence does not apply whenever the land, according to the law, has been subject to a divestiture act or has been maintained in public possession for the time needed to constitute adverse possession.

This legal regime is particularly relevant to all owners of land situated in the coastline or adjoining navigable watercourses.

Given the difficulties associated with proof, it is recommended that interested parties start preparing the claims that should be filed, as it was said, no later than 1 January 2014.

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