

EVALUATION OF THE CURRENT URBAN LAND SYSTEM IN SERBIA

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A preliminary evaluation of the current urban land system is presented in the article together with the instruments of land policy in Serbia. It is concluded that due to the limitations of the current regulation it will be impossible in the future to apply market principles in the urban land policy (supply and demand of land, land capitalization, investment efficiency, et al.). Based on the estimation that the urban land system and land policy are key factors of competitiveness between regions and towns in Serbia, it is necessary to initiate changes in this field. A comparative analysis of the elements of the current urban land system in Serbia has been carried out in relation to two market systems: (a) with dominant private ownership of urban land (neoliberal approach) and (b) with dominant public ownership of urban land (Scandinavian approach) whose findings can be a basis for further study of the new system in Serbia.

Key words: urban land system, instruments of land policy, evaluation, market

INTRODUCTION

Urban land is a natural resource (defined, limited and fixed in space); an economic resource (it becomes a commodity through investment in its equipping and use for various intended purposes); a social resource (its value increases with social decision-making regarding planning and investments); public resource (it is available and of general interest to everyone et al.), which does not lose value with time, and it is used for development and can be considered as a form of investment or postponed savings. According to the Law on Planning and Construction [1] urban land is land on which objects are constructed and land which serves for regular use of these objects, as well as land that is projected for construction and regular use of these objects. In Serbia, there are two types of urban land – *public urban land* – urban land in state ownership on which public objects have been built that are of general public interest and serve as public spaces, as well as purposefully planned land which cannot be transferred from state ownership; and *other urban land* – land already constructed and land planned for construction, which is not public urban land, which is in all forms of ownership and is a

commodity. The area of urban land management in Serbia is regulated by the Law on Planning and Construction (of urban land), by expropriation, communal activities, as well as by municipal decisions. In the following text, a preliminary evaluation is given of the current urban land system in Serbia, as well as a comparative analysis of the basic elements of this system in Serbia in relation to two market systems with different forms of ownership.

CURRENT SYSTEM OF URBAN LAND IN SERBIA

Obtaining urban land in Serbia can take place in several ways: (1) purchasing land on the market, which is in private or state ownership (category „other urban land”, if it is on sale). It is necessary to have a public tender in accordance with the Law on state-owned assets when urban land is being transferred from State ownership; (2) purchasing the user rights for urban land in state ownership – undeveloped other urban land in state ownership based on article 84 of the Law (by purchasing rights of use from the previous owner), with the transfer of user rights and sale of absolute rights; (3) leasing land in state ownership (undeveloped other urban land up to 99 years, in a public tender or in direct

agreement) with a contract between the municipality i.e., the organization that manages the urban land owned by the state and the user/leaseholder; (4) leasing undeveloped public urban land for a fixed time period, and (5) expropriation. Granting/ceding State-owned land is carried out in public tenders (51%), by collecting bids (30%) and by direct agreements (19%) [2].

Renting public undeveloped land and other urban land in state ownership

Management of urban land in the municipalities in Serbia is carried out mainly by public enterprises (71%) or municipal administrative agencies (29%) [2]. The Executive Board of the Municipal Assembly determines the market value of land based on the proposal of an authorized organization (public enterprises, board of directors, institutions...) based on the assessments made by the legal assessor. Evaluation of urban land is left to legal assessments, negotiated prices etc, and as such is a basis for making contracts on leasing urban land for a fixed time period (up to 99 years) and the basis for determining property turnover tax, land value taxation etc. The market price of the urban land does not only comprise of its current value, but also its

future (potential) value. The differences in prices and values of urban land lead to speculations on the land market, because land is purchased at one price, but based on development planning expectations it is sold at another price. Public development plans that determine the future use i.e., future expediency and usage have a particular influence on this.

The Law on Planning and Construction envisages that the other undeveloped urban land in state ownership can be leased to the owner of the existing object that was constructed without a building permit, in order to obtain one if the urban is in accordance with the development plans. The Municipality decides on the leasing of the undeveloped public urban land and other urban land in state ownership. It is often the case in practice that the amount of the lease (in direct agreements) is significantly lower than the market prices of land, and this is often followed with a certain discount in cases of one-off payments. This has a number of negative effects on the community, and serves as an example of how the municipality during the legalization process enables unlawful builders to capitalize urban land, i.e., it enables a form of speculation to the detriment of public interest.

The main instruments of urban land policy in Serbia are fees for land development and land usage.

Urban Land Development

Land development fee is paid by the investor before urban and it is calculated based on the real costs of developing and equipping land. The fee comprises the costs of preparing the terrain and communal infrastructure. Since the costs of communal infrastructure on town locations are similar (but with a different location value, depending on its commercial attractiveness) it is estimated that the investor pays not only the costs of communal infrastructure, but this fee essentially covers urban rent as well.

„Real“ costs of developing land are usually the initial minimal bidding price at the tender. Bidding for the urban land location is basically a way to charge for the cost of land, as well as for the cost of user rights transfer. The current system does not enable the determination of

the cost of land, which illustrates the practice that the costs of improvement make the initial bidding price. The bidding method of determining the fee for land development shows that the authorities/administration as well think that this current system of calculating the fee (by formula) is not adequate. An inflated bid price presents basically a *one-off capitalized rent* i.e., the price for purchasing the rights of use of an attractive location. This bid price is not the realistic/true purchasing price of land but just a longterm lease (up to 99 years), because the state does not sell ownership rights but only the right to holding a lease for a fixed time time. Therefore, this fact tells us that the introduction of the term „lease“ instead of „fee“ is more adequate. Paying the lease for State-owned land is usually carried out by one-off payments for land development fees according to the following criteria: by m² of constructed area, intended purpose of object, usually according to the zoning system (2-4 zones). The instrument for land development fee is basically dual in character – one part for communal infrastructure and one part that is actually the charge for capitalized urban rent, i.e., price of land.

Land development fee is basically a relict of the earlier period and it is obvious that its amount does not depend on the costs of infrastructure development, but on other benchmarks and criteria. The practice of calculating the land value by a „formula“ is basically irrelevant of the real costs of infrastructure, especially since it is possible nowadays to collect not the alleged costs of infrastructure, but the leases for specific locations depending on their attractiveness (in biddings).

The transparency principles in a transition from a urban land system to a market system entail: granting to the investor a lease on a State-owned plot; collecting rent in a form acceptable to both parties (periodically, one-off payment, or both); monthly payment of rent/ land use fee in moderate sums; and for it to be the basis for the leasehold – leasing State-owned land like in market economies.

Land development fee in Serbia in 2005 was 10,5 billion dinars (120 million EUR) or 10,3%

of the fiscal revenues of the municipalities and towns [3].

Urban land development is carried out in accordance with longterm, midterm and annual programs of development. Practice has shown that the majority of municipalities do not have a longterm and midterm development program for public urban land. That has not been possible since the majority of municipalities have not made a decision about public urban land. One could question how could municipalities make such a decision when they must pass an enactment on exempting land from private ownership and reimburse owners according to market value prices, in accordance with the Expropriation Law, since ownership issues and rights of use have still not been resolved for many locations, and reimbursements have not been paid. Municipalities mainly do not have the means for these purposes. They are faced with the task of paying debts from previous unresolved statuses of public urban land, and based on the plans designed in accordance with the Law on Planning and Urban they should pay the State procurement of public urban land. Considering the overall socio-economic conditions inside the local settlements, the application of these legislative solutions could lead the municipalities to bankruptcy. In case the planned public land is not included in the decision on public urban land and there is no State procurement of land, but the plans are adopted, new problems can be expected – speculative price growth of urban land in planned locations, new difficulties for the municipalities in obtaining the financial means for its purchase, potential problems and limitations for the land owners who want to add some objects or build new ones and similarly. With the planned projections for the intended purpose of land in projects and programs, its value changes. Due to limited supply of land and its limited value, it is often left without any concrete function. In the situation when land owners cannot achieve the expected benefits from its use, they keep land as a form of savings and future investment. Eliminating it from the market flows directly influences the supply and price of land.

According to the same law, the municipality determines the fundamentals and measures for

Table 1: The chosen indicators for urban land in Serbia, 2005 [4,5]

Indicators	Serbia	Belgrade City
Total urban land (ha)	695.415	123.673
Share of urban land in the total area (in %)	9,0	38,3
Urban land (in state ownership), in ha	194.441	63.005
Area of urban land outside the city boundaries (in %)	47,5	15,3
Share of the real estate sector in GDP 2005 (in %)	4,23	8,4
Share of real estate business in employment (March 2008) in %	3,68	7,35

determining the land development fee. In practice, during the legalization process of unlawfully constructed objects (around 1 million in Serbia), the municipalities have determined that owners of these objects pay a significantly smaller land development fee than the other citizens who have lawfully constructed objects and paid fees in total. Such socialization of debts and their marginalization has very negative consequences for unlawful contractors – the municipal budgets are smaller, while lawful contractors bear the brunt of financing land development. Such a practice presents a continuation of the former socio- realistic discourse in urban land and urban policies and demands an urgent transformation.

Use of urban land

Since urban land is owned by the State, its users are in fact leaseholders who pay a lease that is called – *usage of urban land fee*. The fee is intended for developing communal infrastructure on urban land and is basically comprised of two components: a) rent for use of land in state ownership and b) duties for utility services (common utility services). In practice, there is double taxation on the right to use urban land through compensation for urban land use and property tax. The fee for using urban land in Serbia in 2005 was 5.5 billion dinars (60 mil.EUR) or 5.1% of the budget [3], for 194,441 ha in state property (Table 1).

Urban land should be used in accordance with the planned intended purpose and the regulations concerning implementation of plans. The grounds and measures for determining the fees for urban land use are established by the municipality based on the communal equipment and on the benefits that the payers acquire with its use. For using developed urban land, the owner of the object or the holder of the right of use of object or the lessee pay a usage fee of 1m² per developed area. For undeveloped public and other urban

land in state ownership, the user pays a fee for urban land use (per 1m²). Municipalities usually define 3-4 intended purposes of urban land and implement zoning of the area (between 2-200 zones, usually 3-6 zones), determine corrective coefficients, score et sl. This fee is very low – e.g., it was 1din/m² of apartment per month in Belgrade in September 2008. The legal solutions have not opened any possibilities for establishing the basic elements, instruments and market system institutions in urban land management adapted to conditions of transition.

Table 2: Comparative analysis of ownership and leasing/leasehold [16]

Attribute	Ownership	Leasing/leasehold
1. Time limit	Infinite	Infinite/renewable
2. Expenses	One-off payment-at purchase	Annual payment of urban rent or for the period of 10, 25 years
3. Mortgage	Optional	Optional
4. Building permit	Owner	Leaseholder
5. Sales	Allowed	Allowed
6. Inheritance	Possible	Possible
7. Limitations	Mandatory repurchase out of public interest (Law)	Mandatory repurchase out of public interest (Statute)

CRITICAL REVIEW OF THE CURRENT URBAN LAND SYSTEM IN SERBIA

The basic flaws of the current urban land system in Serbia are: it creates various limitations in the development of settlements; it puts the owners of other urban land in an unfavorable position; it implies different limitations for the development of economic activity, because unresolved property and legal relations slow down and raise the costs of urban, and prolong the time needed for urban and obtaining a building permit. Although the current solutions of the land policy are partly inspired by social reasons, the system is essentially unfair in the local practice (e.g. there is an evident inequality among the business sectors in all instruments of the land policy, which is not defined by market

principles). The current way of managing urban land is taking place in the absence of a real land market, market mechanisms and institutions, with the application of quasi-market elements for calculating fees for use and development of urban land, market prices when leasing urban land, and it is followed by relatively complicated administrative procedures.

The current system of financing and the instruments of land policy have remained since the time before the transformation and privatization processes of all structures began

[6,7]. Apart from many different sources of financing urban land, of a fiscal and parafiscal nature, a mechanism for their complete restitution and efficiency has not been provided [8].

The urban land use fee is relatively undervalued, despite the fact that its function should be more important, considering the fact that urban land is one of the key resources of towns, which is not being capitalized enough presently by the local authorities. Land, like some other property that has a certain economic value is capitalized by putting it to use in making a social product/GDP. The success of capitalizing land is achieved by making greater profits than the invested means in its activation. Unfortunately, the principle of capitalizing urban land (location) has not been achieved in practice for various reasons, among which we can single out the

weaknesses and solutions of the current management of the urban land system (instruments, administrative procedures, non-market approaches, absence of land market and economic principles, etc.) [8].

It is concluded that because of the limitations of current regulation, it will be impossible to apply the criteria of market economy in the field of land policy in the future (e.g., supply and demand of land, principle of land and property capitalization, criteria for investing efficiently into urban land et al.). Considering the fact that the system for planning the use of land, land market and land policy, among other institutional and other factors, have an influence on market competitiveness of regions and towns, it is necessary to initiate changes inside this field. The solution to these problems, based on available information and experience of countries with a market economy, should be looked for in establishing a market system of urban land, in privatizing a part of urban land, in establishing market institutions and mechanisms for land management.

Urban land is a resource of a dual nature: a factor of production and of consumption. Undeveloped land is not a goal *per se*, but it is important only combined with the object (principle *Superficies solo cedit*) [9]. By increasing the intensity of urban land use, and with efficient intended purpose, its value increases as well. Location inelasticity of land is conditioned by limited supply. By increasing the price of land, its supply is boosted i.e., elasticity of supply. Elasticity of urban land supply is achieved usually on the account of agricultural land on the outskirts of towns [10].

In the urban land market, the differences between values and the prices of land lead to speculation (purchasing at a lower price and selling at a higher one). Plots of land of the same value can have different prices depending on the various factors that influence the location market. The speculation on the prices of land in Serbia – land adjacent to a major public infrastructure (highway, bypass, airport and similarly.) increases the value of land (e.g. agricultural and other urban land) tenfold, public announcements on planned intended purposes for urban land tenfold and

communal equipping tenfold – in total for 1000 times [11,12]. For example, the increase in the land prices, in Copenhagen is 800 times, Madrid 500 times, Munich 40 times [13].

The price structure of urban land in Serbia comprises on average 35-50% the costs of improving and equipping, while the price structure of 1m² of equipped land in major European cities comprises 15-20% of the costs of equipping land. Concurrently, the share of increased land value – rents in European cities is 75-80% [14] with rent taxation of 40-80%, mainly by applying the method of residual values in the land price policy [12], while in Serbia there is no tax on land rent. For example, in the past two decades in Belgrade, approximately 20,000 ha of agricultural land that has been converted to urban land have been in free purchase [15] while the owner and agent appropriate the rent without taxation [11].

Comparative evaluation of the current land urban system in Serbia and the market systems

In the countries with a market economy, the sale of urban land is realized by direct contractual and obligational relations between location owner/user/lessee, with long-term possibility of payment of location costs and in accordance with urban planning, i.e., with the contractual relation contractor/developer of location and the local/town authorities. In the majority of countries with a market economy there is a dominance of private ownership of urban land. In countries with dominant public/state ownership of land, trade takes place through leasing and rarely by sales of state land, with respect to all market mechanisms.

There is an evident difference between renting and leasing/leasehold – rent cannot be inherited, the user cannot sublet the realty, while with a leasing contract that is possible. A leaseholder has identical ownership rights (see Table 2). The owner of the land is interested in the leaseholder exploiting the land in the most efficient way in order to obtain a higher rent. Based on the comparative analysis of the terms ownership and leaseholding, it can be

concluded that lease holding is identical to private ownership in all of the aspects. Such advantages present a good basis for evaluation of the various decisions on privatization of urban land in state ownership or leasing State-owned urban land.

In the market system of urban land, there are two concepts: (a) a neoliberal market system of urban land with dominant private ownership and (b) a market system of urban land with dominant public ownership. The first concept is characterized by a dominant private ownership of urban land, free urban land market, modern market, financial and legal institutions and mechanisms in urban land usage, minimized role of State in urban land use et al. Private owners of urban land must adhere to urbanistic norms and acts of law, which leads to the conclusion that there is no predominance of private ownership. The other concept is characterized by a dominance of public ownership of land, land leasing, market system and mechanisms of managing land, well-developed institutional and organizational mechanisms, arrangements, instruments of land and urban policy, aspiration towards an ideal balance of natural, economic, socio-political, eco-spatial demands et al. Preliminary evaluation of the listed systems and the current urban land system in Serbia is given in Table 3.

The main characteristics of the current urban land system in Serbia are: monopoly of public/state ownership in urban land, no real land market, administrative allocation of urban land, fees as parafiscal mechanisms for collecting local public revenue, uninhibited and often corrupt government (local authorities), absence of market mechanisms, instruments and institutions.

Effects of the current urban land system in Serbia

Weaknesses of the current information system on land are: lack of adequate statistic data, indicators, especially on town level; incomplete cadastral registry of property and underground installations (approximately 70% of real estate is registered in the cadastre, in Belgrade around 50%); authenticity of the documentation on ownership of objects mainly

Table 3: Comparative evaluation of the urban land system in Serbia, neoliberal land market system and urban land market system of Scandinavian countries.

CURRENT SYSTEM IN SERBIA	MARKET SYSTEM (neoliberal)	MARKET SYSTEM (Scandinavian)
Public ownership monopoly in urban land	Private ownership of urban land	Public ownership of urban land (with leasing predominance)
No real land market	Urban land market as a mechanism for its allocation	Urban land market as a mechanism of its allocation
Administrative allocation of urban land	Limited state intervention	Limited state intervention
Fees as parafiscal mechanisms of local public revenue collection (no private ownership of urban land and no taxation)	Taxes as the primary public revenue of the local community	Taxes as the primary public revenue of the local community
Uninhibited and corrupt state (local authorities), irresponsible and unjust administrative system	Constrained and responsible state i.e., local authorities	Constrained and responsible state i.e., local authorities
Non-ownership rights, legal insecurity	Ownership rights and their security	Equal ownership and obligational rights and their security

on land register data in courts (which are more complete and often differentiate from a cadastre); the existence of several parallel and uncoordinated systems of particular real estate data inside the government tax authorities, cadastre, local home offices for urban land and development, municipal agencies for planning, statistics etc.

Inefficient land use, because urban land is one of the most valuable resources of towns, regions and modern economies. In the absence of a realty market i.e. urban land, supply and demand have no influence on price formation, but other criteria do. Unfortunately, in the field of urban land, by rule, there are no economic laws – the current instruments of land and fiscal policy have been established so they would not permit redemption and capitalization of social investments, not even in a longterm economic period. The invested financial means into urban land are highly inefficient since they are not returned into the reproduction of new locations, due to the absence of a land market and adequate urban land management mechanisms. The negative effect is also the *administrative way of determining the user* of land by decision of a competent agency of the local authorities. In land distribution investors/users do not pay the economic value of land in relation to the advantages of location, but they pay only the costs of equipping land i.e. rent determined in an administrative way. *Intransferability of land use rights* onto a third person is conditioned by the immobility of use i.e. inefficient use of space. A significant effect of the current land system is still the *political dimension* in land management system even in the period of transition, as well as the social dimension in

land management (e.g., longterm hold of land by a firm that is on the verge of bankruptcy, so the lay-off of workers is postponed). The greatest social influence on land management is reflected in the differentiation of fees for urban land use and the fees for developing land for intended purposes, with frequent evaluation of the user's financial power This leads to further inefficient land use because it supports users who cannot pay the real/economic price of land. Simultaneously, around 20% of court cases are about land, legal-property relations and real estate [11].

Limited construction and investment due to *uncertainty in the future process of privatization* of urban land (possible increase of costs for the investor after purchasing land even though they paid earlier the land development fee; uncertainty concerning the fee for urban land use – e.g., increase of market value of the tax base; land trade is possible only if there is an object on that land, which makes it impossible to determine the price of land); uncertainty in the stability of the land management system due to frequent changes of decision, etc.

Decrease in local land revenue, deficiency of locations and other problems are a consequence of reduced fiscal effects due to a less efficient use of urban land i.e. dependency of fiscal town revenues on market values of real estate (as a tax base). A higher price of real estate triggers higher property revenue, and a decrease and slow down in real estate investment et al. As the main negative effects of the current urban land system in town and spatial planning, apart from the aforementioned, are problems with deficiency of urban land of different levels of

development, at acceptable prices according to the purchasing power of households, high costs of urban land development (30-50% included in the price of a constructed 1m²), a volatile and unregulated urban land market, location, inefficient public programs for urban land development, entrepreneurs' unwillingness to follow unrealistic plans and programs for land development (which consequently leads to numerous cases of unlawful building, urbanistic chaos, substandard settlements, lesser quality of living in towns etc.). The state and local community lose enormous potential tax revenues in land transactions, as well as for the fact that an urban rent has not been determined yet, and the fee for urban land use plays this „role“ of a parafiscal instrument of a symbolic amount– for example, it ranges from 10 EUR/per flat of 60 m²/per year.

CONCLUSIONS

Based on the analysis of the urban land system in Serbia and its effects on the development of towns and municipalities, it is estimated that it is necessary to bridge the „gap“ between the theoretical-methodical in the current system and the urban land market system. Possible types of change – target models are: (a) liberal market approach with dominance of private ownership of urban land, with attendant mechanisms, instruments, b) the Scandinavian type market model of land with dominance of public ownership of urban land, (c) other hybrid models. A new system of planning and transformation of the current system of urban land is necessary. This process is greatly hampered by a lack of social dialogue about the main goals and methods of transformation of planning, as well as possible methods of

construction land privatization. There is a lack of political will to solve problems of urban land reforms in new market conditions. In practice, the initiative for the neoliberal type of urban land privatization is evident [2] with the absence of research of other options.

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