



**USAID**  
FROM THE AMERICAN PEOPLE

**SERBIA**

# **USAID BUSINESS ENABLING PROJECT**

**ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN  
SERBIA**

**DATE: May 21, 2012**

This report is made possible by the support of the American People through the United States Agency for International Development (USAID). The contents of this report are the sole responsibility of the authors and do not necessarily reflect the views of USAID or the United States Government.

# **USAID BUSINESS ENABLING PROJECT**

## **REPORT: ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN SERBIA**

**Submitted by:**

Cardno Emerging Markets USA, Ltd.  
MP & ASSOCIATES

**Submitted to:**

USAID Serbia

**Contract No.:**

169-C-00-11-00001-0

---

## TABLE OF CONTENTS

<b>ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN SERBIA – EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>TABLE: SUMMARY OF CONSTRUCTION PERMITS ISSUES AND RECOMMENDATIONS - STUDY .....</b>	<b>11</b>
<b>ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN SERBIA .....</b>	<b>14</b>
<b>1. INTRODUCTION, OBJECTIVES AND METHODOLOGY .....</b>	<b>14</b>
1.1. INTRODUCTION.....	14
1.2. RESEARCH METHODOLOGY AND CRITERIA.....	17
<b>2. KEY PROBLEMS.....</b>	<b>18</b>
2.1 GENERAL CONTRADICTIONS IN THE POLITICAL CONCEPT .....	18
2.2 INCONSISTENT RULES.....	24
2.3 INADEQUATE ORGANIZATION OF PUBLIC ADMINISTRATION’S COMPETENCES.....	32
2.4 UNNECESSARY MULTIPLICATION OF ADMINISTRATIVE STEPS. ....	37
2.6. IMPACT OF PROBLEMS IN THE SPATIAL AND URBAN PLANNING SECTOR UPON THE BUILDING PERMIT PROCEDURE .....	43
2.7. INADEQUATE INSTITUTIONAL AND HUMAN CAPACITIES .....	51
<b>ANNEX 1: RECORDS OF PROPERTY RIGHTS OVER REAL ESTATE AS AN ELEMENT OF ADMINISTRATIVE FRAMEWORK FOR CONSTRUCTION .....</b>	<b>54</b>
<b>ANNEX 2: SPATIAL AND URBAN PLANS AND IMPACT OF THEIR PRODUCTION AND IMPLEMENTATION ON THE PROCESS OF ISSUING BUILDING PERMITS IN SERBIA .....</b>	<b>65</b>
<b>URBAN PROJECT AND IMPACT OF ITS PRODUCTION AND IMPLEMENTATION .....</b>	<b>82</b>
<b>ON THE PROCESS OF ISSUING BUILDING PERMITS IN SERBIA .....</b>	<b>82</b>
<b>ANNEX 3. REVIEW OF PROCEDURES MANAGED BY COMPETENT BODIES, ORGANIZATIONS AND PUBLIC ENTERPRISES .....</b>	<b>92</b>

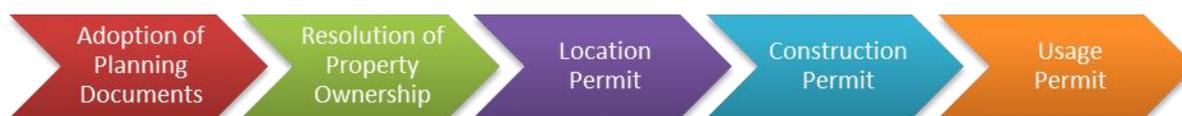
---

## ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN SERBIA

### – Executive Summary –

The construction permit procedure in Serbia is often used as an example of public administration inefficiency. It is characterized by lengthy, unpredictable and complicated procedures with numerous steps and an uncertain outcome. Thus, an investor who is undergoing the procedure does not know for sure whether the construction will be allowed.

The following diagram shows the general stages that a developer must go through to obtain the necessary permits to construct a structure.



The current processes within these stages produce bottlenecks in several areas. The most significant are:

- **Adoption of planning documents.** In many municipalities, urban and spatial plans are of low quality – or do not exist at all. This is caused by a lack of standardized technical requirements, low capacity in municipalities, insufficient stakeholder participation in the planning process, monopolization of the planning market, and under-qualified urban planners. As a result, planning documents are often missing or incomplete, causing major delays for developers. In many cases, a developer will need to correct boundaries of the land parcel to meet standards for the zone (access to public road, size, width, etc.).
- **Resolution of property ownership.** Developers are often delayed in establishing ownership of parcels due to complex and often unclear procedures for restitution, legalization, and conversion of rights. Developers sometimes have difficulty registering land sales transactions. Laws are not harmonized in several key areas, including the documents required to prove ownership, the procedures for parceling and for correcting boundaries and legal descriptions, the process for conversion of agricultural land to construction land, and laws relating to the process of conversion of usage rights to ownership rights (discussed below). In many cases a developer will need to correct the boundaries of the land parcel to meet the standards for the zone (access to public road, size, width, etc.). The process of

---

conversion of usage rights to ownership rights has been revised three times and the effectiveness of the latest procedures is uncertain.

- **Location permit.** Sector laws introduce unnecessary procedures that are preconditions for location permits, and a developer cannot be certain of the elements necessary to obtain a location permit. Public agencies and enterprises exercise arbitrary decisions when providing the requirements for developing a detailed project design. There are inconsistent deadlines and technical requirements for the elements that a developer must achieve to obtain location permits (e.g. requirements in the laws on energy, forest, and telecommunications). Deadlines set forth in the law are often disregarded by government agencies and public enterprises.
- **Construction permit.** Again, sector laws introduce unnecessary procedures that are preconditions for construction permits. This includes requirements to obtain certificates from public agencies and enterprises that state that the detailed project design is in compliance with all regulatory and technical requirements.
- **Usage permit.** To obtain a usage permit, developers need to obtain certificates that construction was executed in accordance with both the approved project design and the approvals from public agencies and enterprises for connections to infrastructure. Obtaining these approvals is unnecessarily time-consuming and costly.

In all of these steps, deadlines for issuing permits and other documents are routinely violated by public agencies and public enterprises. Practices and procedures are inconsistent across municipalities and even within state agencies and public enterprises.

Since 2003, numerous efforts have been made to improve the situation. In 2003, the reforming Law on Planning and Construction was adopted. More radical reforms were introduced in the 2009 Law on Planning and Construction. In 2011, this law was significantly amended – after only two years. Despite these efforts, the situation has not significantly improved. Less than 10% of businesses participating in USAID BEP’s 2011 Business Survey believe that it is easier to obtain a building permit now than in 2009. And Serbia’s position on the World Bank’s ranking of efficiency in issuing building permits is constantly getting worse.

**Serbia 175th of 183 in Doing Business rankings for dealing with construction permits**

According to data collected by World Bank report on Doing Business 2012, dealing with building permits in Serbia requires 19 procedures, takes 279 days and costs 1603.8% of income per capita, which puts Serbia at 175 in the ranking of 183 economies on the ease of dealing with building permits. By comparison, in Chile, which stands at 90th in this ranking, it takes 124 days less and costs 20 times less (expressed in % of income per capita) to obtain a construction permit than in Serbia.

---

This study has analyzed the legal and institutional framework and practices in the municipalities that are most effective and in those that are less effective in issuing building permits. This analysis leads to the following major recommendations:

**1. Redefine the role of the public enterprises and agencies that have a major impact on the duration and outcome of the permitting procedure.** Public enterprises and government agencies are inserting unnecessary procedures and causing significant delays in the permitting process. The competencies of these public enterprises and agencies are fragmented, and they have little accountability for their lack

of efficiency in the permitting process. For example, competencies in the building permit procedure are divided between a large number of local and Republic public enterprises, agencies and institutions. They include Republic public enterprises such as Roads of Serbia, Serbia Waters, Serbia Power Company; local public enterprises such as waterworks, sewage and district heating companies; and state agencies like the Ministry of Interior's Department for Fire Protection, and the Republic of Serbia Institute for Protection of Monuments. Each of the requirements, approvals or permits issued by these public bodies represents a precondition for obtaining a building permit or usage permit. This system has produced bottlenecks as it enables public enterprises to have discretionary control over the overall administrative process. In some cases, agencies and public enterprises have a role in the permitting process that poses an unwanted burden; for other public bodies the system is the source of significant influence and income.

Solving this problem requires political leadership beyond a single ministry – political leadership that can rein in the public enterprises and government agencies. The roles and responsibilities of public enterprises need to be clearly defined and mechanisms for monitoring them need to be strengthened. The roles of public enterprises in the construction permit process can be limited by changes to sector laws that govern their activities, and by improving their management and external oversight.

**2. Improve the building permit issuance procedure by streamlining regulation of property and legal rights.** Various issues are causing uncertainty regarding ownership and are thus holding up the ability of developers to begin the permitting process. These issues include restitution, privatization, legalization of illegal construction, and conversion of usage rights to ownership

52 steps are necessary to obtain a building permit for an industrial facility under typical circumstances. As many as 90% of these steps are within the competences of public enterprises, agencies and institutions. 20 entities have public authority and participate in this process. In addition, the investor may find himself in a situation requesting him to “queue” in public enterprises three times in order to obtain different documents from them: a) technical requirements relating to the design process, b) approval of the design documentation, and c) approval from the manager of a given public good, confirming that the construction was performed in an adequate manner.

rights. Although there have been legislative reforms aimed at streamlining these procedures, proper implementation has been held back by a lack of resources and an incoherent approach. In 2009, through new legislation and bylaws, the Ministry of Environment, Mining and Spatial Planning made important conceptual steps towards privatization and decentralization of the ownership of construction land, and conversion of usage rights into ownership rights. However, poor implementation of this legislation has resulted in developers

An investor purchased a valuable property in Belgrade, with the aim to build a mixed residential and business complex. During the procedure converting the usage right to the property right the public prosecutor filed an appeal of the first instance ruling on conversion, although a detailed analysis of the case unequivocally demonstrated that the appeal was baseless. The appeal proceeding has been ongoing for about 8 months, and the case has not yet been heard. As a result, the investor cannot register as the owner of the property, and cannot market the property or begin construction.

seeing little improvement in the processes to obtain and document property rights. In fact, political deadlocks in the conversion process have made prime construction sites effectively undevelopable, costing the economy hundreds of millions of Euros.

The procedures for legalization, restitution, and conversion must be simplified so that they have a defined and limited duration. For example, conversion of usage rights was first slowed down by the insufficient capacity of the Tax Administration to fulfill their role under the law (conversion of usage rights that are part of privatized enterprises requires a conversion fee based on a valuation that was to be set by the Tax Administration), and then was effectively halted by the States Attorney's offices', which have actively undermined the process by appealing each conversion decision. Although the valuation process was again revised in 2011, streamlining the conversion process will still require effective coordination between public sector bodies, including local government property offices and the State Attorney's Office, as well as the Privatization Agency and other state bodies. In addition, under the 2011 decree local governments can adopt their own schedules to value the land, but this requires capacity building and political will since thus far none have done so.

**3. Improve the building permit issuance procedure by developing the necessary spatial and urban plans.** Spatial and urban plans are often missing, incomplete, or of poor quality. This is mainly due to a lack of resources: while the preparation of plans requires significant financial resources and time, the overall technical capacity for the development of plans is insufficient.

In a five-year period, a municipality with 30,000 inhabitants needs to finance the development of its spatial plan, general regulation plan and at least five detailed regulation plans in order to comply with the Law and facilitate issuance of construction permits. But this "inflation" of planning documents often blocks construction as municipalities cannot afford to develop the plans.

---

However, these reasons do not seem to justify the fact that more than one year after the expiration of the statutory deadline for adoption of spatial plans, and almost one year after the expiration of the statutory deadline for adoption of general regulation plans, many local governments have not adopted these planning documents. There have been no legal consequences for the failure of municipalities to fulfill their legal obligations. Although the authors of the law were aiming to reduce the number of planning documents needed, in practice there is hyper-production of these documents as a result of the intention of the “plan designers” (usually public enterprises owned by municipalities) to have as many detailed regulation plans as possible so that they have more work to do. Smaller municipalities with few resources tend to outsource their planning work to inexpensive but less competent private planning companies.

Several things can be done to improve the quality of plans and speed up the process of adopting plans. The public enterprises’ monopolies on the preparation of planning documents should be eliminated by deleting the provision in the public procurement law that allows a municipality to give contracts for planning to municipal public enterprises without a tender procedure (this applies to all municipal procurement). The process of adopting urban and spatial plans should be more transparent and more open to public comment. The Government should define the standard level of details for designers to include in the documents that are necessary to obtain a location permit. Since the regulation of property and legal rights and the development of spatial and planning documents are long term processes, experience shows that it would be helpful to define ***zones of rapid growth*** in which particularly intensive investor activities are expected, and resolve preliminary issues in these zones first, leaving other zones until later.

#### **No Good Deed Goes Unpunished**

An employee of a public institution processed within one day an application of an investor who had submitted orderly and complete documentation. His superior proposed that he should be penalized for that (by a 20% salary reduction) with the explanation that his act was a degradation of the institution’s authority.

**4. Harmonize Laws and Regulations.** While public enterprises and agencies are the biggest barrier to streamlined construction permitting, the current fragmented legal framework enables this problem. The procedures in the Law on Planning and Construction are being undermined by inconsistent procedures set forth in various sector laws (e.g. Law on Waters, Energy Law).

The Law on Planning and Construction should be an umbrella law that lays out the procedures for all aspects of the construction permitting process. It is necessary to implement a “guillotine” of sector rules to remove unnecessary and obsolete provisions that derogate the concept of the Law on Planning and Construction. Any sector laws or bylaws that remain after the guillotine process should be harmonized with the Law on Planning and Construction.

---

**5. Conduct mapping and process improvement.** Institutions with specific competences in the building permit procedure most often do not have “internal” flowcharts for procedures which define the flow of documents and obligations of persons undergoing the permitting process and do not use IT for electronic document flow and flow speed measurement. Thus, it is impossible to track the quality and speed of implementation of the different steps. It is also impossible to identify bottlenecks and properly evaluate the work of employees. Cases are getting lost and the current system does not preclude external intervention on the case order.

Each institution involved in the permitting process should undergo a process mapping exercise that will identify bottlenecks and inefficiencies in the system. Then the processes and procedures should be changed and human resource issues should be dealt with.

**6. Observe and enforce legal deadlines.** Administrative bodies and public enterprises do not observe the deadlines for their actions that are stipulated by law. For instance, the deadline for issuing certain requirements pursuant to the Law on Planning and Construction is 30 days, whereas the common practice for public enterprises founded by the Republic is to issue their requirements after 60 or even 90 days. But a developer who considers filing a complaint because of a breach of a deadline knows that he may be “punished” by the public enterprise, e.g. the public enterprise may propound technical requirements that will make the investment unfeasible.

The tardiness of administrative agencies and public enterprises may be overcome by specifying, monitoring and controlling the duration of each procedural step in the process of obtaining permits. This would be followed by an adequate system of incentives and sanctions.

**7. Establish One Stop Shops.** One of the causes of Serbia’s inefficient permitting system is the lack of a simple system in which the developer communicates with one administrative body which holds full responsibility for overall building permit procedures, or at least a major part thereof. Currently, a developer must obtain necessary administrative approvals from many institutions, each of which can make a decision that may stop the construction, or delay the process just by failing to act. The result of this system is a low quality of rendered services, inappropriately high costs, and inefficiency.

It is estimated that in 90% of cases, competencies related to the issuance of special requirements, approvals and permits may be devolved to the level of local self-government. Such “decentralization” of competencies and introduction of “one-stop-shops” at the level of local governments would, in our view, result in service providers putting much more focus on the users of services. A precondition for the success of this approach is to increase the institutional capacities of the local self-governments, which can be quickly and efficiently accomplished through the use of external expertise.

---

**8. Rationalize fees and charges.** Issuance of building permits has been recognized by the public sector as an opportunity to collect more revenue by imposing more fees and charges, some of which represent a significant financial burden for developers. In many cases, developers get nothing in return for payments they make (public shelters fee, verification of sale contracts, property registration, and in many cases even the land development fee). In cases when some services are actually provided (such as for getting technical requirements from public enterprises), developers pay amounts that exceed their real costs. The government agencies are driven by the logic that developers who have money to invest will pay additional charges, regardless of whether they are justified. They do not know, or do not care, that during the investment period developers are under financial strain and any new burden can jeopardize the financing for the entire project. The inability of developers to calculate all expenses of the permitting process, at least with some level of accuracy, additionally hampers investments in construction.

**An endless cycle of fees and permits**

In order to have a public enterprise (PE) elaborate and issue technical requirements (e.g. the electric power company) it is necessary to previously obtain requirements of other PEs. The PE in question (electric power company) pays fees to these other PEs for their requirements. The costs for the issuance of these requirements are transferred to the applicant. At the same time, other PEs that issue special requirements within the procedure must obtain, as a preliminary step, requirements of other PEs (including those of the very same electric company Elektro distribucija) and pay the fees. Ultimately, this overlap and duplication of payments is transferred to the end user.

Developers are not the only ones affected by the high charges. The fee for the implementation of urban plans through the real estate cadaster is so high that many cities and municipalities delay this obligation as long as they can. In practice, this creates serious problems for developers, as they cannot start the procedure for obtaining business permits until parcels of public land are formed in the real estate cadaster based on the urban plan.

The Government of Serbia should, in consultation with developers, review all the fees and charges related to construction and eliminate those for which no services are received, or where the charge is much higher than the value of the services.

The complexity of the construction permitting process directly affects financing opportunities and the cost of a project. The need to engage additional financial and human resources to deal with the long and complex processes generates additional costs. Expected financial inflows are postponed due to delays, while developers are often required to pay for expensive consultancy and lobbying services. The unpredictable duration, delays, and increased costs of a project increase the perception of risk and lower the return on investment. The increased costs and delayed revenue caused by Serbia's inefficient and unduly burdensome administrative framework often lead to developers abandoning planned projects.

**Table: Summary of Construction Permits Issues and Recommendations**

Necessary preconditions	Key problems	Recommendations	
1. Clearly define the framework of property ownership and title registration issues	1. Strategic contradictions in policy framework	<b>M.1.</b> Secure coherent land management policy and its implementation <b>M.2.</b> Promote legal security, predictability and efficiency in real estate transactions <b>M.3.</b> Ensure supply of commercially attractive construction land with improved infrastructure where the investors' interest exists	
	2. Harmonization of Serbian regulations	<b>M.4.</b> Harmonize the umbrella law (Law on Planning and Construction – LPC) with sectoral laws and implement the „guillotine“ of sectoral regulations with the aim to remove unnecessary and obsolete provisions and regulations that are contradictory to the concept of the LPC	
2. Improve spatial and urban planning	1. Strategic contradictions in policy framework	<b>M.1.</b> Develop and implement coherent land management policy	
	5. Unnecessary multiplication of administrative procedures		
	6. Problems in the sector of spatial and urban planning impact construction permitting process	1. Monopoly on authority for development of planning documents by public enterprises	<b>M.14.</b> Change legislation that allows municipalities to provide for a municipal public enterprise to have a monopoly on preparation of planning documents. Legally establish the minimum of professional references of companies and consider introducing licensing for companies performing activities in the area of spatial and urban planning
	2. Lack of public participation in the process of development and commenting on planning documents	<b>M.15.</b> Provide for participation of interested parties at the end of each stage of the planning process instead of only in one stage (public exposure) as the case is now in accordance with the LPC	
	3. Insufficient level of details in the planning documents regarding urbanistic and technical conditions	<b>M.16.</b> Define standard level of details of urbanistic and technical conditions (in the form of a table) that would be binding for developers of the planning documents when a planning document is supposed to be basis for issuance of the construction permits. <b>M.17.</b> Harmonize LPC and sector laws in the areas of energy, waters, forests, defense, telecommunications etc, especially with regard to deadlines, level of details and other elements of importance for issuance of construction permits based on urbanistic plans <b>M.18.</b> Provide for more intensive communication between developers of planning documents, responsible public	

		bodies and local utilities, and enterprises that develop properties.
	4. Insufficient level of detail in the spatial plans (hyper-production of planning documents)	<b>M.19.</b> Elaboration of detail in spatial and urbanistic plans cannot be limited by legislation
	5. Lack of follow up of urban plans through the real estate cadastre	<b>M.20.</b> Program budgeting should be introduced in local governments and one line item should be made mandatory: updating urban plans through the real estate cadastre
	6. Practice of arbitrary decisions with regards to the interpretation of spatial and urban documents	<b>M.21.</b> Introduce systemic control in urban inspectorates to halt the practice of arbitrary decisions regarding the interpretation of spatial and urban documents <b>M.22.</b> Legally establish higher professional criteria for appointing members of municipal planning commissions
	7. Quality of entry data needed for preparation of urban projects	<b>M.23.</b> Local governments' planning commissions should insist on as standardized level of details of urban conditions as possible, particularly with regards to plans of general regulation and plans of detailed regulation
3. Administrative activities of public bodies in certain stages of the procedure	2. Contradictory regulations	<b>M.4.</b> Harmonize the umbrella law (LPC) and sectoral laws, ensuring that the LPC is the controlling law on permitting issues and implement regulatory guillotine of sectoral regulations to eliminate unnecessary and obsolete regulations that contradict the LPC
	3. Dysfunctional organization of responsibilities of the public administration	<b>M.5.</b> De-politicize and improve efficiency of public services and administrative bodies in their dealings with construction permits <b>M.6.</b> Decentralize decision making in the administrative proceedings of construction permitting in favor of local governments (one-stop-shop) <b>M.7.</b> Amend legislation to provide for monitoring and controlling the length of steps in the process of construction permitting <b>M.8.</b> Introduce mechanisms of incentives and sanctions for the quality of the work and the length of procedures by responsible bodies <b>M.9.</b> Provide for possibility that a different public body decides an administrative matter if the authorized public body breached the legal deadline („authority of last resort“)

		<p><b>M.10.</b> Strengthen coordination and application of IT in administrative matters involving public bodies charged with issuance of specific technical conditions</p> <p><b>M.11.</b> Improve document management systems in responsible institutions and introduce the system of on-line tracking of the statuses of administrative matters</p>
	4. Unnecessary multiplication of administrative steps (procedures)	
	5. Lack of one channel of communication between an investor and public administration and clear delineation of administrative responsibilities	<p><b>M.12.</b> Improve organizational efficiency of the permitting system by transferring to local governments the authority to set and verify certain technical conditions, approvals and permits</p> <p><b>M.13.</b> Have local government bodies act towards investors as a „one-stop-shop“, organized in accordance with non-bureaucratic principles</p>
	7. Inadequate institutional and human resources	<p><b>M.24.</b> Develop description of internal procedures of public bodies with a role in the construction permitting process</p> <p><b>M.25.</b> Remove information monopolies and promote use of IT in bodies with public authorities</p> <p><b>M.26.</b> Training in public administration with the aim to increase competency and change attitudes of public employees</p> <p><b>M.27.</b> Improve access of public bodies to outside expertise.</p>

---

# ASSESSMENT OF CONSTRAINTS TO CONSTRUCTION PERMITS IN SERBIA

## 1. INTRODUCTION, OBJECTIVES AND METHODOLOGY

### 1.1. Introduction

This Assessment of Constraints to Construction Permits in Serbia, implemented under the USAID Business Enabling Project, identifies legal and administrative barriers to the issuance of construction permits. The main objective of this paper is to identify and define the most significant barriers for investors, and evaluate their negative impact on business activities and interests of stakeholders in the construction sector. Stakeholders include citizens, businesses and members of relevant professions. The assessment also includes recommended measures to overcome the identified administrative barriers.

The slow and expensive process to obtain construction permits is one of the most important business environment issues in Serbia. The problems in institutions, processes, legislation, and procedures are numerous and complex. These problems manifest themselves in Serbia's World Bank Doing Business ranking of 175<sup>th</sup> out of 183 economies in dealing with construction permits. This ranking reflects the fact that obtaining construction permits in Serbia takes 279 days, requires 19 procedures, and costs 1604% of income per capita.

Reforming the construction permit process is strategically important for improving the business environment in Serbia. Streamlining the construction permit process would significantly impact GDP, as the construction sector is about 4% of GDP (2010 data, down from 5% in 2009). The construction industry comprises 8-10% of global GDP so there appears to be room for growth in Serbia. According to USAID BEP's roundtables with Serbian businesses, less burdensome construction permits process would lead to more construction activity. This would increase economic growth and employment and raise citizens' living standards.

The state administration and the political process have stymied attempts to implement new laws and regulations that aimed to streamline the construction permits process. Reforms of procedures in the construction field introduced by new regulations proved to be short-lived and not fully implemented.

The state administration has a critical role in the administrative framework that the construction sector deals with. Raising the quality of state administration – particularly professionalization of its human resources and provision of quality public services – is prerequisite to improvements in the construction permits process. Unfortunately, we have found that this important and complex segment of the public administration work is one of the main barriers to construction activity and economic development. The current system is

---

characterized by a low quality of public services, high costs, and inefficiency. The attitudes, values and habits of employees in public institutions are often inappropriate.

The political process has added to the problems, shifting attention from the content of reforms to the interests of bureaucracy. As a result there is a negative public perception of the administrative framework and an increased level of legal and political risk for investors.

The terms of reference for this study includes examination of the important aspects of the construction process, including:

- examination of bottlenecks in the construction permit process;
- examination of all processes and procedures for obtaining necessary requirements, permits, approvals and services which are required for construction projects in the Republic of Serbia;
- examination of the role of public enterprises and other institutions assigned to exercise public authority;
- analysis of availability and transparency of information which are necessary elements of the administrative framework of the construction sector;
- scrutinizing the division of authority among institutions at the republic, provincial and municipal level;
- analysis of the spatial and urban planning sector and of problems generated in the context of the permitting process;
- analysis of the parameters for the real estate cadastre's is defining the process of elaboration of spatial and urban;
- analysis of the legal framework regulating the construction sector, with focus on the Law on Planning and Construction ("Official Gazette of RS" No. 72/2009, 81/2009, 64/2010, 24/2011).

The terms of reference precisely defines the research focus and objectives. This assessment is quite ambitious, particularly regarding the request to pay detailed attention to separate steps (e.g. the analysis of the evolution and conversion of property and legal rights and their registration, spatial and urban planning, etc.). Understanding each of these steps is necessary to uncover the deficiencies in the administrative framework for construction; at the same time each of the steps includes important and independent legal and institutional constraints to obtaining permits. In the given context, this Report aims to answer three questions:

- What is the administrative framework for construction permit issuance in the Republic of Serbia?
- What are the key challenges and problems?

- 
- Which measures and activities may help solve the identified problems?

In our view, the administrative framework for construction must be analyzed in a holistic manner and not as the sum of separate and isolated segments. Thus, to the extent possible, we have indicated the general problems of the legal and institutional framework in the Republic of Serbia. These problems have an impact on the construction permits sector, and we have proposed relevant recommendations for improvement.

The terms of reference also made it necessary to review and revise previous experience and research related to the administrative framework for construction. The starting point for the research was findings of international institutions like the World Bank. Such reports offer a detailed presentation of the process related to administrative permits and a description of problems manifested in the construction sector. These reports clearly indicate systemic deficiencies in the legal and administrative framework. This provided an excellent basis for further work to investigate the described problems and explain their causes. We scrutinized the previous reports and their conclusions during this assessment and in certain parts updated them in accordance with practical and theoretical research.

After a brief introduction into the concept and methodology of the research, the following pages present the results and findings related to the construction permit process in six local self-governments, including an analysis of the performance of self-government bodies, relevant public enterprises and businesses. During the first research phase we made a survey of the existing literature and available best international practices, and conducted 21 interviews with representatives of local self-government units, public enterprises and agencies, legal experts and design engineers, and representatives of the investors. In the second phase, we identified key problems based on the data we collected. In the third phase, we defined potential solutions for identified problems in the form of special measures and activities. Measures have been evaluated with regard to their expected impact on the duration and costs of the procedure. Remarks and conclusions presented in the Report are also based upon experience. Conclusions are based upon facts and concrete situations, which were used as practical examples, and are supported exclusively by recognized and provable causal relations. We believe the selected approach will enhance the understanding of the entire problem, and will affirm the "bottom-up" approach in the research of the construction permits problem in Serbia.

Chapter 2 elaborates key problems in the construction permit procedures. During this part of the analysis, we focused on recognition and explanation of real political and practical causes of the identified problems, rather than merely describing the symptoms.

Annexes 1, 2 and 3 of this Report provide a detailed chronological description of the administrative procedure envisaged for the completion of construction permits, with examples from practice and with clearly marked critical points and deficiencies evident in each segment of each procedure. We have paid particular attention to the analysis of bureaucratic and

---

administrative structures in public authorities that deal with construction permits procedures, including various public enterprises, local self-governments, line ministries and other administrative bodies.

## **1.2. Research methodology and criteria**

As mentioned earlier, the basic objective of this Report is to analyze administrative obstacles within the construction permit procedure in the Republic of Serbia. For the purpose of this Report, “administrative obstacles” are all inappropriate activities conducted by relevant bodies with public authority, which are burdening the investors in terms of money and time, complexity of procedures and non-transparent procedures and information.

The starting point of the research was the establishment of criteria for the evaluation of the administrative framework for construction in the Republic of Serbia. What is a “quality” administrative framework for construction? What are the presumptions, principles and functions that such a system must satisfy, and in which aspects does the existing administrative framework of the Republic of Serbia deviate from the best/optimum solutions?

As regards the legal and administrative framework for construction, the basic “quality criterion” applied in this research was that the optimum administrative framework must enable the realization of the following principles:

- ensured compliance with strategic documents and principles of sustainable development,
- strict compliance with the principles of the administrative procedure, and focus upon full protection of interests of the parties,
- environmental protection,
- protection of people and property.

Further, the definition of “quality criterion” of the administrative framework for construction is based on the standpoint that practical application of these basic principles must be made in such a way as to enable the investor to realize his interests, rights and duties with a minimum of discretionary decision-making by the body holding public authority.

Although clear, these principles often contradict. The principle of protecting people and property may often be in conflict with the interest of the investor to save time and money. Subsequent chapters determine the extent to which existing legal solutions and administrative capacity enable a balanced realization of all these basic principles.

After the research criteria had been established, the second step was to define the content of the legal and administrative framework for construction to be scrutinized. In terms of content,

---

the role of the bodies exercising public authority in the construction permit process is basically reduced to the following elements:

- definition and regulation of the framework for property and legal rights, and registration of rights over real estate,
- preparation of the location in terms of spatial planning, urban development and infrastructure (elaboration of project documentation and providing infrastructure),
- administrative activities of relevant state bodies in individual phases of the procedure.

We analyzed the performance of the administration in each of the above-mentioned segments in terms of quality of rules, organization of public administration and institutional capacity of relevant institutions. The key parameters examined were the responsibility of relevant organs, transparency of procedures, the number of procedures and their mutual harmonization, adequacy of administrative resources, and duration and costs of the construction permit procedures.

## **2. KEY PROBLEMS**

In this chapter we present the crucial problems we have identified. We have tried not to limit ourselves to a description of the mere manifestation of the problems; we also explain their causes.

### **2.1 General contradictions in the political concept**

Political priorities in managing construction land and the legal framework for the implementation of policies are contradictory and inconsistent. The regulations and practice do not provide a clear concept of goals and principles that would guide institutional behavior and improve administrative procedures.

The Law on Planning and Construction is attempting to solve problems in multiple segments of the construction permitting process: conversion of ownership and legal rights regarding land; elaboration of spatial planning and urban planning documentation; and construction regulations. The latter segment was defined so as to require compliance with the highest standards. Thus it is presuming that property and legal rights are fully regulated and that the location is already the subject of proper urban and spatial planning. But this is not necessarily the case. For example, the Law on Planning and Construction has also set a framework for the conversion of rights over land through an *ad hoc* conversion, limited in terms of time, of state ownership of construction land into other forms of ownership. This is to be achieved by converting usage rights over construction land into ownership rights and by allowing legalization of illegally constructed structures. Further, the Law has established initial guidelines for the regulation of public property and restitution of real estate.

---

In principle, we think that the concepts in the Law on Planning and Construction that change rights, relations, rules and institutional arrangements regarding construction land as established by law are legitimate, necessary and justified. However, the concepts were not adequately implemented, particularly in view of the unavoidable controversies and conflicts which even a minimum of modification of rights over land necessarily causes. Unfortunately the law resulted in mechanical and rapid changes of the existing legal concepts, often to the detriment of interested parties, and the consequence is a high level of legal uncertainty and a lack of predictability. For instance, there was a negative aspect to the *de facto* privatization of construction land implemented pursuant to the Law on Planning and Construction: it changed formerly acquired rights of certain categories of persons who had obtained their rights over land in accordance with applicable law (e.g. by purchasing enterprises in a privatization or bankruptcy procedure). Also, the reform in the Law on Planning and Construction allowing for conversion of usage rights to property rights did not sufficiently consider the technical harmonization of regulations (e.g. inconsistency with the Law on State Survey and Cadaster), or issues related to institutional capacities necessary to efficiently implement the reform.

### **An Example of Failure to Harmonize Legislation**

The Law on Planning and Construction introduced significant novelties into the regime for construction land. These changes have immediate impact upon the application of provisions of the Law on State Survey and Cadaster. Although the Law on State Survey and Cadaster is the umbrella law for the organization of work and activity of the Republic Geodetic Authority; the Law on Planning and Construction expressly orders the Republic Geodetic Authority to make entries into the real estate cadaster of property in accordance with this Law. This has significantly linked the subject matters of these laws and their procedures, and made their provisions mutually conditioned. At the technical level, the same notions have different meanings, activities related to the process are not coordinated, provisions are contradicting, and there are legal voids. This calls into question the appropriateness of the manner in which the Law on Planning and Construction stipulates registration in the real estate cadaster, thereby expanding the scope of work of the Republic Geodetic Authority.

There are concepts and procedures that the Law on Planning and Construction regulates in detail that are also regulated by the Law on State Survey and Cadaster. For instance, Articles 65 to 68 of the Law on Planning and Construction which stipulate the procedure for re-allotment, i.e. parceling, are already covered in the Law on State Survey and Cadaster. In particular, Article 66 of the Law on Planning and Construction regulates the application procedure, while the same procedure is regulated with the articles 117 and 118 of the Law on State Survey and Cadaster. In addition, the Law on Planning and Construction does not determine which entities can make the application. The Law on State Survey and Cadaster obliges the owner of the real estate to apply for registering the change within 30 days of the change. The Law on Planning and Construction precisely specifies which documents must be submitted with the application (evidence of ownership for all cadaster parcels; the Project of Parceling/re-parceling, an integral part of the Project of the geodetic marking, verified by the local authority in charge of the urbanism), but it doesn't refer to the implementation of the articles of the Law on State Survey and Cadaster. On the other hand, the Law on State Survey and Cadaster requires submission of a statement by the geodetic organizations agreeing to perform the geodetic activities in the field, and evidence of a paid fee for implementing changes in the real estate cadaster.

There is also inconsistency in terminology. The Law on Planning and Construction uses a quite inexact term "the evidence of ownership rights," while the Law on State Survey and Cadaster uses "documents for registration, which is the basis for registering the change, or documents upon which it can be determined the change in real estate." The Republic Geodetic Authority (RGA) issues the procedural decision on the establishment of the cadaster parcels and registers the real estate in the Real Estate Cadaster, i.e. enters the data of parcels (plots) in accordance to the article 74, paragraph 2, the Law on State Survey and Cadaster. According to the Law on Planning and Construction, RGA delivers its procedural decision to the submitted authority, which confirmed the Project of parceling/re-parceling, and also to the applicant. This Procedural decision may be appealed within 15 days of the receipt. The last changes of the Law on Planning and Construction from 2011 harmonized its provisions with the Law on State Survey and Cadaster, including extending the deadline for appeal to within 15 days of the receipt (even though it is not determined which legal entity should receive the procedural decision).

On the other hand, certain procedures envisaged by the Law on Planning and Construction are not fully regulated, which causes certain dilemmas in practice. Deficiencies are identified in provisions regarding marketing of construction land – Articles 96 to 99 of the Law on Planning and Construction, as well as Articles 167-172 on the removal of constructions, which practically neglect the types of entries and entry procedures for the real estate cadaster. Certain procedures are not harmonized. For example, four laws that regulate the conversion of agricultural land to construction land are not harmonized. Apart from provisions of the Law on Planning and Construction and the Law on State Survey and Cadaster, the Law on Agricultural Land must also be harmonized, as well as the Property Tax.

---

What are the consequences of such transition upon the possibility to acquire the construction permit, and the pace of issuance thereof? In other words, in which way has the conversion of property and legal rights contributed to a more adequate economic and social utilization of construction land? In our view, the way in which the Law on Planning and Construction has regulated administrative procedures in this field has unfortunately resulted in a reduction and disruption of possibilities to construct. Property and legal rights, as well as spatial planning, are very remote from standards set forth by the regulatory framework for construction. Clear examples of how unregulated the situation is in practice are the ongoing procedures of conversion, restitution, legalization, disposition, and carrying out of privatization prior to conversion. Due to the fact that these rights had not been solved preliminarily, investors face numerous difficult requests when attempting to obtain permit issuance. It is often impossible for a developer to satisfy the prescribed conditions.

The conversion of ownership and legal rights as promoted by the Law on Planning and Construction leads to limited possibilities for an investor to choose and buy construction locations. In practice, developers end up with construction land outfitted with infrastructure but unmarketable due to the lengthy procedure for conversion of usage rights to ownership rights or because of legal and administrative limitations to construction imposed by the Law on Planning and Construction (example given below) which were present in the previous period.

#### **Example of Legal and Administrative Constraints to Construction**

Investment: Production plant in Vojvodina

Investor: Domestic company

During the year 2009 and 2010 several investors made a “greenfield” investment in light industry in a municipality that offers a competent workforce. The investors intended to build a facility of 1.500 - 3.000 m<sup>2</sup>, on parcels of cc 0,5.2 Ha, and to employ a certain number of workers. At that time, there was no land that the local self-government could directly dispose. But there was a land complex equipped with infrastructure, and the investors intended to purchase the necessary parcel.

All available construction land suitable for work is owned by heirs of former owners whose land had been nationalized pursuant to the Law on Nationalization of Rental Buildings and Construction Land (“Official Gazette of FPRY” No. 52/1958, 3/1959, 24/1959, 24/1961 and 1/1963). These former owners and today’s users, had the right to sell the parcels pursuant to provisions of Article 84 of the Law on Planning and Construction (“Official Gazette of RS” No. 47/03 and 34/06), provided there was a decision by which the right of use over such parcel had been established.

However, the Law on Planning and Construction (“Official Gazette of RS” br. 72/2009) has practically revoked this right of former land owners to sell, because the provisions of the Law prior to passing the amendments did not make it possible for these categories of persons to convert their usage rights to property rights.

As a consequence, in spite of good will to buy land, and the agreement with the holders of rights over the land, the Law on Planning and Construction effectively prohibited the sale of the only suitable construction land, and thus halted the investment. This prohibition was in force until the Law on Planning and Construction was amended.

---

This indicates a substantial inconsistency and disorientation regarding policies and objectives: is the general goal of the Law and the logic implemented by the law to enable construction as efficiently as possible and to ease the construction permit procedure in accordance with historical and legal reality? If so, the conversion of property and legal rights and the development of the spatial planning documentation must be implemented in a sustainable way that is fully consistent with the imperative to have legal security and predictability. We think that in this context the conversion of property and legal rights and the registration of rights must be simplified as much as possible. Procedures to convert rights over land should be accelerated to the maximum extent. The reduction of previously obtained rights should be avoided, except where the rights result from a crime, and the capacity of institutions implementing conversion procedures should be enhanced. Having in mind that conversions of property and legal rights are one-time issues, and are solved within a limited deadline, we think it is inappropriate to regulate them within the same law that regulates technical construction issues.

Currently the conversion of property and legal rights is implemented in a manner that distorts legal security and generates new administrative procedures for which there are no adequate institutional capacities. These processes often block the utilization of the existing limited construction land resources. This will continue to be the case until the moment when the conversion of property and legal rights is completed, the legally valid entries to the cadastre are registered, and spatial planning documentation is drawn up pursuant to highest standards (we don't think any of these tasks can be accomplished in the mid-term).

#### **Example of Slow Process to Convert Usage Right to Ownership Right**

Investment: Real estate in Belgrade

Investor: foreign company

The investor purchased valuable real estate in Belgrade, with the aim to build a mixed residential and business complex. Within the procedure converting the usage right to the property right, the public property defender filed an appeal *ex officio* (and following inertia) regarding the first instance ruling on conversion, although a detailed analysis of the case did unequivocally demonstrate that the public property defender's complaint is baseless. The appeal proceeding has been ongoing for about eight months, and the case has not yet come to the relevant organ for deliberation. The practical consequence is that the investor cannot register as owner of the given lot, and there is no possibility to market the land.

The inconsistency between the law's goal to streamline processes and some of its provisions is well illustrated by the following example: during the process of conversion of the usage right to property right in a number of municipalities, the public property defender filed *ex officio* appeals on 90% of first instance rulings on conversion, and the appeal was articulated in the most general manner. The result is a complete disruption of marketing and construction possibilities for such locations, because the procedure on appeal lasts about two years. Experts

---

we spoke with estimate that in Belgrade there are a few thousand locations subject to appeal procedures. Properties subject to this procedure are practically removed from the market.

Our conclusion is that an overall regulation of the construction land and construction sector began in 2003 – but it was done in reverse order. Due to the fact that issuance was identified as a bottleneck in the construction sector, the Law on Planning and Construction (47/2003) then in force had tried to introduce order in the spatial and urban planning sector. The Law aimed to create a good basis upon which the mentioned documents shall be drawn up, which would consequently enhance the construction permit process. However, property and legal rights and their conversion (denationalization, privatization, marketing etc.) remained unsolved. This produced a chaotic situation, particularly in locations that had an “orderly planning documentation” with “unregulated property rights.” So it was realized that it was necessary to first adopt adequate laws that would accelerate conversion of ownership/usage rights and the marketing of construction land. Now the authorities must pay maximum attention to the harmonization of rules that regulate property and legal aspects (e.g. Law on Denationalization) and urban-planning aspects of construction land, as well as accompanying by-laws, upon which a clear-cut “management policy” over construction land and the construction sector in Serbia could be established.

#### **Example: Investing in Problem Property**

The government's intention to regulate property and legal relations, as well as to adopt an excellent urban-planning platform, prior to issuing a construction permit, has slowed down the construction process. Very often the most attractive construction locations are unregulated in terms of legal and ownership aspects (privatization, nationalization etc.). This indicates the problem is related to further urban regulation of the location and possibilities for construction. Locations with no such problems and with an elaborated urban plan can be subject to construction. However, it must be noted that a significant number of primarily small investors are interested to invest into “problematic” locations which are not regulated in terms of law or urban planning (their purchase price is lower). This is because the regulation of legal, property and urban aspects leads to an increase in the value of such location which they had bought at a lower price. Due to the fact that the processes are often difficult to complete (solving ownership relations or drawing up or changing the relevant urban planning act) investors often choose solutions that are not transparent and which may cause suspicions of corruption.

#### **Recommendations:**

- **M.1. Ensure coherent policy and its consistent implementation regarding construction land**

One of the ways to define and articulate relevant goals and priorities for managing construction land is to elaborate an appropriate strategic document. These activities do not invoke high costs, but they do assign to the holders of political power a more difficult task: to change the way of thinking and the approach to this issue, as well as to comprehend in a different way the role of the state in economic issues. Having in mind the number of different and mutually linked fields in the context of regulating management of construction land, as well as how significant

---

the control over this resource is important to political elites, we deem it necessary to have reform-oriented efforts coordinated at a sufficiently high political level (deputy prime-minister, or similar).

- **M.2. Promotion of legal security, predictability and efficiency in procedures related to conversion of property and legal rights.**

A conversion of property and legal rights has started, and it is certainly necessary to finally establish a clear-cut and coherent concept of the right over land. However, procedures related to the transition of ownership rights must be designed and implemented in a manner which shall not jeopardize the acquired rights. Legalization of illegally built constructions, restitution and conversion of rights over construction land must be administratively simplified, so that they would be of limited duration and with a clearly defined beginning and end, and must be harmonized with the historical and factual reality.

- **M.3. Efforts should be directed at promptly ensuring that investors have available, commercially attractive and equipped land.**

Processes related to conversion of the right over land, preparing and outfitting the locations are of a long-term character. However, the relevant state bodies can obtain short-term effects if they focus upon preparing, equipping and making available certain commercially attractive locations. An investor would be satisfied with an offer of one location with solved property and legal issues, for which the planning documentation had been adopted and the infrastructure built.

**Example: Securing a location for investment**

Ruma municipality solved ownership and legal issues in 2011 and has obtained the right of disposal over a location fully equipped with infrastructure within a working zone with a surface of around 17 ha. Within the following 12 months three investors started green-field projects at the given location, and were planning to employ a total of 700 workers.

In the years preceding acquisition of this land complex and its giving at disposal, there was not even one serious green field investment in Ruma.

## **2.2 Inconsistent rules**

The absence of a clear policy concept, goals, and principles is also clearly manifested by the fact that rules regulating certain segments of the construction permit procedure are not harmonized. The construction sector is regulated by the umbrella Law on Planning and Construction and a number of sector laws which regulate usage, managing and financing of certain public resources which are of importance in the construction procedure (waters, roads, electric power grid, environment, etc.).

The Law on Planning and Construction and sector laws are not harmonized, which is evident when provisions of certain “sector” laws are compared with those in the Law on Planning and Construction. This serious deficiency is manifested in several ways. The general idea of the Law on Planning and Construction is to simplify the construction permit procedure and to eliminate unnecessary costs. But sector rules introduce additional para-fiscal duties in form of charges for

---

resources and for the work of public bodies that are managing certain public services (including services, properties, rights, obligations, utilities and resources). Although it is undisputable that public goods must be financed, indirect ways of financing as promoted by certain sector laws are extremely inadequate and non-transparent.

**Example: Para-Fiscal Charge**

The Law on Emergency Situations (“Official Gazette of RS” br. 111/2009), in Articles 64 and 65, stipulates that the investor may be exempted from the obligation to build shelters against nuclear attacks, by decision of the public enterprise for shelters.

If the investor does not build the shelter, he must make a payment in the amount of 2% of the total value of the building costs for the structure to the public enterprise for shelters against nuclear attacks. This fee is calculated by the public enterprise for shelters against nuclear attacks which shall, upon such payment being made, issue a receipt to the investor that all obligations had been fulfilled.

As regards the construction permit issuance procedure, conceptual differences between The Law on Planning and Construction and certain sector laws are even more dramatic. The Law on Planning and Construction stipulates a relatively simple construction permit concept according to which the communication between the party and the public administration is limited to three procedures in which the relevant bodies decide on the party’s rights, and which correspond to the appropriate phases of the construction process. The relevant bodies are to decide on the issuance of the location permit, construction permit and usage permit.

However, sector laws which regulate certain public services stipulate additional administrative steps beyond those set forth in the umbrella Law on Planning and Construction. Most of the sector laws introduce, apart from and contrary to provisions of the Law on Planning and Construction, new decision-making instances which are within the competences of bodies that manage certain resources of public importance. Sector laws, as a rule, most often introduce a few procedures that every construction project must follow. In most cases, these are: a) issuance of technical requirements by institutions authorized to manage certain public goods; b) issuance of approval of the project documentation; and c) final administrative endorsement by which the manager of the public good verifies that the construction had been performed in an adequate manner. This final approval, which is the precondition for issuing the usage permit, shall be issued by an adequate permit which is given by an institution managing a certain public resource, or by some other document which essentially has the same effect as the approval without which the usage permit cannot be obtained (e.g. signing the agreement with the relevant institution). In this way, new bodies are introduced as part of the administrative framework for construction, each of which can stop the construction permit procedures either by acting or failing to act.

At this point, it is appropriate to analyze reasons and justifications for the introduction of such new possibilities for the public sector to intervene in the construction process. Again, general

---

questions arise as to whether such controls (which are realized through separate procedures by which public enterprises issue their acts and approvals) are the only way, or the best way, to ensure protection of people and property, and of environment and principles related to sustainable development? Is the price which a given party in the proceeding is paying justified in terms of simplicity and efficiency of the procedure, because the existing system is the best way to ensure technical input data and expertise?

In our view, the answers to these questions are negative, and the existing additional intervention by the public management through additional administrative procedures is not necessary. The Law on Planning and Construction has clearly defined the way in which technical input data shall be obtained, and in which the quality of projects and the construction works shall be verified. Sector laws unnecessarily create parallel competences, controls and procedures which request direct communication between the public enterprises and the parties, and do so without adding value to the degree in which the starting principles have been realized. For instance, the Law on Planning and Construction stipulates the concept of the location permit which establishes the technical requirements for designing and construction. It is clear that the public enterprises are competent for providing data upon which such location permit shall be issued. However, this should not mean that the public enterprises are providing these input data directly to the party involved, through one or multiple administrative procedures. In this way, instead of performing the technical function of providing certain parameters related to managing the resources, those who operate these resources are transformed to a government body.

#### **Example of Prerequisite for Construction Permit**

Investment: Production facility in central Serbia

Investor: Domestic investor

Within the procedure for obtaining the construction permit the investor must, as a preliminary item, obtain the firefighting conditions and approval. In practice, the firefighting approval is a discretionary right of the competent public body to approve or not to approve a project developed by a licensed engineer, pursuant to previously stipulated firefighting conditions.

In an attempt to obtain the approval, the Investor received from the competent body eleven times remarks according to which he was to adapt the project, without the possibility to continue with the realization of the investment.

It is absolutely clear that such discretionary right which may stop the investment is very non-transparent from the perspective of the investor and the design engineer. At the same time, it is unnecessary because the protection of people and material goods may be achieved through other instruments which do not imply such level of discretionary power (defining technical conditions and their verification through technical control).

There is a similar situation in the phase of construction permit issuance. The Law on Planning and Construction clearly stipulates the concept of technical control as a method to verify harmonization of the project documentation with the previously defined technical requirements. This is, in essence, an advanced solution which delegates the control function to

---

non-bureaucratic structures of the private sector (specially authorized design engineers who by their signature guarantee the quality of their control), and simultaneously ensures responsibility and expertise necessary to perform this task. However, sector laws fully derogate this concept by introducing the concept of individual “permits” for the use of a given public good (roads, waters, etc.), which apart from the concept of technical control verifies compliance of the project with special technical requirements, which are issued by the operator of the public good. Does this mean that the implementation of initial principles may not be realized through the concept of technical control and that a special “permit” is needed? Having in mind that technical control is performed by licensed persons who satisfy conditions envisaged by law, it is clear that the procedure for issuance of sector “permits” generally does not contribute to protection of people and property at a higher quality level, and in view of the numerous deficiencies cannot be considered as justified.

The regime of introducing the numerous sector permits presents a conceptual mistake, and it is also confirmed with the fact that sector laws don’t have a harmonized approach. Some sector laws provide the authority to certain local authorities to issue the special sector consents, while some other sector laws do not provide this.

**Example: Harmonization of Umbrella Law with Sectoral Laws**

Energy regulation is used as a positive example of harmonization of sectorial laws with the Law on Planning and Construction in terms of simplifying the process of issuing construction permits. Despite the fact that the Energy Law of 2004 omits the right and obligation of the relevant distribution system operator to approve the technical documentation, by default technical documentation was still procured. With the adoption of the new Energy Law (“Official Gazette 57/2011”), in which the approval process was as well omitted, the practice has finally followed the regulations and this administrative step was completely eliminated without any negative consequences. Clearly, elimination of the approval process in the procedure of issuing construction permits had only a positive effect, so it would obviously be useful to apply the same principle in other relevant areas under the jurisdiction of public companies.

---

Further, separate procedures conducted with public enterprises always imply the obligation of the party involved to undertake additional steps (submission of additional documentation, elaborations, proofs etc.). Such obligations are often not harmonized with the various technical steps that a developer must undertake in a logical order (obtaining information and inputs, providing finance, creating designs, constructing, etc.).

**Example: Construction Permits as an Obstacle to Access to Finance**

Complicated administrative procedures are an administrative risk for financial institutions and an obstacle to finance the construction. An optimal approach to financing must enable simple, unimpeded and competitive financing, and the realization of commercially attractive projects. The projects should be clearly regulated with no outstanding technical, legal and financial issues (e.g. properly registered rights over the real estate, regulated corporative issues, lack of ecological risk, no legal, financial or administrative burdens of any kind, verified management capacity, safe technical and technological solutions, favorable financial analysis).

However, an obstacle to the realization of financing in the Republic of Serbia is the risk perception that banks have in regard to the possibility of the project to obtain the necessary permits. Therefore, in practice, banks do not make payments of approved loan installments before the investor obtains the construction permit. However, before obtaining the construction permit the investor is exposed to high costs (e.g. land acquisition, administrative taxes and fees for development of construction land, design costs, elaboration of the feasibility study). Practically this means that the investor must independently, and with its own means, finance the complete first phase of the project, taking on further risk that the financing procedure shall not be completed. Needless to say this often is an obstacle to the realization of otherwise attractive business ideas.

Why do banks approve the payment of the first installment of the approved loan only after obtaining the construction permit? Is it not logical that a sound company, which acquired land and has verification that it is possible to build the planned construction (information on location, or even the location permit), shall subsequently obtain the construction permit and realize the project? Why do banks not dare in this phase to start paying the loan installments?

It seems clear that financial institutions are aware of the risks involved in the administrative steps that the investor must undertake between obtaining the location permit and obtaining the construction permit. The issue of obtaining conditions and approvals may to a great extent prolong the time needed for the realization of the project, and produce additional costs and a reputational risk. As much as these administrative steps are essentially of a technical nature (obtaining the construction permit on the basis of previously established documentation), relations of the investor with the complex bureaucratic structure which is verifying the project documentation causes risk that the bank does not want to undertake. As analyzed above, the consequences are a big financial burden for the investor. We think that this is also one of the reasons for the relatively low level of serious investments into the construction sector. The investor who conducts his business internationally and can choose between investment in which he does not have to finance a significant part of the investment prior to knowing at all whether or not the financing shall be realized, shall choose investments with less financial risk entailed and with a lower cost of financing. It can also be concluded that an increased administrative risk has an impact upon a more unfavorable ratio between the loan and the required down-payment.

In addition, the legal and administrative risk and uncertainty regarding the construction permit procedure also greatly affect business risk perceptions related to the country; thus it also has an impact on the cost of capital.

---

Further, the elaboration of the project design is a dynamic process subject to changes depending on the obtained technical requirements. Frequent changes of requirements and requests for supplements make it impossible to complete the master project, the elaboration of the construction plan, the planning of resources, sub-contracting etc. Thus, it is inevitable that the official start of construction will be prolonged. For these reasons we face situations in which the construction process started even before the construction permit had been obtained.

**Example: Failure to Harmonize Law and Practices**

An illustration of how rules and practice are not harmonized can be found in the procedure of issuing traffic and technical requirements by the public enterprise JP Putevi Srbije (public roads). The procedure for obtaining these conditions implies five additional administrative steps to be taken by the investor. In practice, it happens that the investor is requested to submit an excerpt from the master project for the future construction. Traffic and technical conditions are actually given as technical input information that is necessary for the elaboration of the master project. It is extremely illogical that the investor, when submitting his request for input information, must submit an excerpt of the master project which is based on information he has not yet obtained.

The next illustrative example is the fact that regulations do not expressly stipulate the obligation to elaborate special types of projects as a precondition for obtaining the construction permit (e.g. Law on Waters, Energy Law – projects for pressure equipment, Law on Mining and Geological Research etc.). In this way the investor is either getting the construction permit at a slower pace or, if he does get it, he is subsequently requested to draw up additional design and technical documentation, which may also cause changes in the concept of the planned project and thus a return to the initial phase.

**Example: Dealing with a Public Enterprise**

Investment: Production facility in Vojvodina

Investor: Domestic investor with a foreign partner

As a precondition for obtaining the usage permit, the investor has the obligation to ensure the installation of the electric power cable, in order to ensure connection to the electric power grid.

To install such cable it was necessary to obtain the approval of the public enterprise JP Voda Vojvodine (water management), because the cable transverses a land parcel with an irrigation channel. In the procedure of issuing its opinion and approval for the installation of the cable, JP Vode Vojvodine requested documentation including the usage permit for the structure for which the cable is to be installed at the location. However, this structure cannot have a usage permit because it is not connected to the electric power grid, and this is actually the reason why the cable in question is necessary. The usage permit cannot be issued if there is no connection. Essentially, by the approach the administration makes it completely impossible to realize the investments, and with no realistic reason. However, the approval in question was issued after a procedure that lasted for 2 months, with constant urging and interventions from the local self-government itself.

The crucial deficiency of the legislative framework is that the competent bodies do not implement the large number of existing rules which regulate the construction sector in a uniform manner. The umbrella law and the sector laws were modified a number of times in the last three years, which also implies changes of by-laws and changes in the administration's

---

conduct. Instead of having a clear and predictable legal framework for action, the administration is in a “continuous” process of adaptation to changes in the legal basis and the rulebooks in regard to both the Law on Planning and all sector laws.

In the context of constant change of rules it is visible that there is no harmonization and that there is also a lack of certain by-laws. Consequently the old bylaws are implemented in a way provided for in transitional and final provisions of the new regulations. In our opinion, this practice is wrong, especially because the adoption of the new bylaws does not require considerable resources, but only the proper approach.

**Example: Inconsistency in terminology and legislative drafting:** complying the requirements for issuing the license for providing technical documentation and the license for building the facility.

Articles 126-128 of the Law on Planning and Construction generally regulate the requirements that any business company, legal entity or entrepreneur need to meet in order to get the license for providing technical documentation. First, those entities have to be registered in the proper register for providing technical documentation. As for the human resources, the employees must have the licenses specified by the law, for example the license for the responsible architect. Further, it is also prescribed that the business legal entity has to be registered in the adequate register for providing technical documentation for that type of facilities. This type of business entity also must have employees with the licenses of the responsible architect that have the adequate technical experiences and results in providing the technical documentation for the specific type and purpose of the facility.

The person with the technical results is the one who was involved in the process of technical control of the technical documentation according to which the facilities of the specific type and purpose were built. Usually, the Decision of the minister in charge for the urbanism determines whether the requirements were met or not.

It should also be considered that transitional and final provisions of the Law on Planning and Construction, article 222 paragraph 2, state that bylaws which were brought based on the Law with expired validity on the date when this Law came into force, will continue to apply if they are not contrary to this law, until by laws are introduced based on the authority of this Law. The Rulebook containing methods, procedures and content of data for issuing licenses and the requirements for revocation of the licenses, also continues to apply (“Official Gazette RS” no. 114/2004, hereinafter: Rulebook).

The Rulebook determines the requirements for issuing the license for providing technical documentation and the license for construction of facilities described in the article 89 paragraph 4 of the Law on Planning and Construction, but the legal drafting causes problems in applying the Rulebook. Simultaneously, article 133 paragraph 2 of the Law on Planning and Construction determines the type and purpose of the facilities that need the construction permit issued by the ministry authorized for the tasks in construction, i.e. the authorized body of the autonomous region (and not article 89, as it is said in the Rulebook), but with considerable changes compared to the article 133 of the old Law on Planning and Construction. Having in mind that the bylaw is not harmonized with the Law on Planning and Construction, from the perspective of a potential investor, particularly a foreign investor, there is a substantial legal risk and doubt in the scope of implementation of the still valid Rulebook.

---

However, more important are the doubts coming from the implementation of the old bylaws that are not harmonized with the new regulations.

**Example: Inconsistencies in regulatory framework:** an example of fulfillment of conditions for issuance of license for preparation of technical documentation and license for construction for buildings that requires construction permits by the line ministry, i.e. autonomous province

This example follows the previous one. Provisions of the Rulebook are related with the conditions for issuance of the license for preparation of technical documentation and the license for construction for buildings from the Article 89, paragraph 4 of the Law on Planning and Construction. It refers to construction that requires construction permits by the line ministry for constructions sector, or authorized body of the autonomous province. At the same time, the LPC in Art. 133. paragraph 2, determines category and usage type of the constructions for which the line ministry for constructions sector, or authorized body of the autonomous province, issues construction permit (not the Article 89, referred to by the Rulebook).

Amendments to the new Article 133 of the LPC – compared to Article 89 of the previous LPC – among other things envisage new categories of the constructions for which the line ministry for constructions sector, or authorized body of the autonomous province, issues construction permit (e.g. constructions for production of electrical energy from renewable sources and co-generation power plants with capacities exceeding 10 MW). Is the Rulebook applicable to the process of issuing licenses of architects and construction engineers in these categories of constructions, as they were not listed in the Article 89 of the previous law? One should be aware that here we talk about types of constructions that are, as technology goes, complete novelties in Serbia, which adds to the sense of confusion.

If we accept that the Rulebook is applicable by analogy even to types of constructions that were not envisaged when it was promulgated, we face the problem of the inconsistencies in the content of two legal acts. LPC, just as the Rulebook, requires “expert results” from responsible engineers, i.e. responsible construction company, as a precondition for licensing. LPC in Art. 126. stipulates, as one of the conditions for licensing a legal entity for constructions, “expert results of employed person that has constructed, or participated in construction, or in performing expert control of the technical documentation that was used for building construction of specific category and type. Fulfillment of conditions is certified by a decision of the minister in charge of construction sector.”

The Rulebook, on the other hand, stipulates that with the request for issuance of the license for preparation of technical documentation (general, concept and full project design) for described constructions, one needs to provide evidence on expert results of responsible engineers – statements furnished with a court stamp that these persons prepared, or participated in preparation of as responsible engineers, i.e. they performed technical control of full project designs for building constructions from the Art. 89 para. 4 of the previous LPC ( Article 133 paragraph 2 of the current one) for which the license is requested (with stated categories and types of constructions, types of project designs and date of preparation, i.e. of performance of technical control).

These two requirements are not identical, and they cause confusion. The previous Rulebook does not follow provisions of the new LPC nor does it contain provisions that elaborate on the general provisions of the LPC, which makes it un-implementable. Also, it remains unclear whether the intention of lawmakers was to effectively ban Serbian legal entities from performing these tasks, considering that in Serbia we still do not have entities that fulfill the conditions (primarily in relation with expert results) for acquiring licenses as stipulated by the Rulebook, as this area is still very new, and history of technical results is required.

To conclude, we think that the way in which the construction process has been regulated through a number of mutually inconsistent sector laws is a bad approach. This approach unnecessarily over-expands the role and competences of the administration, encourages bureaucratization, and reduces transparency and responsibility of bodies involved in the procedure. In practice, the sector laws are proving to be the biggest constraint from the

---

perspective of the investor. The procedures of the relevant sector bodies that manage individual public resources and have taken competences over construction permits, are the longest and least transparent in the construction permits process. The sectoral laws have practically revoked provisions of the Law on Planning and Construction which aimed to limit the number of administrative steps and the discretion of public administrations. This makes the Law's correct approach meaningless. Such disharmony of the legal framework, accompanied with a constant wavering of the administration in regard to the implementation of new rules causes great legal uncertainty and unpredictability.

#### **Recommendations:**

- **M.4. Harmonization of the umbrella law and the sector laws pursuant to the concept of the umbrella law, and implementation of the “guillotine” of sector rules with the aim to remove unnecessary and obsolete provisions and rules, which also derogate the concept of the Law on Planning and Construction.**

In this context, particularly:

- Substitute the concept of special requirements, approvals and permits issued by sector bodies which exercise public competences with adequate concepts and mechanisms of the Law on Planning and Construction. Scrutinize the existing competences of public enterprises and central organs, in order to limit them only to situations in which it is really necessary to manage resources of regional importance.
- Decentralize decision-making in the construction permit administrative procedure in favor of local self-governments; decentralization should be based upon appropriate planning and urban planning documentation which would be drawn up in a process which shall harmonize interests with competent sector bodies and state-level public enterprises. Then it would not be necessary to again request approval of these bodies in subsequent administrative proceedings with individual parties.
- Clearly define which projects are necessary for obtaining the location permit, and which ones are necessary for the execution of works.

### **2.3 Inadequate organization of public administration's competences**

Competences in the construction permit procedure are inadequately designed. The lack of efficiency in the existing system is a complex and multi-layered problem. One reason for this is the interests of certain groups to maintain control and generate income, which is directly reducing administrative efficiency. In order to increase administrative efficiency it is necessary to introduce crucial organizational changes. These changes must be aimed at de-bureaucratization and de-politization of the administration.

---

The procedure for providing individual technical requirements and approvals for construction was delegated to different public enterprises, institutes, etc., which are organized at different levels of government and whose work is most often regulated by sector laws.

It is undisputable that public agencies and enterprises must ensure the protection of interests of the state and citizens in the functioning of vital sectors. Also, separate bodies which are established within the public administration may enhance the work of the administration through additional expertise. However, the principle of administrative efficiency imposes the need to raise very practical questions when deciding on competences. Again, these are general questions. Is such a complicated and inefficient system of competences really necessary for the protection of people and property and for the promotion of sustainable development? Are control measures which are implemented through the competences of public enterprises, in separate procedures, really the most efficient and most inexpensive way to verify harmonization of the construction design with rules and the on-site situation? Or is such system simply a product of political bureaucratization of public administration?

In our view, the system of sector laws described in the previous chapter has completely unnecessarily given public enterprises authority in the construction permit procedure. Provisions of separate laws which stipulate that the manager of the public resource is taking administrative competences in the construction permit procedure are not adequate and in practice they represent one of the biggest problems in the entire permitting process. Having in mind that each of the requirements, approvals or permits issued by these public bodies represents a precondition for obtaining the construction permit or the usage permit, such system has produced bottlenecks and has enabled public enterprises to have discretionary control over the overall administrative process. The consequence of the existing organization of competences is an unnecessarily complicated system, and the existence of unnecessary and duplicated administrative steps. This causes an unnecessary linking of businesses with numerous administrative bodies, each of which has its own political background and in practice does not see efficiency of the procedure as its priority. Having in mind the always present political background of each of the competent public enterprises that acquired competences in the business permit procedure, it can be said that such a system encourages politically motivated bureaucratization of public bodies.

The following facts support our criticism of the existing concept of public enterprises competences in the construction permit procedure:

- Within the permitting procedure the public enterprises and agencies have the opportunity to increase their competences and maximize their income. They realize this opportunity by acquiring increased competences and by establishing direct

---

communication with the developer when it is using the institutions services. This is counter to the interest of legal persons to have a uniform and simple administrative system to communicate with during the permitting procedure.

- Institutions that exercise public competences often have a lack of capacities and have organizational and technical problems. Thus they cannot perform their administrative duties in a timely manner and at a quality level, which distorts the rights of parties in the proceeding, and leads to delays and problems regarding quality. Institutions with competences at the central level are the most problematic. Problems include bad systems of work and distribution of internal competences, lack of means for work, software and hardware, and people. This indicates that competences are often assigned to bodies which have neither the systemic position nor the capacity, and accordingly become a bottleneck of the procedure (e.g. ruling in the second instance upon appeal related to decisions of the Republic Geodetic Institute lasts around 2 years, the procedure in JP Putevi (public roads) lasts around 2 months). A drastic example of inadequate delegation of administrative competences in the procedure for issuance of certain approvals is the procedures whereby certain public competences are performed by private firms which have no interest and no obligation to conduct an efficient procedure, and are not obliged by the Law on General Administrative Procedure.

**Example: Water Permits**

One of the steps in obtaining construction permits is to obtain water-related documents as follows: opinions, water requirements, water approval and water permit. It takes at least 2 months to issue an opinion on water related requirements in the territory of Vojvodina, and there is a fee in the amount of 10,000 to 40,000 RSD. The opinion within the procedure is just a preliminary issue in the process of establishing who is actually competent to issue the water related requirements. For the opinion to be issued, it is necessary to give three sets of information: protection of waters, protection from waters and opinion on the site. Opinion on the location is issued by regional enterprises which are undergoing ownership conversion (former socially owned enterprises, of which some were privatized). These enterprises are not part of the public administration, but in this way they have become an inevitable link in the administrative procedure. Their failure to act may completely block the investment because the procedure cannot be continued. For instance, certain regional enterprises are privatized and were on strike during 2011, with great implications for the issuance procedure.

- Institutions with certain competences in the construction permit procedure most often do not have “internal” flowcharts for procedures which define the flow of documents and the obligations of persons within the permitting process. Thus it is impossible to follow who is doing what, and at which quality level, and to evaluate the work; cases are getting lost, and the possibility for external intervention is being opened.
- Administrative bodies and public enterprises do not observe deadlines for submission of their acts which are stipulated by law. For instance, the deadline for

---

issuing certain requirements pursuant to the Law on Planning and Construction is 30 days; JP Vode Vojvodine (water management) often give their requirements after 90 days, and JP Putevi Srbije after 60 days. In practice, it does happen that bodies issue construction permits even if the conditions are missing (if they do not come in within a legally defined deadline). In such situations, it happens that the missing conditions are subsequently issued also after the stipulated deadlines had expired; the conditions may be negative, and the construction permit had already been issued. In this way the legality of the act issued by a competent body is brought into question, which may have negative consequences for the investor.

- There are no instruments to control the work of competent bodies, or a possibility to sanction them. i.e. stimulate these institutions to properly function. Also, in the context of control, there are no instruments which can ensure “forceful” execution of the obligation of the competent body in case of delay.

There is no coordinated monitoring of the work of institutions with competences in the construction permit procedure. Such monitoring should establish whether there are delays, reasons for the delays, and corrective measures. A special problem is poor coordination of public enterprises when special technical requirements are established within their shared competences. Bad information links and lack of coordination have a negative impact upon the efficiency of the procedure.

An example of low quality communication is the duplication of fees which are charged to the party in the procedure. For instance, in order to have a public enterprise elaborate and issue the requirements (e.g. electric power company) it is necessary to previously obtain requirements of other public enterprises, for which the public enterprise in question (electric power company) pays fees to other public enterprises. Costs for the issuance of these requirements are transferred to the applicant. At the same time, other public enterprises which have the obligation to issue special requirements within the procedure must obtain, as a preliminary step, requirements of other public enterprises (for instance, requirements of the very same electric company JP Elektrodistribucija) and pay the fees. Consequentially, this crossing and duplicating of payments is transferred to the end user. Further, mutual issuance of requirements of the public enterprises, which is the precondition for the issuance of requirements to the end user, is conditioned by prior payment of the invoice of one public enterprise to the other. The payment technique usually implies previous issuance of the preliminary invoice, then invoicing, after which work starts. Time spent for the implementation of the payment technique of one state body to another state body exceeds the time which the same state body uses for the technical part of its work during the requirement issuance procedure.

---

### Recommendations:

- **M.5. De-politization of public services and administrative bodies.**
- **M.6. Decentralization of decision-making in the administrative procedure related to construction permits in favor of local self-governments, in a manner which is defined in detail in the next chapter (one-stop-shop).**
- **M.7. Stipulate, monitor and control the duration of each step which must be undertaken within the permitting procedure.**

In this way the responsibility of the holder of public authority for the process is clearly defined, as well as the deadline which the competent body must observe. However, this measure implies monitoring and control by an independent institution, as well as the existence of stimulations i.e. sanctions regarding work results.

- **M.8. Introduction of stimulation mechanisms and sanctions for the quality of work and duration of procedure conducted by the competent institutions.**

The fact that an act merely defines the duration of the procedure does not guarantee that the procedure shall actually be completed within a given deadline. Therefore, it is necessary to introduce appropriate instruments of “coercion” namely stimulation. These instruments may be:

- a) Non-financial. One of the possibilities is the obligation to publicly announce delays and work results, and the obligation of the representative of the competent institution to report to the superior body or the public and explain the delay.

#### **Example: One Stop Shop**

In England and Wales, the IPC (Infrastructure Planning Commission) is an institution holding all incorporated competences (one stop shop) in the permitting procedure for the realization and construction of energy infrastructure projects. President of IPC has the obligation to report to the Parliament in case of delay.

- b) Financial. The institution performing public competences may have the obligation to refund the received fee if it is late in implementing the procedure.

#### **Example: Deadlines**

In Hungary, the law stipulates mandatory deadlines within which the administrative bodies must perform. If these deadlines are exceeded, the competent body must refund the fee. If the time limit for the issuance of an act is doubly exceeded, the competent organ must refund a double amount it had received as a fee.

- **M.9. Making it possible for another body to adopt an act or decision in the procedure in case that the competent institution is late („authority of last resort“).**

---

In case that the competent body does not conduct the procedure in accordance with the stipulated deadlines, another body may take over its competences. This may be, for instance, a competent body of the local self-government, or a superior instance. What is essential is whether such institution has or does not have adequate internal expertise, i.e. the possibility to access external expertise, in order to be able to have rapid and quality reaction in the case.

**Example: Administrative Options**

In Austria, if there is delay which can be attributed to the administrative body in charge of making the decision in the procedure, the party has the possibility to address a separate instance (*Devolutionsantrag*).

- **M.10. Enhancing coordination and information links in the administrative system between public bodies competent for issuing special technical requirements.**
- **M.11. Updating the system by which competent institutions manage the documentation (documents management system) and introduction of on-line systems to monitor the case within the procedure.**

#### **2.4 Unnecessary multiplication of administrative steps.**

The previous points demonstrated how inconsistent sector laws introduced new and unnecessary competences for public bodies and administrative steps in the construction permit procedure. The previous point described the doubling of procedures for issuance of special requirements, approvals and permits which are stipulated by sector laws, and this part of the analysis will not be repeated. However, duplication of procedures and administrative steps is emerging also on other grounds, which are presented below.

The entire system of rules which regulate construction is interpreted by the public administration in a manner which enables a big as possible and more important role for every of the individual bodies, and not their maximal efficiency. We again mention the example of obtaining technical requirements from the public enterprises. Special requirements of public enterprises, institutes and other relevant agencies must be obtained by the local self-government within the procedure related to the elaboration of the spatial planning documentation (e.g. traffic and technical requirements for connecting to the road, which are an integral part of the detailed regulation plan). However, businesses which engage in construction pursuant to the adopted planning documentation are further on obliged to obtain certain technical requirements when collecting conditions for the elaboration of the planning documentation from the very same bodies which had defined their requirements in the earlier phase in which the location had been developed. Why? Is it not more appropriate that the local self-government (through a department competent for urbanism or directorate for construction, with personnel trained for these sectors) should elaborate the once established requirements, which would make the communication of the investor with numerous bodies

---

obsolete? A more precise processing of urban planning requirements, which could be elaborated in more detail for the level of the entire zone, could enable that the separate technical requirements are asked only for those investors who by virtue of their technology of specific capacities deviate from basic types envisaged to be used in construction. This would reduce at least by a half the number of requests related to technical requirements.

Sector rules introduce completely illogical situations into the construction permit procedure, in which the administrative act issued by a state body in this procedure must be verified by another state body. For instance, the Law on Waters (“Official Gazette of RS”, No. 30/2010) stipulates the duties and competences regarding issuance of water related acts as one of the preconditions for issuing the location permit, construction permit and usage permit. Water related acts which the investor must obtain in the procedure are the opinion, water conditions, water approval and water permit. If we take the example of AP Vojvodina’s administration, these acts are issued by the local self-government, public enterprise JP Vode Vojvodine (water management) and the relevant provincial Secretariat.

#### **Example: Unclear and Unnecessary Requirements**

Investment in Vojvodina

Investor: Foreign investor

The investor has expanded the production complex (a new industrial hall was built in addition to the existing one), on a parcel of 7 ha. In the process, he obtained the opinion of the local self-government according to which the existing planning regulations enable such expansion and the construction permit may be obtained without additional planning elaboration (which is fully justified, having in mind the size of the parcel and that there are all necessary conditions). However, apart from the approval of the local self-government, the law sets forth the competence of provincial bodies to issue their approval regarding production plants in certain sectors. In such procedure, the relevant provincial body took the standpoint that in order to obtain the construction permit it is necessary to elaborate a new detailed regulation plan. In practice, this resulted in expenses, huge loss of time and unnecessary interference of political subjects because such plan is adopted by the local self-government’s assembly.

Not only did such intervention by the provincial level of government not result in some practical additional value, but the investor is also facing irrational administrative requests and has considered moving the planned investment to another country.

## **2.5 There is no unique communication channel with the party, nor clear institutional responsibility**

Despite the good intention of the Law on Planning and Construction to centralize the construction permit procedure and procedures for controlling whether the technical preconditions for construction were met, inconsistent provisions of sector laws resulted in a division of competences in the construction permit process at a local, provincial and state level. As discussed above, this division of competences was not based on criteria related to efficiency and better management of resources, but simply reflected the ambition of every part of the administrative apparatus to exercise authority, regardless of justification in view of efficiency and protection of resources.

---

Such organization implies a high level of interaction of the private sector (parties, experts, businesses in the construction sector) with fragmented administrative organizational structures, established at different levels. One of the consequences is that there is no simple system in which the investor is communicating with one administrative body which holds full responsibility for the overall construction permit procedure, or at least the major part thereof. On the contrary, the party must obtain the necessary administrative approvals from a big number of institutions, each of which makes a decision which may stop the construction, namely by failing to act may lead to a stand. The result of such organization is a low quality level of rendered services, inappropriately high costs and inefficiency. Also, there are often present inadequate personal standpoints, values and habits of personnel performing functions in the fragmented organization. Such situation represents a huge burden for investors, and opens possibilities for suspicion of corruption.

Organizational limitations of certain bodies with public competences should not be visible to those who use their services. In our view, in 90% of cases all competences related to the issuance of special requirements, approvals and permits, which are preliminary issues for obtaining the location permit, construction permit and usage permit, may be reduced to the level of local self-government. Such “decentralization” of competences would, in our view, result in a much bigger focus of service providers to the users of services. On the one hand, local self-government would be more motivated and better positioned to have an elastic, open and adaptable approach to the party. On the other hand, this would completely remove fragmented instances of public administration from authority, and would clearly define responsibilities where one administrative body is competent and responsible for completing administrative requests addressed to the user. Such concept in no way excludes the essential role of the operator of public resources, who ensure technical input data and expertise. However, this role would be performed at the level of drawing up the planning documentation, and not through individual administrative procedures. In this context, competences would have to be defined in such a manner as to reduce to a necessary minimum the need for assistance, surveillance or consent of other bodies holding public authority (constructions of special interest, resources of special interest, protected areas etc.).

Such thesis is easily confirmed by practical examples. At this moment, some of the sector laws set forth duplicate competences for the issuance of certain conditions and approvals, which is divided between operators of public resources and local self-government bodies. For instance, the Law on Public Roads sets forth that traffic and technical requirements in the procedure are issued by the local self-government body in charge of municipal roads and streets. On the other hand, traffic and technical requirements in the construction permit procedure are issued by the public enterprise JP Putevi Srbije (public roads) for state roads of the first and second category. In the situation where local self-government is in charge of issuing the given requirements, the procedure in municipalities with good administrative capacities lasts 7 days. The investor is not

---

requested to obtain additional documentation in order to be issued the requirements. In local self-governments which participated in this segment of research, no special fees are charged for the use of the public road. However, the efficiency and costs of the procedure get drastically worse when the investor obtains traffic and technical requirements for connecting to the I and II category state roads, for which the public enterprise JP Putevi Srbije is competent. In such situation the procedure lasts 2 months as a minimum.

#### **Example: JP Putevi Srbije as a Barrier to Construction**

Investment: A mixed residential and business structure, Novi Sad

Investor: Domestic investor

The investor intended to build a residential and business structure, and has bought a location which meets all preconditions for construction. However, the project overstretched the boundaries of commercial profitability because the public enterprises at the state level were slow in issuing relevant technical requirements necessary for obtaining the construction permit, although there is no objective reason for such duration of the procedure.

In this investment a special problem was to obtain the traffic and technical requirements from the public enterprise JP Putevi Srbije. Namely, the traffic and technical requirements in the construction permit issuance procedure are given by the local self-government body in charge of municipal roads and streets. However, in case of first and second category of state roads, the traffic and technical conditions in the construction permit issuance procedure are set forth by the public enterprise JP Putevi Srbije.

Although the investment was planned in a city street in Novi Sad, this street is categorized as a state road, and therefore JP Putevi Srbije is in charge of issuing traffic and technical requirements. Contrary to streets in immediate vicinity, for which the procedure for obtaining traffic conditions is a very short one, in case of this street the procedure in which traffic and technical requirements are issued is an insurmountable administrative barrier.

In practice, certain local self-governments do take responsibility (as a type of one-stop-shop), and they undertake to contact administrative bodies in order to obtain the requirements. Such activity of the local self-government is very much accelerating the procedures, because the local self-government takes itself the burden of communication with central bodies (although the intervention by the local self-government is no guarantee that the public enterprise which had not been founded by the local self-government shall fulfill its tasks orderly and within the deadlines). However, such practice is implemented without legal basis, *ad hoc*, and only for some investors of special interest for local self-governments. Unfortunately, this does not ensure an equal position of all legal persons, and investors who have less influence and must themselves communicate with the relevant public enterprises, are in a far more unfavorable position. However, despite these deficiencies, better results accomplished by these local self-governments speak in favor of the thesis that administrative relations with the party in the procedure, and responsibility towards this party, must be channeled toward one relevant administrative body.

#### **Recommendations:**

- **M.12. Increasing organizational efficiency of the system in such a manner that authority for establishing and verification of certain technical conditions, approvals and permits is**

---

**transferred within the competences of the local self-government.** This transfer may be complete, or be made only in case that the competent institution is late (“authority of last resort”). Such measure must be closely linked and coordinated with the Measure which is enhancing the approach of competent bodies to external expertise and with Measure 8 – introduction of financial and non-financial stimulations and sanctions.

- **M.13. Positioning of local self-government bodies in regard to parties as a “one-stop-shop,” organized pursuant to non-bureaucratic principles related to the process.** The municipal “one-stop-shop” should be responsible and competent for the implementation of the complete process and should provide the user with means to overcome any organizational limitations of various bodies in charge of certain tasks in the procedure. This would enable the most efficient completion of numerous processes in the construction permit procedure and eliminate borders between certain sub-functions. This concept would significantly simplify the permitting procedure, and would enhance the technical aspects of the process, as well as relations with the investor.

A One-Stop-Shop (OSS) could solve the three key problems identified above:

- The fact that the construction permitting procedure consists of a large number of procedures and procedural steps. An OSS would enable fusion of these numerous procedures.
- The fact that certain processes cannot unfold in parallel. An integration of processes through the OSS would make this possible. At this moment, processes are fragmented, and one administrative procedure cannot start before a previous is fully completed. Merging these procedures under single public body would eliminate bottlenecks stemming from a lack of coordination of institutions that currently perform these tasks (savings would be possible from better synchronization and from elimination of cross payments between public bodies etc.).
- The fact that responsibilities of the competent bodies are divided, unclear and not implementable. OSS implies one responsible competent body.

## Comparing Municipalities

An increase in the system's organizational efficiency in a manner that will assign authorities in the construction permit procedure within the competences of local self-government units, is a thesis which can be confirmed also by attentively analyzing the study "Doing Business in South East Europe 2011" (DB 2011), which was made under the auspices of the World Bank. The study analyzed the conditions for conducting business in 22 towns in south-east Europe, based upon four categories among which are also the obtaining of construction permits, i.e. registration of ownership rights.

DB 2011 included five towns in Serbia. Although the study does not rank the general order for towns which were researched, but gives only the ranking for individual categories which were researched, a simple calculation shows that towns in the Republic of Serbia have the following ranks on a list of 22 towns: Zrenjanin, which is ranked as 8<sup>th</sup>; Vranje, ranked as 11<sup>th</sup>; Užice, ranked as 12<sup>th</sup>; Kruševac, ranked as 15<sup>th</sup>; Belgrade, ranked as 16<sup>th</sup>.

The study presents data illustrating that the average time needed for the issuance of the construction permit in the region is 223 days (from 96 in Bitola to 554 in Mostar). In Serbia, according to this study, the construction permit is quickest to get in Vranje (168 days), and the procedure is longest in Belgrade (349 days). In between are Zrenjanin (also better ranking than the average in the region, which is 186 days), Užice (261) and Kruševac (191). In terms of its content, the Study is a comparative survey of procedures which the investor must complete within his construction process. In this context, it is very worthwhile to comprehend the manner in which certain legal systems have balanced the need for procedural efficiency in the interest of the investors on the one hand, and the need to protect people and property on the other. Comparing the number of procedures leads to the conclusion that some of the controlling functions of the administration which are present in the Republic of Serbia, are organized in a different way in other countries in the region. As was elaborated in Chapter 2.3. of this Report "Inadequate organization of the public administration", we come to the conclusion that some of the examined legal systems have promoted better quality and a more efficient system for ensuring input data on conditions for construction and on the control of quality of the project documentation and of the construction. These simplifications, according to DB, were made by delegating certain functions to the private sector, namely through eliminating unnecessary administrative procedures and transferring communication related to obtaining input data from the Investor to the administration. For instance, in Bulgaria, determining whether a construction is suitable for use, which is in Serbia performed by the commission for technical control, is delegated to the private sector, similar to outsourcing performance of technical control in accordance with the Art. 129 of the LPC in Serbia.

There appear to be some methodological limitations in DB. Although it is clear that we deal here with "average values" for a given investment, it appears that all parameters, possible scenarios, and subjective and objective characteristics of the investment were not taken into account. This is important because the different investment scenarios with different entry parameters produce huge differences in the duration of procedures, and enable comprehension of the bottlenecks in the procedure. In order to support this thesis, we shall theoretically compare two identical investments which occur in the same town but have different entry parameters. If, for instance, a structure is going to be built in Novi Sad in Temerinska Street, which is within the jurisdiction of the public enterprise JP Putevi Srbije in terms of issuing traffic and technical requirements, such procedure shall take at least two months more when compared with a construction built in the neighboring street for which the traffic and technical requirements are determined by the local self-government body. If, on the other hand, it is necessary for the realization of the first investment to connect to the infrastructure which implies excavation works and the placement of, for instance, an electric cable beneath the road in order to connect to the grid on the other side of the street, this means that a special construction permit must be obtained to install such a cable and such permit includes obtaining approval of the manager of the public road. The complete procedure may take 6 months. Let us conclude: the time needed to obtain permits for the two investments located in the same town and neighboring each other, and which are in immediate vicinity of the necessary infrastructure, may differ for as much as 180 days. These differences are even more evident when we compare two investments in the same town and one is realized in, for instance, a completely developed work zone, and the other in a work zone which has no necessary planning documentation or infrastructure.

---

Starting from the World Bank's conclusions, which clearly show the different degree of success of local self-government units in terms of duration of procedures, investors feel that the key factors for municipalities in developing favorable environments for construction are:

- Regulated ownership and legal rights over lots which may be of interest to investors, and a precise record of rights over real estate
- Adopted planning documents
- Available infrastructure at the location
- Competences for issuing certain requirements, approvals and permits, where these are divided, belong to local self-governments, namely local public enterprises.
- A clear commitment of local self-government to service the investor, which is realized through obtaining technical conditions from different institutions by the local self-government itself (similar to one-stop-shop).

The local self-governments that were best ranked by the investors offer these factors. This does not mean that these conditions are met in the entire territory of such local self-governments, or even that the local self-government is responsible for the positive environment, but they do prove that the solution of the above mentioned problems in an even territorially limited space (for instance, an industrial zone), can dramatically improve the local investment environment.

The thesis of this analysis is that local self-governments, even in the existing situation in which they have no competences over most of these factors of success, may by their focused and correct conduct substantially enhance the local business environment regarding construction. For this reason we think that delegating competences to local self-governments would be a completely adequate process that would additionally reduce the number of procedures and time spent.

## **2.6. Impact of problems in the spatial and urban planning sector upon the construction permit procedure**

In order to start solving accumulated problems in the spatial and urban sector at the state level, after changes introduced in October 2000 a series of activities of a legislative nature was initiated (year 2003 and 2004) with the aim to enhance the planning and construction sector and to introduce new international standards (primarily European), which should accelerate the procedures for obtaining necessary documents for construction for interested investors.

Although the legal planning and construction frameworks were enhanced in certain aspects, hyper-determination of procedures which have to be implemented remained also in the newest version of the Law on Planning and Construction and the by-laws. Particularly indicative is the

---

fact that the state administration, as well as the administration of local self-governments, had to adapt on a continuous basis to the mentioned legal changes; this has additionally slowed down the mentioned planning process and, as a consequence, the realization of investments in Serbia.

### **2.6.1. Monopoly over competences related to the elaboration of the planning documentation by relevant public enterprises and unfair competition**

Due to the fact that in the territory of Serbia there is a limited number of planning and urban planning institutions, and over 180 municipalities, it is clear that the elaboration of spatial and urban plans is focused upon a small number of legal persons who engage in this field. Pursuant to the Law on Planning and Construction (Article 36) the Planning Documents are drawn up by a public enterprise, i.e. an organization established by the local self-government unit to carry out the work of spatial and urban planning. Planning Documents can also be prepared by businesses or other legal persons registered in an appropriate registry for work in the field of spatial and urban planning, and the production of planning documents.

On the other hand, the Law did not envisage licensing of the public enterprises for planning activities; it envisaged licensing of experts-professionals, and thus focus was made upon personnel instead of institutions. In practice this means that a given enterprise, if it has the opportunity to get a job in the field of spatial and urban planning, may simply engage a few individuals and form an expert team. Enterprises that offer lower prices during the bidding process can obtain the work while businesses with credible references are refused. Public enterprises may offer lower prices because they can often operate at a lower level of profitability than private firms. The price at which plans are elaborated, unfair competition, as well as the “monopoly” of certain urban planning institutions which have “regionalized” the space of Serbia into their sectors, make it impossible to have fair market competition that would enable a better quality of planning documentation.

#### **Example: The Planning Industry**

Art. 7. of the public procurement Law stipulates that local self-government (or another public body), if it has established a public enterprise registered to perform activities that are subject matter of the public procurement process, can award the contract to the public enterprise without due public procurement process. This provision has led to dividing up business of development of planning documents between big regional planning companies.

To put it more precisely, the monopolization of the planning documentation market depended on the types of jobs, where plans belonging to the highest ranks (spatial plan for the Republic, provinces, regional plans and plans for regions with a special purpose) are, as a rule, elaborated by the four biggest urban planning institutions in Serbia. Spatial plans of local self-government units and general regulation plans are elaborated by big regional urban planning institutions.

---

Due to the fact that there are a number of plans for a detailed regulation and urban planning projects which have to be drawn up, a number of small architectural and design bureaus emerged in the market covering urban-design consulting. They began to draw up DRPs and urban-planning projects, because in most cases they had made agreements with investors on an incorporated urban-planning and design consulting. Often the urban-planning consulting was underestimated in terms of price for the purpose of making a better contract for the investor's construction. This resulted in a drastic fall in quality of urban planning projects elaborated by insufficiently trained "design engineers" with little experience in the field of urbanism; therefore, it was inevitable that they were kept longer in the desks of the municipal plans committee (the urban planning project was returned for additional elaboration a number of times), and the end result was that it took a longer time to obtain the construction permit.

**Recommendations:**

- **M.14. The minimum of businesses' professional references must be defined by law, and their licensing for jobs in the field of spatial and urban planning according to the category of planned documentation which is to be drawn up must be introduced.**

Result: a regulated market for the production of planning documentation and the stabilization of prices at the optimum market level, and not the minimum market level as is now the case.

**2.6.2. Insufficient participation of interested parties and the visibility of the process related to the elaboration of the planning and urban documentation**

Participative planning implies the participation of broad groups of interested parties (citizens and investors) in the analysis of problems and in defining potential solutions, which would be in the interest of the broadest group of those who use the space. As a relic from the past, the planning system in Serbia reflects the firm position of planners that it is the professionals that have to define the needs and strategic directions for the development in the field, with a certain correction by the political elite. The only way for citizens and interested investors to influence the process related to the elaboration of spatial and urban plans is the concept of public insight, which pursuant to the provisions of the Law shall last 30 days.

During the public insight period the interested parties may give in writing their remarks to the planned solutions, to which the plan designer gives answers at an open session of the plans committee. However, due to low visibility of the exposed plans, the poor communication of the plan designer and the local self-government (which announces public insight) with citizens on the significance of the mentioned documents and their impact upon their lives, as well as the lack of communication with the investors' community, plans were often not adequately presented in public. Thus, developers and citizens most often face the mentioned documents only when they want to realize some of their intentions.

### **Example: Developing a Spatial Plan**

Investment: Spatial plan of the municipality

Investor: Local self-government

During the elaboration of PPO a local self-government had the plan designer ask in writing the competent institutions and local communities to submit the conditions and opinions regarding the elaboration of the plan. Local communities were notified and they were expected to make a certain analysis of the local community in terms of concrete needs. Unfortunately, only a small number of people were involved in the mentioned communication. A plan drawn up in such a way (with an expert processing and the opinion of the local self-government) was put open for public insight. Citizens in local communities who joined the meeting gave many comments to the proposed solutions, and said that nobody from the local community had contacted them or informed them of the possibility to get insight into it. Also, proposals that they gave to the plan designer at that point (final phase) of elaboration of the planning document were destroying the basic concept of the plan and it was not possible to implement the proposals without major radical changes to the plan, for which there were neither the means nor the time. Thus, the adopted plan was not appropriate for the local community. So the question is: for whom was the plan made – for the community which is to implement it, or for the political elite, the responsible urban planners, and their vision of the development of the given space?

### **Recommendations:**

- **M.15. Enable the participation of interested parties in the final stages of each phase of elaboration of the planning document, instead of doing so only in one phase (public insight) as is now envisaged by the Law on Planning and Construction.** It is necessary to change the law and stipulate public presentations and communication with citizens in all phases of the planning documentation (concept, draft and plan proposal).

The result: higher level of incorporation of requests of the interested parties, which is harmonized with the public interests, and an organic adoption of the planned solutions by the local community as being in common interest and not in the interest of local self-government or of some investors.

### **2.6.3. Imprecision of plans regarding definition of urban an technical conditions**

Previous chapters elaborated on the lack of standardization, duplication of competences and hyper-administrating in the context of the construction permits procedure. The elaboration of both spatial and urban plans also implies the collection of conditions and guidelines from relevant local, regional and state institutions, public enterprises, directorates and other instances with direct competences regarding management of certain State resources (waters, forests, defense, energy, etc.). Because there is no uniformity in terms of structure and scope in answers received from the different competent institutions, we have a situation in which technical information entered into the urban plan is not sufficient. Therefore plans contain “holes” regarding requirements for obtaining the location permit for different structures and for their connection to the infrastructure of the settlement.

### **Recommendations:**

- 
- **M.16. Defining the standardized level of presentation of urban-technical requirements (as a form – table) which every plan designer would have to observe for each planned purpose in the given area, and for every type of planned construction for which the planning document will serve as a basis upon which the location permit shall be issued.**

Result: standardized presentation of all necessary elements for the location permit which enables easy expert control, which is methodologically harmonized, suitable for different purposes of the construction, and instructive in terms of official correspondence with relevant bodies (definition of all necessary elements which the competent body has to submit in order to fill out the table in the part related to their sector).

- **M.17. Harmonizing the Law on Planning and Construction and sector laws which regulate the energy, water, forest, defense, telecommunications sectors etc., particularly in regard to deadlines, precision and other elements necessary for the issuance of the location permits pursuant to the urban plan.**

Result: standardized interpretation of deadlines and the precision of presentation related to the issuance of urban and technical requirements by the competent institutions.

#### **Example: Bylaws**

Bylaws determine content and procedure for development of planning documents, but not the content of urbanistic and technical conditions (beyond just listing required conditions). In accordance with the fact that those are sectoral conditions of public institutions, they adhere to regulations from their sectoral laws and regulations, and not to the LPC and its bylaws. Because of that, regulating mandatory content and quality of urbanistic-technical conditions would considerably influence quality of planning documents that will contain all conditions treated in the same manner.

- **M.18. Formalizing (establishing by law) a more intense level of communication of the plan designer with local self-government's competent bodies and businesses in the field of communal activities, urbanism and construction.** The aim of the measure is to ensure that more direct and more intensive communication results in a better quality of planned solutions (as opposed to simple “correspondence” and presentation of the list of requests by one or the other side).

Result: higher quality level of planned and urban solutions and the degree to which they are built into the development plans of competent local enterprises and institutions.

#### **Communications**

Because of the political culture (spoils system with regards to public enterprises) and different authorities on the level of local self-government, it is common to have a lack of standardized communication (or no communication) between key actors of the local development process. This leads to preparation of planning documents that do not treat equally interests of different sectors of local community, which can lead to partial or full obstruction in implementation of planned developments.

---

#### 2.6.4. Necessity of detailed urban-related elaboration of spatial plans (hyper-production of plans)

The construction liberalization procedure which started with the 2003 Law (as compared to the 1985 Law) has been stopped. The sector laws, as well as the 2009 Law on Planning and Construction envisage stricter steps in the realization of construction projects when compared with the legal provisions from 2003. On the one hand, conversion of ownership and legal rights was linked with construction itself (as discussed above). On the other hand, in practice there were deviations in the system of spatial planning regulations. The detailed urban plans (GP, GRP and DRP) differ in terms of details they contain, and the legislator wanted to treat the general regulation plan (GRP) as a plan on the basis of which the location permit shall be issued. However, in practice it was demonstrated that the intention of the "plan designer" (usually public enterprises) was to have a plan by which as many as possible detailed regulation plans should be needed so that the plan designer would have more work to do. In this way, one municipality with 30,000 inhabitants was to finance the elaboration of PPO, GRP, and at least 5-6 DRP for a five-year period for the central settlement in which is the seat of the local self-government in order to have a clarified situation as requested by the Law; this would be the basis for a simple method to issue permits (and consequentially a big number of detailed urban projects). This is a big inflation of planning documents and a specific way to block the possibility of construction.

#### Recommendations:

- **M.19. Elaboration of spatial and urban plans by urban planners cannot be limited in a normative way (through the law).** Every space is a specific one and, theoretically speaking, may request a very high level of elaboration, which one type of plan cannot enable in detail (a big number of details, which cannot be covered by one document – example: one GRP may imply the need for further elaboration and also 4-5 DRPs). The instrument which can be used to partly reduce future increased elaborations of the plan is to have agreements and contracts regarding the elaboration of GRP (taken as an example), which would contain all elements of the detailed regulation plan in zones where it is planned to have them (where this is possible). This would lead to a higher price of the document, but would in the future reduce the need to again make the plan (the time factor is very crucial for the investors). The key moment in what has been mentioned is the price for the plan agreed between the investor and the plan designer – which is the demand–supply relation (price = product). Due to this, a de-monopolization of the market for the elaboration of the planning documentation is of big importance both for the very quality of the planning documentation which is to be made, and for the scope of elaboration. At the moment, based on the decisions of local self-governments to assign exclusive right of elaboration of the planning documentation to one public enterprise whose founder they are (which is possible pursuant to the Public Procurement Law), municipalities are directed to only one urban-planning enterprise. In order to avoid the public procurement process (which is long-lasting and is a burden for the administration particularly in case of small municipalities), these enterprises

---

are very often in the position to impose conditions (prices and quality). On the other hand, local self-governments most often urgently need the wanted document and so they agree to plans which are less detailed from the urban planning point of view, have a lower price and need less time for elaboration; later on this multiplies the number of problems which emerge during the realization of certain investors' projects.

### **2.6.5. Implementation of urban plans through the real estate cadastre**

Due to the fact that urban plans establish corridors of public land intended for infrastructure (roads, electric power, water supply, etc.) officially no construction may be started before lots of public land (streets) are defined, to which certain cadastral parcels would connect and would thus meet the criteria to become construction parcels. The implementation of urban plans through the real estate cadastre should be a automatic, but due to the high prices for this implementation, which are defined by the uniform price list of the Republic Geodetic Agency for entire Serbia, this is often one of the last issues local self-governments plan to finance (when the budget is rebalanced, these expenditures are often eliminated).

#### **Recommendations:**

- **M.20. Introduction of program budgeting within local self-governments, and a mandatory item each year: implementation of urban plans through the Republic Geodetic Agency.** The option is to have this as part of the annual duties of the local directorate for construction.

Result: continuous and phased implementation of urban plans.

### **2.6.6. Concept of “arbitrating” in the interpretation of the spatial and urban planning documentation**

The 2003 Law on Planning and Construction has envisaged deadlines for the elaboration of spatial plans of local self-government units, and urban plans for settlements in which the local self-government has its seat (the 2009 Law, too); however, a big number of settlements in which the local self-government does not have the seat further on either do not have urban plans, or have plans which were made more than 25 years ago. As regards formal legal conditions, these settlements with obsolete plans have a planning framework for issuing location and construction permits (supported by appropriate rulebooks and by-laws with parameters for multi-purpose structures); however, they need expert arbitration of the department for urbanism in the local self-government. This is one of the critical points in the construction permit process, because the expert arbitration may be directed in indifferent ways pursuant to current interests of the local self-government or the interested investor. We note that in these cases there is no plans committee to make a decision or give an opinion on the mentioned cases, and the directly formulated location permit is signed by the relevant persons in the local self-government and is undergoing further procedure.

#### **Recommendations:**

- 
- **M.21. Establishment of systemic control over “urban arbitrating” by competent urban inspections** – a legal obligation to control all location permits issued pursuant to plans drawn up before 2003.

Result: lower level of corruption in the urbanism and construction sector, and a quicker elaboration of plans of a new generation (plans made pursuant to the existing Law on Planning and Construction).

- **M.22. Higher professional criteria for delegating members of the municipal plans committee have to be defined by the law** (a minimum of 10 years of professional experience, license of the Serbian Chamber of Engineers, etc.), because in some cases as committee members were assigned individuals with no professional experience and with no links to the planning and construction field.

Result: higher level of professionalism and quality of decisions made by the municipal plans committee – de-politicization of municipal plans committee.

#### **2.6.7. Quality of input information used for drawing up an urban project.**

The urban project is drawn up when so envisaged by the urban plan, the spatial plan of the local self-government unit, or the spatial plan of the area for special purposes. Its aim is to regulate public purpose areas and develop the locations in terms of urbanism and architecture. The elaboration of urban projects is not a complex job (in terms of number of work operations), however, essential is the level of precision of the mandatory data in the document which are linked to higher level urban planning, the quality of the construction design, the description of technological processes to be applied on the lot, as well as to technical requirements defined by competent institutions. Three groups of problems emerge during the elaboration of the urban project:

- Problems related to unrealistic requests of the investor who wants to “push through” the UP at the plans committee at any cost, so that for such constructions it is difficult (impossible) to get appropriate technical requirements (for example, intention to build constructions whose dimensions exceed limits set forth in the UP, or intention to use technologies that are forbidden in a given zone);
- Problems related to insufficient quality of the planning and urban basis upon which the UP is drawn up;
- Problems related to providing adequate technical conditions for drawing up the UP in a manner which is quick, timely and adequate in terms of content (a problem similar to the one related to the elaboration of urban and spatial plans).

The following professional dilemma is imposed: is it more appropriate to plan detailed regulation with more content and containing all elements for permit issuance (in the manner applied in case of a big investor who is financing the entire DRP, where he shall be issued a location permit, and for all other investors within the scope of the plan the UP shall be drawn up; or, should the DRPs be made which cover only the basic urban parameters, with all other lot-related aspects to be solved through the UP?)? Thus the burden of the elaboration and costs

---

and time are transferred to the investors. Essentially, if the construction permit would be issued on the bases of DRP, this would be quicker provided that the plan is sufficiently instructive, and is taking into account all possible capacities and purposes of the structure (an exceptionally difficult task). The fact is that every lot is a technically separate system, which requests an individual approach (particularly in regard to traffic and electric power). Is it possible to have some general solution, in order not to request twice the competent institutions to issue similar requirements (urban conditions for the DRP, and technical conditions for UP)? When the master plan is in the final phase of elaboration, is it possible to request for the given project only the technical approval which would be elaborated pursuant to requirements contained in the urban plan?

#### **Recommendations:**

- **M.22. Plans committees in local self-governments should insist that urban requirements are drawn up in as standardized a manner as possible, particularly in case of GRPs and DRPs** (where this is possible – total standardization is unrealistic) for all parcels within the scope of the plan, which every plan designer should elaborate in view of the prevailing planned purpose in the given area and for those types of planned construction for which the planning document shall serve as a basis upon which the location permit shall be issued.

Result: standardized planning basis for location permits for all lots within the scope catchment of the plan and all potential investors, and a drastically reduced need for urban projects – thus the burden of costs related to urban elaboration is transferred to local self-governments and the investor covers the costs of construction permit issuance. As a consequence, the elaboration of plans shall become more expensive for the plan designer, but in the future the realization of investments shall become cheaper and this is of crucial importance for the local self-government and for interested investors.

## **2.7. Inadequate institutional and human capacities**

The quality of the construction permit process is directly linked to the available institutional resources.

The most important aspect of the institutional capacity are human resources. Responsibilities for the process without adequate human resources result in delays and a low or inconsistent work quality. From the aspect of competent institutions, the license issuing process is just one of their numerous tasks.

Unfortunately, adequate human resources are most often not available in organizations that perform public authorities.

### **Human Capacity**

Public enterprises with a segment of administrative competences in the entire territory of the Republic of Serbia often have only a few employees assigned to render services to all investments in the territory of RS. Smaller municipalities often have only one employee who in the permitting procedure is rendering services to all investors in the territory of their municipality.

---

The construction permit process implies very specific qualifications and experience on part of the competent bodies. In our talks with institutions holding public authority we got the impression that delays in their work are often caused by a lack of necessary internal expertise, both technical (technical, ecological, legal etc.) and related to the process (experience in permitting processes, communication with the party and other institutions etc.). Also, there are no mechanisms through which these deficiencies can be substituted (for instance, *ad hoc* engagement of experts from the private sector).

**Example: Outside Experts**

In Austria, the competent bodies also face a lack of resources for the implementation of the procedure. When this is the case, it is possible to engage independent external experts, at the expense of the party.

Institutions with certain authority in the procedure related to the issuance of construction permit most often do not have “internal” flowcharts of procedures which define the flow of documents and the duties of persons in the permitting process. Therefore it is impossible to follow who is doing what and at which quality level, and to evaluate the work, cases are lost, and possibilities open for external intervention.

Bodies that exercise public authority in the construction permit procedure often have an inadequate organizational culture. Employees perform their work rigidly, with caution, and act only when this cannot be avoided. Deviations in form, which are in favor of the party and are in no way a violation of rules, are treated as dysfunctional.

**Example: Punishment for Efficient Work**

An employee in the institution with public authorities received a request of the party which had previously submitted an orderly and perfect documentation, and enabled the request to be decided within 1 day. The employee’s manager proposed penal sanctions (reduction of salary for 20%) with the explanation that this represents a degradation of the authority of the institution.

**Recommendations:**

Some of the elaborated recommendations are relatively simple solutions by which the existing situation can be very quickly changed. Of course, this does not mean that the strategic and conceptual changes mentioned in the previous chapters should not be implemented; however, their implementation will require more effort.

- **M.24. Elaboration of internal procedures and flowcharts of activities within bodies with authority to issue construction permits.**

- 
- **M.25. Elimination of monopoly over information and stimulation of IT application in the work of bodies with public competences.**
  - **M.26. Continuous education of the administration with the aim to change employees' habits and conduct.**
  - **M.27. Enhancing the approach of competent bodies to external expertise.**

External experts may be engaged on an *ad hoc* basis, when needed, at the peak of activities. The role of external experts is to give advice and operational support, but not to make formal decisions, which remains fully within the responsibility of the competent institution. External support may be given both by state employees which are assigned to a competent institutions when needed, and by experts from the private sector. However, a special challenge for implementation of such type of measures is to ensure transparency and to prevent conflict of interests.

---

## ANNEX 1: RECORDS OF PROPERTY RIGHTS OVER REAL ESTATE AS AN ELEMENT OF ADMINISTRATIVE FRAMEWORK FOR CONSTRUCTION

### 1. Introduction

Acquiring and recording of rights to real estate is the first step in construction. This is the segment in which the role of the state is of key importance in providing a simple, secure, and predictable framework.

Regretfully, property-rights relations and their transition (denationalization, privatization, trading in, etc.) are a big problem. Numerous administrative interventions and lack of harmonization of regulations result in a chaotic situation, particularly at those locations that have had "regulated planning documents" with "unregulated property relations". Conversion of rights to property/use and trading in construction land have been among the biggest obstacles to the implementation of construction undertakings in the past few years.

### 2. Legal framework for recording of property rights

Bearing in mind the fact that the legal status in land registers and the real estate cadastre in numerous cases differs from the factual state, for the purpose of resolving this situation, the Law on State Survey and Cadastre (LSSC), therefore, provided for setting up of the real estate cadastre and keeping of single records of real estate and actual rights over the same. Thereby, the real estate cadastre became the main and public register of real estate and actual rights over the same.

**A real estate cadastre is set up based on the data from: land cadastre, land register, and deed book, or mortgage and other property restriction book ("tabulation book")<sup>1</sup> and data on not undertaken land consolidation in the land cadastre, or land register, and cadastral or land consolidation survey. Based on the above data, the database of a real estate cadastre is compiled. A real estate cadastre is set up in the procedure of presentation for public scrutiny of data on real estate and actual rights over the same by the commission for presentation for public scrutiny of data on real estate and actual rights over the same (Article 90 of the LSSC).**

The land cadastre represents main records of real estate and physical properties of real estate are recorded in it (position, shape, area, culture, quality of land, class, cadastral income, and the user); it is used for statistical purposes, establishing of cadastral income, production of spatial plans and other. It was introduced by the 1928 law, and it had not existed before that in the territory that belonged to the Austro-Hungarian Empire. On the other hand, the system of

---

<sup>1</sup> "Tabulation book" refers to a public book that contains data on mortgages or other restrictions on property, which is maintained by a basic (municipal) court. Tabulation books were used in those parts of the Republic of Serbia, where the title deed system used to be in force. Title deed books were the responsibility of local administrative authorities, while the tabulation books were kept by municipal courts.

---

land registers had been established in the Autonomous Province of Vojvodina and a part of Serbia. In the municipalities that set up real estate cadastres in compliance with the formerly effective Law, land registers and deed books ceased to be valid. In the narrow territory of Serbia, introduction of land registers started with the coming into force of *the Law on Land Registers (the Official Journal of the Kingdom of Yugoslavia, Nos. 146/30 and 281/31)*, *the Law on Internal Regulation, Setting Up (Formation), and Correction of Land Registers (the Official Journal of the Kingdom of Yugoslavia, No. 146/30)*, and *the Law on Land Register Divisions, Deletions, and Entries (the Official Journal of the Kingdom of Yugoslavia, No. 62/31)* and of bylaws that enabled enforcement of those laws. The above laws and other regulations of the first Yugoslavia no longer had legal force further to the provisions of Article 2 of the *Law on Invalidity of Legal Regulations Adopted prior to April 6, 1941 and during the Occupation by Enemy (the Official Gazette of the FPRY, No. 86/46)*. By virtue of Article 4 of that law, legal rules contained in those laws were still applied to land registers, until the date of commencement of setting up of real estate cadastre, on which the decision is brought by the Authority (Article 91, paragraph 2, of the LSSC).

Another way of recording data on actual rights over real estate within the so-called deed system was valid in parts of Serbia (the so-called Narrow Serbia, AP of Kosovo and Metohija) which had been under the Turkish occupation, and in which land registers were not later introduced. In the first Yugoslavia, the deed system was regulated by the *Law on Issuing Title Deeds in the Jurisdictions of Courts of Appeals in Belgrade and Skopje and of the Great Court in Podgorica (the Official Journal of the Kingdom of Yugoslavia, No. 29-X/30)*, which was published on 7/2/1930, i.e. by the *Law on Issuing Title Deeds in the Jurisdictions of the Court of Cassation in Belgrade and of the Great Court in Podgorica (the Official Journal of the Kingdom of Yugoslavia, Nos. 135/31 and corr. - of 20/08/1931)* dated 18/6/1931, by which the 1930 law was superseded, and by a series of secondary regulations. In this area, legal rules from the specified regulations may be applied on the relations that are not regulated by positive regulations (that no longer have legal force).

A real estate cadastre was introduced by the 1983 law and represents single, physical, and legal records of real estate. These records are kept by the Republic Geodetic Authority, the same authority that keeps the land cadastre. One of the objectives of the Law on State Survey and Cadastre is to finalize the reform of cadastre and make records of real estate uniform in the entire country.

The Law on State Survey and Cadastre (the Official Gazette of the RoS, Nos. 72/09 and 18/10) is the sectorial law which in a comprehensive manner regulates the procedure of registration and records of actual rights over real estate. Content-wise, the Law regulates main professional tasks and affairs of the government administration in this area, such as state survey, real estate cadastre, cadastre of underground installations, basic surveying, address register, topographic activity and other, but also new activities of general interest, like appraisal of value of real estate and formation of geodetic-cadastral information system, for the purpose of digitalization of the spatial information. The main subject which administers the affairs provided by the Law is the Republic Geodetic Authority (RGA). Affairs from the field of activity of RGA are, among

---

other things, basic survey, setting up, restoration, and keeping of real estate cadastre, cadastral and land consolidation survey and survey of underground installations, setting up and keeping of cadastre of underground installations, expert supervision over surveying, keeping of address register, survey of state border, appraisal and keeping of values of real estate, formation and use of geodetic survey and cadastral information system and others.

Registration of property and other actual rights in a real estate cadastre has a constitutional effect, which means that registration is the basis for acquisition, assignment, and limitation of all actual rights, while the basis for registration is the legal transaction by which the assignment is carried out. For that reason, the procedure in a real estate cadastre, as a rule, is initiated at the request of a client. Property and other actual rights over real estate may be acquired even prior to the registration in a real estate cadastre, but only in cases specified by the law and, by registration, they produce legal effect with respect to third parties so that it has a declarative effect. Holder of the right to real estate is obliged to submit an application for registration of real estate and property rights in the cadastre. The assumption of genuineness and reliability are applied to the data registered in a real estate cadastre and, based on the principle of being public, anybody may have insight in such data.

General requirements for registration of data on real estate and rights over the same in a real estate cadastre call for existence of: 1) registered real estate (whereby it is also acceptable to conduct registration of real estate simultaneously with the registration of actual right, which is based on it); 2) registered predecessor on the subject real estate, except in case of a newly constructed structure; 3) a document for registration, which is by its contents and form proper for registration, in original or certified copy. A private document (sales contract, contract of donation, lease agreement and other) must be in writing and contain an unconditional and time-unlimited statement on permission of registration, as a part of the document on legal transaction or as a separate document. A public document (inheritance decision, judgment and other) must be valid, or an appeal against it may no longer be possible. Registration in the cadastre is not possible if by the law, decision of a court or other authority, prohibition of registration of a real estate is determined.

Setting up of a real estate cadastre is undertaken based on the data from land cadastre, land register, and deed book, or a register containing data on mortgages and other property restrictions (“tabulation book”) or according to cadastral/land consolidation survey. The Law precisely stipulates according to which rules the registration of actual rights according to previous data is conducted, whereby, in case of a discrepancy between the land cadastre and the land register/deed book, registration of property rights is conducted in favor of the person who was last registered in the land register/deed book or of the person who has grounds for registration if he/she is deriving it from the person who was registered last. During the entire procedure of setting up of a real estate cadastre, presentation for public scrutiny of data on real estate and actual rights over the same is under way, up to and including the date of expiry of the deadline for setting up of cadastre from the advertisement for setting up. Presentation for public scrutiny is managed by the commission for presentation. Data that are not contested in the course of presentation for public scrutiny are established to be final and are registered in

---

the real estate cadastre. Failure of persons to comply with due summons to declare themselves on the data when setting up a real estate cadastre is deemed as giving consent to the existing data. In case of contestation of accuracy of data, the real estate cadastre does not take a decision on the disputable case, instead they instruct the client to settle the dispute in a court, and conduct the registration strictly applying the rules of registration of actual rights when setting up the cadastre.

This Report does not have the ambition to analyze the concept and the procedure of presentation, but it is important to draw attention to the fact that security of property-rights relations depends on the quality of work in the field, as one of the most fundamental values, and availability of land for trade in it and construction. Unfortunately, there are examples of quite inadequate work in the field.

Example: the procedure of presentation of a lot of approx. 1 ha in Belgrade, construction land

A party, at a legacy hearing, learnt that the lot that was the object of inheritance and which the party was inheriting was disclosed in the procedure of presentation (since summons was not duly served). The party learnt that the owner of the adjacent lot gave a statement that around 30% of the subject lot belongs to him. The Commission for Presentation accepted the documentation submitted by the owners of the adjacent lot, and decided on the disputable lot (30 ares) in favor of the owner of the adjacent lot, without the declaration of the injured party.

The appeal procedure is expected to last for around 2 years and, during that time, the injured owner of the lot does not have the option to realize any economic interests on his/her location.

In view of the fact that RGA has major powers in the procedure of registration of real estate and actual rights in the real estate cadastre, the Law provides a special legal protection when RGA decides on an individual right. The right to appeal against all the first-instance decisions passed in procedures under this Law, which are issued by RGA, on which the Ministry of Spatial Planning is deciding. In line with general provisions of the law regulating administrative proceedings for the purpose of providing the right to court protection, the Law stipulates that administrative proceedings may be instituted against all the second-instance decisions. When a second-instance decision is issued in the procedure of setting up or restoration of a real estate cadastre, setting up of the underground installations cadastre, and regular functioning of the two cadastres, RGA *ex officio* registers a note of the fact that, related to the real estate or underground installations or actual right over them, administrative proceedings have been instituted, whereby transparency is ensured related to administrative proceedings that are conducted related to that real estate or holder of the right. In such a way, negative consequences of relatively long duration of administrative proceedings are prevented.

Such a concept is totally inefficient because in practice, second-instance procedures last for over 12 months.

### **3. Relationship between the Law on Planning and Construction and the Law on State Survey and Cadastre**

---

The Law on Planning and Construction (the Official Gazette of the RoS, Nos. 72/2009 and 81/2009 - corr., 64/2010 and 24/2011) introduced major novelties in the regime of construction land that have direct impact on implementation of provisions of the Law on State Survey and Cadastre. The most important changes introduced by the Law on Planning and Construction are related to acquisition of proprietary right over construction land, or over constructed structures and their separate parts, to public ownership, to conversion of the right to use into proprietary right over construction land and their registration in a real estate cadastre.

Although the Law on State Survey and Cadastre is the umbrella statutory regulation for organization of work and activities of the Republic Geodetic Authority as a special organization, the Law on Planning and Construction expressly orders RGA, to conduct registrations the in real estate cadastre under the provisions of this Law. This underlines close links of the activity of planning and construction with the register of real estate and actual rights, as well as interconnectedness of two government authorities: the ministry in charge of spatial planning and urbanism and RGA.

In principle, it can be stated that the subject matters of the two laws are related, that their procedures are linked, and provisions mutually conditioned. However, statutory regulations and practice have not defined a clear concept of the objective and principles that would be the backbone of administrative practice and practical development. On the technical level, there are differences in the meaning of the same notions, there is lack of coordination between procedural actions, contradiction of provisions, as well as legal voids, all of which questions the appropriateness of the manner in which the Law stipulates registrations in the real estate cadastre, i.e. by which the sphere of action of RGA is extended. Thus, the Law on Planning and Construction regulates certain institutes and procedures in detail, almost fully, although the same are also regulated by the Law on State Survey and Cadastre. For example, Arts. 65 to 68 of the Law on Planning and Construction, which regulate the procedure of undertaking re-allotment, or allotment. Concretely, Art. 66 of the Law on Planning and Construction regulates the procedure for submitting applications, which is at the same time regulated by the provisions of Arts. 117 and 118 of the Law on State Survey and Cadastre. Thereby the Law on Planning and Construction does not lay down what persons are actively legitimated to submit applications. The Law on State Survey and Cadastre authorizes, to be precise, obliges a holder of the right over real estate to submit the application, within 30 days from the date of occurrence of the change, for recording of the same. Further on, the Law on Planning and Construction precisely enumerates the documentation that should be submitted with the application (evidence of resolved property-rights relations for all cadastral lots, the project of allotment/re-allotment approved by the authority in charge of urbanism affairs of the local self-government unit, an integral part of which is the project of geodetic marking), without referring to the due implementation of provisions of the Law on State Survey and Cadastre. On the other hand, the Law on State Survey and Cadastre also lays the obligation to submit the statement of the geodetic organization accepting to carry out surveying in the field (in the prescribed form), as well as evidence of the paid fee for establishing and recording of the change in the real estate cadastre. In addition to all, the terminological inequality is also present and thus the Law on Planning and Construction uses a rather imprecise term “evidence of resolved property-

---

rights relations” while the Law on State Survey and Cadastre uses the term “document for registration, which is the basis for registration of change, or document based on which changes that have occurred on the real estate can be established”. Once it certifies and receives the study, RGZ issues the decision on formation of cadastral lots and registers the real estate in the real estate cadastre, or registers data on the lot in compliance with Article 74, paragraph 2 of the Law on State Survey and Cadastre. RGZ submits its decision, in compliance with the Law on Planning and Construction (which is an additional procedural step) to the competent authority that has approved the project of re-allotment, or allotment, and to the applicant, against which an appeal may be lodged within 15 days from the date of its submittal. By the latest amendments of the Law on Planning and Construction, this was harmonized with the provisions of the Law on State Survey and Cadastre and, therefore, the deadline for appeal of 8 days was extended to 15 days from submittal of the decision (although it is not precisely specified to which subject in the legal relationship).

On the other hand, certain procedures in the Law on Planning and Construction are not regulated in full, which in practice leads to certain dilemmas. Omissions are noticed in the provisions on trade in construction land - Arts. 96 to 99 of the Law on Planning and Construction as well as Arts. 167-172 on removal of structures, which practically neglect the types of registrations and the procedure of registration in the real estate cadastre. Thus, in the absence of rules of the procedure for registration of proprietary right or lease, general provisions of the Law on State Survey and Cadastre shall be applied although a legal transaction related to the real estate is in question for which the Law on Planning and Construction provides a special procedure for alienation and leasing (renting). Bearing in mind the special regime of construction land in public ownership, we are of the opinion that it would not be superfluous for the Law on Planning and Construction to also regulate in detail registration procedures whereby dilemmas concerning possible approval by the competent public attorney, etc., would be eliminated

Within the procedure for the change of use of agricultural into construction land, lack of harmonization of as much as four laws that regulate this institute has been noticed. Firstly, the Law on Planning and Construction stipulates that change of use is made in compliance with the planning document. The authority in charge of adoption of the plan within 15 days from coming into force of the planning document submits *ex officio* to RGA the list of cadastral lots the use of which has been changed. Thereafter, RGA issues the decision permitting the change of use of agricultural land into construction land by registering the real estate and at the same time, it registers the note of the obligation to pay the fee for change of use of agricultural land, whereby the owner of the land is not changed but the form of ownership.

The above manner of registration in real estate cadastre is a novelty, in view of the fact that, up to now, RGA did not change the use of agricultural land until it actually took place. Only then inspection on the spot was conducted, on which minutes were taken, in compliance with the provision of Article 3 of the Law on Agricultural Land (the Official Gazette of the RoS, Nos. 62/2006, 65/2008 - other law, and 41/2009), which prescribes that agricultural land that is, in compliance with a separate law, designated as buildable land, is used for agricultural

---

production up to its planned use. It is clear that Article 87, paragraph 2, of the Law on Planning and Construction completely in a different way regulates the procedure whereby it is brought in collision with the provisions of the Law on Agricultural Land. In practice, this situation is reflected on a certain degree of legal uncertainty and which, up to the harmonization, will be done in compliance with basic principles of validity of regulations through the rule: *lex specialis derogat legi generali*. How important it is to harmonize the above statutory regulations is corroborated by the fact that the moment at which a change takes place is important both for calculation of cadastral income which, in compliance with Article 7 of the Property Tax Law, serves as the property tax base in case of agricultural and forest land, in view of the fact that the above provision stipulates that the property tax base in case of agricultural and forest land is the fivefold amount of the annual cadastral income from that land, according to the latest data of the real estate cadastre as at December 31 of the year preceding the year for which property tax is established and paid.

According to Art. 87, para. 3, of the Law on Planning and Construction, RGA submits its decision to the owner of the land, the ministry in charge of agricultural affairs, and to the competent tax authority.

The owner is liable to pay the fee for change of use of agricultural land prior to issuing the location permit. Additionally, the owner also pays the fee for the service provided by RGA in compliance with Article 174, paragraph 1, of the Law on State Survey and Cadastre. Based on the evidence of the paid fee (receipt of the ministry in charge of agricultural affairs), RGA allows deletion of the note of obligation to pay the fee for change of use of agricultural land.

As to the registration of actual rights, provisions of the Law on Basic Property-rights Relations (the Official Gazette of the SFRY, Nos. 6/80 and 36/90, the Official Gazette of the FRY, No. 29/96, and the Official Gazette of the RoS, No. 115/2005 - other law) are applied according to which ownership is acquired by operation of the law, based on a legal transaction, and by inheritance. In addition, ownership right is also acquired by the decision of a government authority in the manner and under the conditions stipulated by the law. The principle of constitutive registration is also recognized in Article 83 of the Law on State Survey and Cadastre which, under general requirements for registration of actual rights in a real estate cadastre, stipulates mandatory existence of: registered real estate, registered predecessor, and a document for registration. However, the Law on State Survey and Cadastre stipulates an exception from application of general requirements for registration in a real estate cadastre (or rules of constitutiveness of registration) and in Article 60, paragraph 2, permits registration even without submitting a document, or application of the principle of declarative registration of actual rights. Related to that are: the principle of compulsoriness referred to in Article 61, paragraph 2, which prescribes that registration of real estate and proprietary rights in a real estate cadastre is conducted, in addition to further to an application and *ex officio* in compliance with the law, as well as the principle of legality referred to in Article 64, which prescribes that registration in a real estate cadastre is conducted by virtue of this law and other regulations.

---

**Specified provisions of the Law on State Survey and Cadastre enable registration of actual rights in a real estate cadastre that are acquired by operation of the law, or enable acquiring of proprietary rights in an ordinary way. Provisions of the Law on Planning and Construction introduce major novelties by which ownership of construction land, structures, and separate parts of structures is acquired in an ordinary way. For this way of acquiring of ownership, it is important that ownership is acquired at the moment of fulfillment of requirements prescribed by the law and, consequently, registration shall have a declarative effect.**

**Provisions of the Law on Planning and Construction provide for the following ways of acquiring ownership of/registration of actual rights to construction land: conversion of the right to use into proprietary right without remuneration and with remuneration, alienation and leasing (renting) of construction land in public ownership, cessation of the right to use construction land in state ownership, and legalization of facilities.**

#### III a. Conversion of the right to use into the proprietary right without remuneration

As stipulated in Art. 100 of the Law on Planning and Construction, on the date of coming into force of the Law, the right to use vacant and built buildable land in state ownership expired and was converted into public ownership, without remuneration in favor of the Republic of Serbia, autonomous province, and a unit of local self-government that are registered in a public book of records of real estate and rights to the same.

**Likewise, under the condition that they are registered as holders of the right to use vacant and built buildable land in state ownership, the right to use such real estate expires for legal entities the founder of which is any of specified rightful owners of public ownership, and it is converted into the public ownership right of its founders, without remuneration.**

**RGA also conducts registration of proprietary rights *ex officio* when persons are in question, who are registered as holders of the right to use vacant buildable land in state ownership in the public book of records of real estate in case they have not submitted the application within one year from the date of coming into force of the 2011 Law Amending the Law on Planning and Construction.**

#### III b. Alienation and leasing (renting) of construction land in public ownership

The Law on Planning and Construction allows for the possibility of alienation and leasing (renting) of construction land in public ownership for the purpose of construction. Prior to alienation and leasing (renting) of the land, it is necessary to undertake conversion of the right to use into ownership right. Upon completion of conversion, the application for alienation or lease of construction land is to be submitted on the basis of the document on the legal transaction referred to in Article 96 of the Law.

The Law on Planning and Construction provides that, in addition to the lease referred to in Article 96, alienation or lease of construction land in public ownership may be registered in a real estate cadastre on the basis of the agreement between the legal owner of public

---

ownership and the person to whom it is alienated or leased. However, when deciding on the permission of registration in a real estate cadastre, a few dilemmas appear due to the existence of legal voids. The question arises whether the decision of the competent authority on alienation or lease of construction land in public ownership must have the approval of the competent public attorney's office as well as whether the agreement on alienation, or on lease involving repayment in several installments may be eligible for transfer of ownership rights or only eligible for registration of a note of lease? Further to an application for alienation of construction land in public ownership, RGZ issues the decision permitting registration of proprietary right over construction land in favor of the title transferee, and further to an application for lease, the decision permitting the note of lease in favor of the leaseholder. The Law on State Survey and Cadastre does not prescribe recording of lease term.

### III c. Legalization of facilities

The Law on Planning and Construction, in provision of Article 185, prescribes conditions and procedure of legalization or subsequent issuing the building and usage permits for a structure/parts of a structure constructed or reconstructed without a construction permit on which the decision is issued on legalization of the structure. Based on the decision on legalization, RGA permits registration of proprietary right over the structure and at the same time registers a note of recognition of the proprietary right over the structure in the process of legalization and, that, in view of the minimal technical documentation that is prescribed, the Republic of Serbia does not guarantee for the stability and safety of the structure.

Publicly owned construction land on which a legalized structure is situated may be alienated or leased by direct agreement in compliance with Article 96, paragraph 10, point 2) of the Law on Planning and Construction. In such a case, the decision on alienation and the agreement by which construction land is alienated or leased are the bases for issuing the decision by RGA permitting registration of proprietary right, or a note of lease of construction land.

Numerous administrative procedures (see Annex 3, and chapters 2.2, 2.3, and 2.4 of the Report) that are initiated for the purpose of changing of property-rights relations related to construction land are not adequate from the aspect of legal certainty and predictability as the main interests of investors. These procedures have created a map of locations that looks like a „leopard skin“ from the aspect the rights that holders of rights to the lots have. Such a situation, in the worst case, completely excludes transactions with and economic use of certain resources, (presented in detail in Chapter 2.1. of the Report) while, by any standard, it increases investors' perception of risks and discourages investors who expect secure and non-risky framework for business.

## **4. Geodetic aspect in the process of issuing construction permits**

Geodetic aspect in the process of issuing construction permits, in addition to property-rights problem area, basically has cartographic-geodetic one as well.

---

Due to the fact that the 2009 Law on Planning and Construction defined formation of a buildable lot and solving of property and legal affairs prior to its urban elaboration, the procedure of issuing permits has been considerably slowed down due to the fact that property-rights relations in most of the cases have been the ones that have hindered the overall context, particularly commercial construction in Serbia. On the other hand, separation of allotment and re-allotment, as well as of projects correcting boundaries of adjacent lots from an urban design project (of which they were an integral part according to provisions of the 2003 Law on Planning and Construction), has simplified undertaking of basic surveys on those areas that have been resolved from the urban aspect.

In Serbia, digitalization of real estate cadastres is currently under way in all local self-governments that have not done that on their own, as well as merging of proprietary records (land registers) in single records of the *Real Estate Cadastre*. In view of the fact that the above was initiated and managed by the Republic Geodetic Authority, results of the process (the project was partly financed from the loan of the World Bank) can be seen on the Web site <http://www.geosrbija.rs/Default.aspx?LanguageID=2>.

Main problems that appear in the process of issuing construction permits in Serbia (with repercussions on production of spatial and urban plans) and that are caused by the quality of geodetic survey and cartographic information underlays are as follows:

#### **Cartographic imprecision of spatial plans of local self-government units**

If we take into account that spatial plans of local self-government units are produced at 1:25.000 or 1:50.000 scale, then it can be seen that singling out of boundaries of settlements or spatial wholes cannot be done from topographic maps; instead it must be first done on land survey under-lays that are at a bigger scale (1:1880, 1:2500) and then such boundaries are overlaid on topographic maps that are at smaller scale. When overlaying the above "layers" from survey onto topographic maps (on which there are no lots), situations happen where some lots get "lost" or are imprecisely plotted, which further causes "status" problems to such lots (whether they are in a construction district at all or not). The situation with conditions for issuing the information on a location or location permits for infrastructure structures or individual structures that are constructed in a district is identical, because urban conditions are not so easily "legible" from such small scale of topographic maps. Because of such situations, mistakes are made in interpretations of conditions for certain areas within the scope of the spatial plan and, consequently, difficulties in issuing the location and construction permits.

#### **Recording of urban plans in real estate cadastre**

In view of the fact that urban plans establish corridors of public land intended for construction of infrastructure (roads, electric power, water supply systems, etc.), construction on an area cannot be officially commenced until lots of public land (streets) are formed to which the specific cadastral lots would have access and thus meet the criterion to be buildable. This is particularly indicative on those areas for which detailed regulation plans have been produced

---

and they are intended for commercial construction, where the network of corridors for public infrastructure has been resolved from the urban aspect but technically that land has not been divided into lots, i.e. street lots have not been formed and, therefore, all those areas within the plan that do not have access to the existing road network (of most often district roads) and are not buildable. Recording of urban plans in a real estate cadastre should be the legal automatism but due to a high price of recording that is specified in the single pricelist of RGA for the entire Serbia, to local self-governments, this is most often one of the last things they deal with (on the occasion of revision of the budgets of local self-governments, these items are most often stricken down – the example of Stara Pazova is indicative where urban plans were adopted 5 years ago and they have not completely recorded them in the real estate cadastre as yet).

### **Updatedness of geodetic under-lays that are used for production of urban plans**

For production of urban plans, a land survey under-lay is most often used, which is submitted, without remuneration, by the real estate cadastre service to the plan designer when the unit of local self-government is the investor of the plan. However, although the latest known state in the field is submitted by the cadastral service, the fact is forgotten that this service monitors changes in the field only upon application for establishment of the change of state (registration of constructed structures, change of cadastral class of land, etc.) or when regular cadastral surveys are made (very seldom – once in ten years). The above makes sense if the tendency is to keep the status of really completed and registered structures in single records. However, since an urban plan should also be the plan that defines requirements for legalization of the already constructed structures, and particularly development of space that has been constructed without a plan and without clearly defined public areas, specified land survey under-lays are not the best solution as under-lays for production of the plan. If a plan is not produced on an adequate orthophoto layer, or satellite image of adequate resolution, there is a possibility to adopt planning documents that do not correspond to the state in the field (planning of streets or other structures of public infrastructure in the field where this is physically prevented by constructed structures). All the enumerated problems that have to do with the context of updatedness of land survey under-lays, as well as consequential establishing of corridors of public land without which there is no construction, have a direct impact on the process of issuing the location permits, issuance of which is avoided under various excuses (because of fear from administrative and urban inspectors, authorities in charge of issuing the location permits) and, therefore, clients are most often told that the adopted plan is bad, because of errors of the plan designer (which were not established during the public scrutiny and the process of expert verification), and therefore, the clients are advised to wait until the amendment of the above urban plan has its turn, which may last as long as several years.

---

## **ANNEX 2: SPATIAL AND URBAN PLANS AND IMPACT OF THEIR PRODUCTION AND IMPLEMENTATION ON THE PROCESS OF ISSUING CONSTRUCTION PERMITS IN SERBIA**

### **1. Introduction**

Spatial and urban planning in Serbia are the reflection of the overall socio-economic situation in the country, functioning of the government administration and local self-governments, and finally of the power of the law-governed state.

Frequent changes of the political pattern of development on the government level in the course of the 20<sup>th</sup> and in the beginning of the 21<sup>st</sup> century, had impact on creation of a mosaic of various spatial problems related to construction and development, of both residential and infrastructure structures in the territory of Serbia.

Partly inherited problems from the former historical periods (first of all in the domain of the matrix of urban development, network of settlements and concepts of infrastructure construction) are, even today, the reasons why in some areas (primarily rural) there are major limitations concerning potential investment in development projects.

For easy reference, administrative steps related to planning in the context of individual construction undertaking are presented in detail in Graph No. 2.

### **2. Regulations**

In order to address accumulated problems in the spatial and urban planning sectors, on the government level, after the October changes in 2000, a series of activities of legislative character were launched, the aim of which was to improve the state in the sector of planning and construction and to introduce new international standards (primarily European ones) by means of which procedures for obtaining of necessary documents for construction would be speeded up for interested investors.

In line with the above, in 2003, the Law on Planning and Construction (the Official Gazette of the Republic of Serbia No. 47/03) was passed, which, after the model of the French school of spatial planning, wanted to decentralize spatial and urban planning (the institute of Spatial Plan of a unit of local self-government was re-established, which had been abolished by

---

the 1995 law) as well as to unify as much as 3 different thematic areas: spatial planning, urban planning, and construction. In the above way, local self-governments were enabled to create their respective spatial plans on their own, which in addition to strategic importance (strategies of spatial development) also had a normative character (they defined the rules of development and construction on areas outside construction areas of settlements).

However, although the prevailing Law also defined the deadlines for production of Spatial Plans of units of local self-government as well as urban plans of their seats, the fact is that not even Vojvodina (as the plan and urban-wise is the most regulated part of Serbia) did not manage to cover all of its local self-governments with corresponding spatial plans within the set deadlines. Only in the period of 2009-2012, the entire territory of the AP of Vojvodine was covered by spatial plans of the units of local self-government, however, again, with the adoption of the Law on Planning and Construction in 2009, the obligation of "*Harmonization of spatial plans of units of local self-government with the new Law on Planning and Construction*" was imposed, which again launched the revision of the above strategic documents on the level of local self-governments.

In order to correct vague wording of the 2003 Law, as well as in order to somehow prepare the ground for the processes of denationalization of expropriated property in Serbia after the Second World War (as one of preconditions for accession to the EU), in 2009, a new *Law on Planning and Construction* was passed which was twice supplemented in the following three years (the Official Gazette of the RoS, Nos. 72/09, 81/09, and 24/11). Apart from it, the bylaws elaborating it were also amended (*the Rulebook on Contents, Method, and Procedure of Production of Planning Documents*, the Official Gazette of the RoS, Nos. 31/10, 69/10, and 16/11), which were common for the area of spatial and the area of urban planning.

### **3. Situation in practice**

#### **Spatial plans**

Spatial plans that are adopted in the territory of the Republic of Serbia are:

- Spatial plan of the Republic of Serbia
- Regional spatial plan
- Spatial plan of a unit of local self-government
- Spatial plan of the region of special use.

---

*Hierarchy of spatial plans that are adopted in the territory of the Republic of Serbia:*

1	Spatial plan of the Republic of Serbia	
2	Regional spatial plans	Spatial plans of the regions of special use
3	Spatial plan of a unit of local self-government	

The Spatial Plan of the Republic of Serbia, regional spatial plans as well as spatial plans of the regions of special use, are strategic documents based on which development guidelines are defined for larger spatial wholes as well as for positioning of capital infrastructure structures in Serbia. In line with the hierarchy of spatial plans that are produced and passed, the level of detail of information and requirements for construction and positioning of certain structures or untended areas is determined as well.

Spatial plans of units of local self-government (municipalities and cities) are plans that generate most of direct guidelines for issuing construction permits, but only for those areas for which, after the spatial plan, adoption of plans for urban planning elaboration is no longer planned. In line with the above, the level of urban planning elaboration and detail of elaboration of such areas by such plans must be very detailed in order to get the basis for issuing the location and construction permits. The program of implementation is not produced for such spatial plans; instead *implementation of the plan* is an integral part of the Spatial Plan of a unit of local self-government.

In view of the fact that a spatial plan of a local self-government unit is one of the „most vital“ plans in the system of spatial planning (they are produced in great numbers as opposed to other spatial plans), we are going to analyze below the elements for formation of planning solutions in the context of conditions that are defined for the requirements of issuing the location and construction permits.

### **Urban plans**

According to the Law on Planning and Construction urban plans are:

- General urban plan
- General regulation plan
- Detailed regulation plan.

---

*General urban plan* is passed as a strategic development plan, with general elements of spatial development. A general urban plan is passed for an inhabited place that is the seat of a local self-government unit, which has over 30,000 inhabitants. In line with the above, such urban document has a strategic character and does not have direct normative basis for issuing the location and construction permits, except guidelines for carrying out of preliminary work and production of pre-feasibility studies.

A *general regulation plan* must be adopted for an inhabited place that is the seat of a local self-government unit, and it may also be passed for other inhabited places in the territory of a local self-government, when that is planned in Spatial Plan of the local self-government unit. A general regulation plan has the following most important tasks it should fulfill:

- Division of space into urban entities, including definition of parameters for construction
- Definition of public land for infrastructure, utility areas and public structures
- Designation of areas for which further elaboration is done through detailed regulation plans and urban projects.

On the other hand, a *detailed regulation plan* is passed for parts of an inhabited place, development of informal settlements, zones of urban renewal, infrastructure corridors, and structures and areas for which the obligation of its production is determined in a previously adopted planning document.

A general regulation plan and detailed regulation plan are the urban plans based on which the information on location and location permit are issued in most cases in practice.

Division of space into relevant urban entities (housing, greenery, residential-commercial complexes, utility areas, etc.), and definition of parameters for construction in them, is the most important task in production of an urban plan. Determination of „urban pattern“ of development of certain settlement wholes and further needs, first of all in the domain of building utility infrastructure is the main task of analysis of existing state on an area.

---

## 4. Analysis of problems

### Spatial plans

A spatial plan of a unit of local self-government defines strategic and normative elements of spatial development. Depending on the number of socio-economic and settlement and infrastructure elements in space, planner's task may be partly simpler or more complex.

#### **(1) Monopoly in competence in production of planning documents by competent public enterprises**

In view of the fact that, in the territory of Serbia, there is a limited number of planning and urban planning companies, and over 180 municipalities, it is clear that production of spatial and urban plans is concentrated within a small number of legal entities that are engaged in the said activity. On the other hand, versatility and dynamism of spatial phenomena and processes are not so easily recognizable even by the most experienced experts if they go to an unknown terrain in a remote part of Serbia. Because of the above, in production of spatial plans, there are frequent cases of formation of certain planning solutions which, by their functional relationships, do not reflect in the best way the spatial structure and dynamism (as the consequence of direct lack of knowledge of the concrete space). An example for the above may be formation of "tourist and recreational zones", with ethno tourism as the activity, as one of the planning measures for those areas in Serbia that are demographically devastated, or completely vacated. Natural potentials and ethnographical heritage are the only element of development, while the question remains as to who will engage in such tourism? More drastic examples are „errors in names of settlements“, their boundaries, etc., which are within the scope of a plan and which often happen when the plan designer is far away from the space that is dealt with within scope of the Plan.

According to the Law on Planning and Construction (Article 36), planning documents are to be produced by a public enterprise, or by other organization founded by a unit of local self-government to engage in spatial and urban planning activities, as well as by companies, or other legal entities that are registered in the relevant register to engage in spatial and urban planning and produce planning documents.

On the other hand, the Law did not stipulate licensing of above economic operators for engaging in the above activities but licensing of professionals and, in such a way the emphasis was laid on professionals instead of on institutions. In practice, this means that an economic operator, if it has a possibility to get a job from the domain of spatial or urban planning may, by

---

simply engaging individuals, form an expert team and, by reducing prices when submitting bids, have influence on rejection of bids of enterprises with credible references or, on the other hand, in order to be competitive, such institutions produce such documents at the breakeven point because they are conditioned to do so by unfair competition. The price of production of plans, unfair competition as well as „monopoly“ of certain urban planning companies that have „regionalized“ the space of Serbia to their respective sectors, thwart a fair market competition, which would provide a better quality of production of planning documents.

To be precise, monopolization of the market of plans production has been done on the level of the type of jobs, where, as a rule, plans of the highest level (Spatial Plan of the Republic, Provinces, regional plans, and plans of regions of special use) have been produced by 4 biggest urban planning companies in Serbia. Spatial plans of local self-government units and general urban plans and general regulation plans have been produced by big regional urban planning companies, which have divided Serbia into their respective mini regions (feudalization of the market of production of the above plans).

Because of quite a number of detailed regulation plans and urban projects that need to be produced, in the market of urban planning and design consulting, a large number of small architectural and design bureaus have appeared, which have started engaging in production of DRPs and urban projects, because they most often reached agreements with investors on both urban planning and design consulting where urban planning consulting was most often the one that was price-wise disparaged for the sake of a better contract for designing of the investor's structure. Because of the above stated, the quality of production of urban design projects has actually drastically declined, which had been produced by insufficiently expert "designers" with little experience in the area of urbanism and, therefore, it was actually inevitable that they stayed longer with a municipal committee for plans (sending an urban project back for improvement several times), which finally resulted in a longer time needed to obtain the construction permit.

## **(2) Insufficient participation of interested parties and visibility of the process of production of planning and urban documents**

Participative planning implies participation of wide groups of interested parties in analysis of problems and definition of potential solutions that would be in the interest of the widest group of users of a space.

---

As a remnant from the past, in the planning system in Serbia, planners' position is still strong that profession is the one that forms needs and strategic directions of development in the field, with certain correction by the political elite.

Because of the above, spatial plans have not been implemented in the major part of their provisions because they have been a list of wishful thinking instead of operational goals, because of which politicians have implemented them only in those parts that were politically most valuable or most realistic to them. Precisely the above problem of implementation of spatial plans was the basis to introduce for the first time, in the 2003 Law on Planning and Construction, Agreement on implementation as the basis for implementation of plans in the near future. Signatories of the above agreement should have been all the relevant institutions (with respect to the territorial scope of the plan) of the state and local self-governments that would undertake to implement provisions of planning documents in their short-term, medium-term, and long-term plans and in the domains of their respective competences and approved budgets. The above was an attempt to involve all the relevant factors of state and a local self-government in the implementation of planning documents but unfortunately, the said intent of the law did not take all in practice (not a single Agreement on Implementation of a spatial plan of a municipality has been signed in Serbia because not a single public enterprise wished to take over financing of implementation of specific planning documents without a guarantee of the government). The 2009 Law cross out the Agreement on Implementation of a plan as the instrument of implementation of plans, but attempted, through introduction of a more detailed description of implementation of planning documents and by introducing the “program of implementation of spatial plans“, to bridge the above gap between those who plan and those who implement provisions of spatial plans.

The program of implementation of spatial plans is adopted for all the spatial plans (Spatial Plan of the Republic, Regional Spatial Plans, and spatial plans of regions of special use) individually after their adoption, while an implementation planning documents is an integral part of the spatial plan of a unit of local self-government. The above program is elaboration of planning documents and specifies financial, organizational-technical and legislative measures for their implementation. Methodological approach for production of the above document was first developed for the requirements of preparation of the *Program of Implementation of the Spatial Plan of the Republic of Serbia from 2010 to 2020 (from 2011 to 2015)* by the Republic Agency for Spatial Planning.

When citizens and interested investors are in the focus, the only way to exert influence on the process of production of Spatial and urban plans is the institute of public scrutiny which, according to the provisions of the Law lasts for 30 days. During the specified period, interested parties may give their respective remarks on Planning Documents in writing, to which the plan designer gives answers at an open session of the committee for plans. However, due to poor

---

visibility of presented plans, poor communication of plan designers and local self-government (which announces public scrutiny) with citizens about the importance of such documents and their impact on their lives, as well as without communication with the investors' community which is interested in formulation of certain planning documents, plans are often inadequately presented to the public, and from that follows that citizens most often come across such documents as late as when they want to realize their specific intents.

### **(3) Cartographic imprecision of spatial plans of local self-government units**

If we take into account that spatial plans of local self-government units are produced at 1:25.000 or 1:50.000 scale, then it can be seen that singling out of boundaries of settlements or spatial wholes cannot be done from topographic maps; instead it must be first done on land survey under-lays that are at a bigger scale (1:1880, 1:2500) and then such boundaries are overlaid on topographic maps that are at smaller scale. When overlaying the above "layers" from survey onto topographic maps (on which there are not lots), situations happen where some lots get "lost" or are imprecisely plotted, which further causes "status" problems to such lots (whether they are in a construction district at all or not). The situation with conditions for issuing the information on a location or location permits for infrastructure facilities or individual structures that are constructed in a district is identical, because urban conditions are not so easily "legible" from such small scale of topographic maps. Because of such situations, mistakes are made in interpretations of conditions for certain areas within the scope of the spatial plan and, consequently, difficulties in issuing the location and construction permits.

### **(4) Imprecisness of plans with respect to definition of urban planning and technical requirements**

One of common situations in practice concerning spatial plans of units of local self-government is that certain rules of regulation or construction in a district are not clearly defined or are on the contrary too strict (both concerning building structures and for civil engineering structures – infrastructure) and, therefore, there appears the problem of implementation of such plans through competent department for urbanism and construction in units of local self-government. The problem mainly lies in the definition of parameters of gross unfolded building floor area and occupancy of lots, where the need is imposed on the investor, for example, to buy large areas of land in order to construct certain structure (e.g. farm, mill,

---

silo). The above brings all the investors in the same position regardless a small private agricultural estate or big company is in question. Both have the obligation to the same urban planning parameters often irrespective of the capacity of their planned production or ability to finance the planned project.

There are frequent cases that certain areas have not at all been dealt with in the spatial plan of a unit of local self-government (particularly in the domain of new technologies, renewable sources of energy, capital investment structures – the example of “go-carting race track” or “car race-track”). In essence, a plan does not define the possibility to construct above structures, but it does not prohibit them either. Exactly such situations most commonly cause situations of “professional arbitrary opinions”, which are frequent and yet risky (leads to an offence) method of solving of disputable situations while, on the other hand, it leads to the process of Amendment of the planning document, which takes a long time. Unfortunately, what representatives of the executive power on local self-government level still hardly understand is that planning is a “process” and a plan only a “strategic document” and that, therefore, the concept of planning needs to be continuously implemented and improved and not from one investor to another and from case to case as it is actually mostly done nowadays.

The Law on Planning and Construction introduced the possibility, through a spatial plan of a local self-government unit, to also deal with those settlements for which there shall be no further urban planning elaboration (a construction permit is directly obtained from a spatial plan). The above was solved by developing the *spatial development schemes* that have all the key determinants of detailed regulation plans, and which are specific for the settlements that are dealt with. Such schemes of spatial development of settlements are produced on geodetic under-lays intended for production of urban plans and would be added to the section of reference maps of a spatial plan of a local self-government unit. However, what is the problem in such resolution of the problem of urban regulation through a spatial plan, is the cost of production of such a plan. How much time and effort a planning company needs to produce a Spatial Plan of a local self-government unit with a large number of rural settlements (over 30) that are morphologically non-uniform and uneven, with different spatial problems and with sufficient elements for issuing the location and construction permits, both for infrastructure facilities and structures for public uses and for private investors? Because of all of the above stated, interpolation takes place (selection of similar types of construction structures) and definition of general rules of development and construction for similar types of settlements where, as the consequence, “exceptions” appear to which the rules do not apply and for which it is a problem to issue the location permit directly from the plan. In the given case, again the institute of “professional arbitration” is applied as an instrument to solve the problem.

---

## **(5) Need for detailed urban planning elaboration (hyper-production of plans)**

For those areas for which additional urban planning elaboration has been planned, Spatial Plan of the unit of local self-government defines the scope (geodetically described) and the type of urban planning or technical document by which they are elaborated (general urban plan, general regulation plan, detailed regulation plans or urban project). Subject to the number of problems due to detailed urban planning elaboration is necessary, the number of above plans is actually defined.

However, this possibility to form spatial and settlement entities by a spatial plan of a unit of local self-government has caused "hypertrophy of planning of production" of planning documents, which is "legalized" after adoption of Spatial Plan. In this way a local self-government passes Spatial Plan of the municipality by which it solves certain number of its problems (first of all in the domain of construction in the district, public infrastructure, and utility areas) while, on the other hand, it imposes on itself production of quite a number of smaller plans (primarily detailed regulation plans) of smaller entities that could have been defined in the course of production of Spatial Plan of the unit of local self-government by spatial development schemes. The reasons for such behavior in the course of production of Spatial Plan of a unit of local self-government by the plan designer is quite often the contractual price of production of a plan which is low and, on the other hand, also the lack of knowledge about the process and the bases for separation of urban entities which, after adoption of Spatial Plan of the municipality, would have to be urban-wise elaborated by representatives of the local self-government who sign contracts for such jobs.

In cases where urban planning documents of smaller entities must be produced (detailed regulation plans), local self-governments most frequently (unless a utility or housing problem is resolved) wait for certain investors who then finance production of a plan in order to create a planning base for implementation of their investment, and consequently they also finance the plan elaboration of a wider space. Such changing of roles by private investors and local self-government in financing of production of urban development documents envisaged by a spatial plan (first of all DRPs), considerably slows down the process of issuing the construction permits (particularly for those minor investors who are unable to finance production of an entire DRP which is wider than their location of interest), because instead of having a finished spatial plan based on which it could directly give requirements for issuing the location and construction permit, the unit of local self-government imposes on the investor the need for production of DRP from which he/she would get such conditions, failing to take into account that the investor is a by far more important factor in the stage of preparation of the investment, the time, but the money that is necessary for production of the document. For that reason, investors often abandon such locations, looking for some place where urban planning

---

requirements are more favorable and where they can get directly from the existing documentation the necessary requirements and permits.

On the other hand, if location parameters of a location are exceptionally good, and the investor does not wish to change the location, the local self-government is in a situation to produce the relevant urban planning document within a minimum time period, which very often stretches to the limits the ability of the plan designer to create a complex, quality, and in the long run sustainable urban plan. This most often leads to an error whereby the entire urban plan is formed in compliance with interests of the investor while the "public interest", which should be in the focus of production of a plan, is protected only declaratively and to the necessary minimum, same as the interests of other users of the space.

Also, it is necessary to mention that, in Serbia, there are still local self-governments (mostly those undeveloped) which, despite statutory obligations (the Law on Planning and Construction both from 2003 and from 2009) and defined deadlines, have not produced spatial plans. Construction in the districts of such municipalities is not possible without planning elaboration, which additionally brings in an unfavorable position both the local self-government that would like to attract investors, and investors who do not want to invest in plan-wise undefined and infrastructure-wise poorly equipped areas (except those who are focused on raw materials).

Spatial Plan of a unit of local self-government is the most important document, which defines urban planning and strategic framework of development of the overall territory of the local self-government. Certainly that the complexity of problems and themes covered by the specified document inevitably also implies appearance of certain errors and difficulties in implementation but, on the other hand, the level of regulation of the system of planning and construction it can produce is high and justifies all the investments made in the course of its production.

## **Urban plans**

### **(6) Implementation of urban plans through real estate cadastre**

In view of the fact that urban plans establish corridors of public land intended for construction of infrastructure (roads, electricity, water supply, etc.), construction on an area cannot be officially commenced until lots of public land (of streets) are formed to which the

---

specific cadastral lots would have access and thus meet the criterion to be buildable. This is particularly indicative on those areas for which detailed regulation plans have been produced and they are intended for commercial construction, where the network of corridors for public infrastructure has been resolved from the urban aspect but technically that land has not been divided into lots, i.e. street lots have not been formed and, therefore, all those areas within the plan that do not have access to the existing road network (of most often district roads) and are not buildable. Recording of urban plans in a real estate cadastre should be the legal automatism but due to a high price of recording that is specified in the single pricelist of RGA for the entire Serbia, to local self-governments, this is most often one of the last things they deal with (on the occasion of revision of the budgets of local self-governments, these items are most often stricken down – the example of Stara Pazova is indicative where urban plans were adopted 5 years ago and they have not completely recorded them in the real estate cadastre as yet).

### **(7) Updatedness of geodetic under-lays that are used for production of urban plans**

For production of urban plans, a land survey under-lay is most often used, which is submitted, without remuneration, by the real estate cadastral service to the plan designer when a unit of local self-government is the investor of the plan. However, although the latest know state in the field is submitted by the cadastral service, the fact should be established that this service monitors changes in the field only upon application for establishment of the change of state (registration of constructed structures, change of cadastral class of land, etc.) or when regular cadastral surveys are made (very seldom – once in ten years). The above makes sense if the tendency is to keep the status of really completed and registered facilities in single records. However, since an urban plan should also be the plan that defines requirements for legalization of the already constructed structures, and particularly development of space that has been constructed without a plan and without clearly defined public areas, specified land survey under-lays are not the best solutions as under-lays for production of a plan. If a plan is not produced on an adequate orthophoto layer, or satellite image of adequate resolution, there is a possibility to adopt planning documents that do not correspond to the state in the field (planning of streets or other structures of public infrastructure in the field where this is physically prevented by constructed structures). This is resolved through field work, but due to the low price of production of plans as well as short time that is available to members of the team producing the plan, they most often rely on the former experience related to the state in the field, which inevitably leads to errors, and it is impossible to tour the complete terrain howsoever it is limited, first of all in densely populated parts of settlements. All the enumerated problems related to the context of updatedness of land survey under-lays, as well as consequential establishing of corridors of public land without which there is no construction, have a direct impact on the process of issuing the location permits, issuance of which is avoided

---

under various excuses (because of fear from administrative and urban inspectors who could overrule decisions or resolutions, authorities in charge of issuing the location permits which, on the other hand, gives rise to penal orders against the responsible individuals from the competent administrative department and consequential overruling of decisions and institution of civil proceedings by the party who then sues the local self-government because of physical and consequential damages suffered by the same by overruling of such decisions) and, therefore, clients are most often told that the adopted plan is bad, because of errors of the plan designer (which were not established during the public scrutiny and the process of professional verification), and therefore, the clients are advised to wait until the amendment of the above urban plan has its turn, which may last as long as several years.

### **(8) Level of details of urban and technical requirements obtained from competent institutions that are incorporated into a plan**

Production of urban plans also implies collection of conditions and guidelines from the competent local, regional, and government institutions, public enterprises, directorates, and other instances that have direct powers to manage certain resources of the state (waters, forests, defense, energy, etc.). In the course of production of urban plans, official letter is sent to the above institutions with basic development elements that are planned on a certain space so that the contacted institution could analyze the problem aspect from its own view and manage to dimension limitations and directions from the sphere of their respective sector in the right way. However, although with the best intentions, correspondence with official institutions (because of lack of harmonization of sector laws - on waters, forests, energy, etc.) turns into a long and difficult process, which most often negates the main intent of a plan, and that is "harmonization interest of different users of space". Also, lack of uniformity of the structure and scope of responses from different competent institutions, leads to the situation in which insufficient technical information is incorporated in the urban plan, and thus one gets into a situation where the plan is "porous" when requirements for issuing the location permit for different structures and their connection to the settlement infrastructure are in question.

The above problems get a particular weight when they are put in the context of financing of production of detailed regulation plans where the investor is not a local self-government but private capital to which the time for production of planning documents and design documentation is an important factor. Within that context, correspondence with competent institutions becomes the task of "private mediation agencies" whereby the systemic corruption is additionally strengthened and where, through private connections, procedures of issuing the above urban requirements are speeded up for certain investors who are ready to speed up the above process of obtaining the requirements. Unfortunately,

---

although the process of replying by the competent services is fixed on 30 days in the Law on Planning and Construction, there are big government systems (e.g. Vode Vojvodine-Waters of Vojvodina) that regularly exceed the above deadline and, therefore, private investors do not have much choice if they wish to speed up the time schedule of the investment. On the other hand, if the investor is a local self-government, only direct political lobbying channels help speeding up of the procedures for obtaining requirements for production of certain urban plans, and the same applies to technical requirements and approvals issuing of which is procedure-wise even more complex.

### **(9) Institute of "arbitrary" in interpretation of urban plans**

Although the 2003 Law on Planning and Construction provides deadlines for production of Spatial Plans of local self-government units as well as urban plans of the seats of local self-governments (same as the 2009 Law), a large number of settlements that are not seats of local self-governments still either do not have urban plans or have plans that were produced over 25 years ago. Within the context of technical requirements, above settlements with obsolete plans still have the planning framework for issuing the location and construction permits (with the help of relevant rulebooks and decrees that define parameters for construction of structures of various uses), but in this case, professional arbitration of the department in charge of urbanism of the local self-government is required. This is one of critical points in the processes of issuing the construction permits because professional arbitration may be guided in different directions in line with current interests of the local self-government or of the interested investor. The remark here is that, in such cases, there is no committee for plans that brings the decision or issues an opinion on specified cases; instead the formulated location permit is directly signed by the competent persons of the local self-government and further processed.

In addition to arbitrary interpretation of urban plans, particularly suitable places at which interests of private investors can be "advocated" are the municipal committees for plans, the work of which is regulated by the rules of procedure of the committee, and the sessions of which are chaired by a person selected by the Municipal Assembly of the local self-government. Two representatives delegated by the ministry in charge also participate in the work of a committee. However, regardless of them, other members of the committee are more numerous and if se certain cases that are reviewed at the committee are considered as priorities for implementation (even at the cost of some urban planning understatements or poor solutions), the committee may adopt the said document despite the opposition of the "biggest expert" members who are delegated by the Ministry.

To be precise, the committee is composed of 3 members delegated by the Ministry in charge of urbanism and construction affairs, while the remaining 8 members are delegated by

---

the local self-government including the chairperson of the committee. Theoretically speaking, all the three expert members of the committee may be against certain conclusions, but the rest of the committee is more numerous and, therefore, by simple over voting, certain conclusions that are not in compliance with the general interest can be adopted. Also, in case where the plan designer, at the public scrutiny of a specific planning document, took the contrary view over certain remarks of interested parties, the committee for plans (even without any explanation – which has actually happened in practice!) may adopt the above remarks. At any rate, the committee for plans of a local self-government is the last professional body that approves planning documents to be referred to adoption by the municipal assembly of a local self-government. The above illustrates that, through certain interventions with the members of the committee for plans or a chairperson of the committee for plans, one may directly give instructions for adoption of certain decisions that may even be in contravention of provisions on public interest. Expert members of the committee, most often because of the desire to continue to work in the said committees (because of per diem allowances that are higher than average per diem allowances of other authorities) are sustained or are declaratively against, but they do not apply institutes of appeal to the first-instance and second-instance competent authorities. The notorious sentence of a chairman of the committee for plans in a local self-government (and formerly the Director of the Building Directorate) most illustratively evokes the atmosphere in the said committees: *"Dear colleagues, my opinion is, and I know that the committee will agree with me, that we should accept the specified document!"*

## 5. Recommendations

- Minimum professional references of companies should be instituted in the law and their licensing for engagement in activities from the domain of spatial and urban planning should be introduced; Result: Regulation of the market of production of planning documents and stabilization of prices on the level of market optimum and not the minimum as it is the case now.
- Statutory provisions should be introduced that would enable participation of interested parties at the end of implementation of each phase of production of planning document instead only in one phase (public scrutiny) as it is the case now; Result: A higher level of incorporation of requests of interested parties that are harmonized with the public interest.

- 
- In addition to reference maps of the spatial plan of a unit of local self-government defined in the law, it is necessary to establish the obligation to present, on land survey under-lays, all the established construction areas of settlements and spatial wholes; Result: Clear scrutiny in geodetic survey boundaries of construction districts of settlements and spatial wholes on land survey under-lays instead on topographic maps that are used as under-lays for reference maps of a spatial plan.
  - It is necessary to define a uniform level of presentation of urban planning and technical conditions (in the form of a template – table) that must be filled in by every plan designer for every planned use in space and all types of planned construction for which the planning document will be the basis for issuing the the location permit. Result: Uniform presentation of all the necessary elements for issuing the location permit, which is easily professionally verifiable, methodologically uniform both for various uses of structures and instructive when the official correspondence with competent authorities is in question (defined all the necessary elements that the competent authority should submit in order to fill in the table from the domain of their respective authorities).
  - Urban planning elaboration of spatial and urban plans is not possible to limit in a normative way (through the form of a law), because every space is specific in itself and, theoretically, it may call for a very high level of elaboration that not a single type of a plan can follow in detail (a large number of details that cannot be processed in one document – example: One GRP may in itself require elaboration with as much as 4-5 DRPs); The instrument by which, to a certain extent, a higher planning elaboration can be reduced in future is agreeing and contracting of production of GRP (taken as an example), in which all the elements of the detailed regulation plan would be given in those zones where their production would be envisaged (where possible). In such a way, the price of production of the specified document would be higher, but the need for repeated production of a plan would be reduced in future (the time factor is very important to investors). The key moment in the above is the price of contracting of production of a plan between the party ordering the plan and the plan designer – which is actually the relationship of offer and demand (price = product). Because of that, demonopolization of the market of production of planning documents is of great importance both for the actual quality of planning documents that would be produced and for its scope of elaboration. Currently, based on decisions of local self-governments on giving exclusive right to one public enterprise they are the founders of for production of planning documents (which is enabled by the current public procurement law), municipalities are referred to only one urban planning enterprise, and often, in order to avoid the public procurement process (which is long and burdens the administration, particularly in small municipalities), such enterprises are in a position to actually impose their conditions (prices and quality of production), while local self-governments are most often in a position where they urgently need such a document and, therefore, they agree to the plans that are less elaborated urban-wise, at a lower price, and that

---

requires a shorter time period for production, which later multiplies problems that appear in the implementation of specific investment undertakings.

- Programmed budgeting should be introduced in local self-governments and a mandatory item every year: implementation of urban plans through the Republic Geodetic Authority (RGZ) – or the above should be the obligation of the local directorate for construction every year. Result: Continuous and phased implementation of urban plans
- Production of urban plans on updated satellite images of high resolution (min 0.2 m pixel size) overlaid with land survey under-lays – as statutory obligation for production of plans; The images can be commercially purchased both in the country and abroad and Google earth professional is one of the alternatives for work as well; introduction of GIS is a systemic solution to the said problem, where all the utility services, competent enterprises, and the real estate cadastre in a local self-government would enter their respective updated data that would be available to interested parties, particularly for the requirements of production of urban and spatial plans. Result: Production of urban plans and forming of solutions based on updated state in the field
- Harmonization of the Law on Planning and Construction and main sector laws that regulate areas of energy, waters, forests, defense, telecommunications, etc. particularly in the domain of deadlines, detail, and other elements needed for issuing the location permits based on an urban plan. Definition of the basic corpus of technical information needed to form urban planning solutions – forming of an uniform form of “urban planning” and particularly “technical” requirements that should be issued by competent enterprises and institutions for the requirements of production of urban plans and main designs for different investors; the above should be regulated by adoption of corresponding bylaw or a decree. Result: uniform interpretation of deadlines and details of presentations for issuing urban and technical requirements by competent institutions
- It is necessary to set up the systemic control of “urban planning arbitration” by competent urban inspectorates – to create a legal obligation to control all the location permits issued based on plans produced before 2003. Result: a lower level of corruption in the field of urbanism and construction and faster production of urban plans of new generation (plans based on the existing Law on Planning and Construction).
- It is necessary to formalize (incorporate in the law) a more intensive level of communication of a plan designer and competent authorities and enterprises of a local self-government from the sectors of utility activities and urbanism and construction so that, through a more direct and intensive communication, better quality planning

---

documents could actually be obtained (as opposed to simple "correspondence" and presenting of the list of requirements by one or the other party). Due to various political reasons (political division of public enterprises) and different competencies on the level of local self-government, ununiform communication is frequent (or is complete absence) between key stakeholders of local development. The above causes production of of planning documents that did not equally treat the interests of different utility sectors of a local community, which later causes partial or complete obstruction in the implementation planning documents. Result: A higher quality of planning and urban planning solutions and degree of their incorporation in development plans of local competent enterprises and institutions.

- It is necessary to establish, by law, higher professional criteria for delegation of members of municipal committee for plans (min. 10 years of service in the profession, possession of licenses of the Engineering Chamber of Serbia, etc.), because there are cases where appointed members of the committee are the people who have never worked in the profession nor were in contact with the area of planning and construction. Result: a higher level of professionalization and quality of decisions of a municipal committee for plans; depolitization of municipal committees for plans.

## **URBAN PROJECT AND IMPACT OF ITS PRODUCTION AND IMPLEMENTATION ON THE PROCESS OF ISSUING CONSTRUCTION PERMITS IN SERBIA**

### **1. Regulations**

The statutory regulations regulating the area of production of Urban Planning and Technical Documentation (Urban Projects, Projects of Re-allotment and Allotment as well as projects correcting boundaries of adjacent lots) were for long governed both by the *Law on Planning and Construction* (the Official Herald of the RoS No. 47/2003) and the *Rulebook on General Requirements for Allotment and Construction and Contents, Requirements and Procedure of Issuing of Documents on Urban Requirements for Structures for which the Approval for Construction Is Issued by the Municipal, or City Administration* (the Official Herald of the Ro No. 75/2003); the above Law and the Rulebook they jointly dealt with the themes of allotment, re-allotment and definitions of requirements for construction in zones of different gross unfolded building floor areas, as well as content-wise aspects of production of Urban Planning and Technical Documentation. One of key determinant of the then valid Law on Planning and

---

Construction (the Official Herald of the RoS, No. 47/2003) was the possibility of allotment and re-allotment in the production of Urban Project.

With the adoption of the 2009 Law on Planning and Construction (the Official Gazette of the RoS No. 72/2009), projects of allotment and re-allotment (as well as projects correcting boundaries of adjacent lots) were separated from the contents of Urban Projects, in line with the aspiration of the Law to define in advance the processes of formation of construction lots and previous settling of their ownership rights, and to only then resolve them from urban planning aspect. In compliance with the above, the *Rulebook on General Rules of Allotment, Regulation, and Construction* (the Official Gazette of the RoS No. 50/2011) was adopted, which is the legal successor of the previous one (the Official Herald of the RoS No. 75/2003). In line with the above, the legal base for production of Urban Planning and Technical Documentation is the Law on Planning and Construction (the Official Gazette of the RoS No. 72/2009, Articles 60-68).

## **2. Situation in practice**

Urban project is a sort of "urban planning elaboration" of a lot, which envisages elaboration of all urban planning and technical details necessary for construction of a structure particularly in the context of connecting to surrounding infrastructure systems. Urban project is adopted when that is envisaged by the provisions of a general urban plan, a general regulation plan, or a detailed regulation plan, as well as on the basis of the provisions of a spatial plan of a municipality or a spatial plan of a special-purpose area for those areas that are situated outside construction districts or at places that are no longer elaborated by urban plans. An urban project is the investor's document and its production is the "link" between designing and urbanism, and its main role is to guide the investor to as best as possible fit its main design into the spatial context of the lot and in a wider environment.

In view of the fact that an urban project is a more detailed elaboration of urban planning conditions than the planning and urban planning documentation of a higher level, all the understatements of planning documents of higher level are manifested in it, particularly in the context of conditions for connection to different utility infrastructures. Because of this, for the requirements of production of an urban project one again has to apply for, this time technical

---

requirements from competent institutions (while for production of the corresponding higher-level plan, urban planning requirements were applied for).

Because of a large number of investment interventions in space as well as because of often insufficiently detailed developed urban planning parameters for issuing of the location permit (again the reason of which is low price of production of plans because of large-scale unfair competition), one of the instruments for implementation of urban planning solutions is precisely the institute of production of urban project, by which the cost of urban planning elaboration of the location is transferred to the investor.

Because of quite a number of urban projects that need to be produced, in the market of urban planning and design consulting, there have appeared a number of small architectural and design bureaus, which have started to engage in production of urban projects, because they used to reach agreement with investors on single urban planning and design consulting whereby most often urban planning consulting was the one that was price-wise underrated for the sake of a better contract for design of the investor's structure. Because of that, the quality of production of urban projects has actually drastically declined, which were produced by under qualified "designers" with little experience in the field of urbanism and, therefore, it was actually inevitable that they stayed longer with a municipal committee for plans (sending an urban project back for improvement several times), which finally resulted in a longer time needed to obtain the construction permit.

The 2003 Law on Planning and Construction addresses the issues of allotment and re-allotment, as well as the necessary urban elaboration of the future investment. In the 2009 Law on Planning and Construction, allotment and re-allotment (as well as the project on correction of boundaries), were separated in from the technical processes which come in the next stage (ownership and geodetic aspects of a lot come before the urban aspects). This change led to the situation that in many parts of the industrial areas and settlements in which the allotment has not been not carried out and a lot of public land (street) is not formed (according to the provisions of urban plan), it is not possible to draw up the urban design of a lot, because it does not have access to a formed lot of public land (because of which it does not qualify for a construction lot). According to the provisions of the 2003 Law, in practice, a lot of public land (street) in unregulated parts of a settlement and industrial areas was formed gradually by taking one part of lot in the urban project (each investor does it with his land). After some time, a lot of public land was formed. This was possible, because DRP of a wider zone defined the regulation of public land which had to be complied with in the urban project. The new 2009 Law stipulates that the lot of public land (street) has to be formed first (through expropriation and establishment of public interest), which has significantly slowed down the implementation

---

of urban plans in the field where public areas are not regulated (it is especially concerning that local self-governments have to value land that is subject of expropriation according to the market value, whereas in the previous case the investors give up one part of their lots without any remuneration). On the other hand, the new law enables (particularly in residential areas) the formation of a lot of public land (street) if all owners agree to give up part of their lots without remuneration in favor of the State, which then registers the change by forming a lot of public land (street). However, this procedure fully depends on the interest and commitment of local self-government to implement this activity in the field (due to numerous urban decisions that have to be implemented (public land). This procedure requires a broad and coordinated activity of local self-government, which is most often lacking, unless some investor is interested to push for it.

### **3. Problem Analysis**

Development of Urban Projects is not a complex task (in terms of number of documents and steps that have to be implemented). However, the problem is reflected through the complexity of input data that the document must contain, which are obtained on the basis of urban or planning documents of a higher level, quality of the basic design of the future structure, description of technological processes that will take place on the lot, and technical requirements issued by competent institutions. The problems regarding the development of urban plans that arise in practice can be divided into three groups:

- Problems related to unrealistic requirements of investors who are keen to “push” the UP through the committee for plans, whereas at the same time it is very difficult (impossible) to get adequate technical requirements; UP is often the step in the process where the investors try to avoid DRP, most often by changing the construction index, occupancy index, areas under greenery and public areas. They use different formulations and interpretations of the above urban terms, to “confuse” and attract the Committee to make decision which suits the investor.
- Problems related to lack of quality of planning and urban grounds for development of UP, because of which the subcontractor who is developing UP is forced to “wander” looking for a real urban context to interpret situation in the field, which the Committee for Plans, on the one hand, can accept or reject (again in line with individual interpretation of situation in the field – because the planning grounds are insufficiently defined)

- 
- Problems related to rapid, timely and adequate (in terms of content) issuance of technical requirements for the development of UP (problem is similar to the problem related to development of urban and spatial plans).

Considering that the ownership and geodetic aspects of a lot must be resolved prior to production of UP, the above problems are not manifested in production of UP.

#### 4. Recommendations

- Professional dilemma: either to produce more detailed detailed regulation plans with all the elements for issuing permits (similarly to the situation when some big investor shows up who is ready to finance the entire DRP, and when the grounds for issuance of the location permit are prepared for him, whereas for all others UP has to be prepared; this is done in cases when the investor and his plans are known (having at least a basic design), or to produce DRPs that resolve only main urban parameters, whereas all other things to be solved on the lot, through UP? In such a way, the burden of both the elaboration and of expenses and time is put on investors? In essence, if DRP would be the basis for issuing a construction permit, than it would take less time to obtain it, under the condition that the plan is sufficiently instructive in all above elements that it assumes all possible capacities and uses of structures that could be constructed (which is extremely difficult – almost impossible task). The fact is that any lot is a technically separate system that calls for an individual approach (particularly related to transportation and electricity). Is it possible to apply in order to avoid that very similar requirements are requested from competent institutions two times (urban requirements for DRP and technical for UP)? Is it possible to request, at the end of process of developing the main design, only technical approval of the project that will be prepared in compliance with the requirements from the urban plan?
- The Committees for plans of local self-governments should insist on uniform level of elaboration of urban requirements, particularly regarding GRPs and DRPs (where possible – absolute uniformity is not possible) for all lots within the scope of a plan any plan designer is obliged to fill in for prevailing planned uses in space and types of planned construction for which the planning document will represent grounds for issuing the location permit. Result: Uniform planning grounds for issuing the location permits for all lots within the scope of the plan and potential investors and significantly reduced need and number of urban projects – enables transferring the costs of urban elaboration to local self-governments, while investors cover the cost of issuing the

---

construction permit. This will increase the cost of developing plans by plan designer but will, in the future, reduce and accelerate the implementation of investments, which is of crucial importance both to the local self-government and to the interested investors.

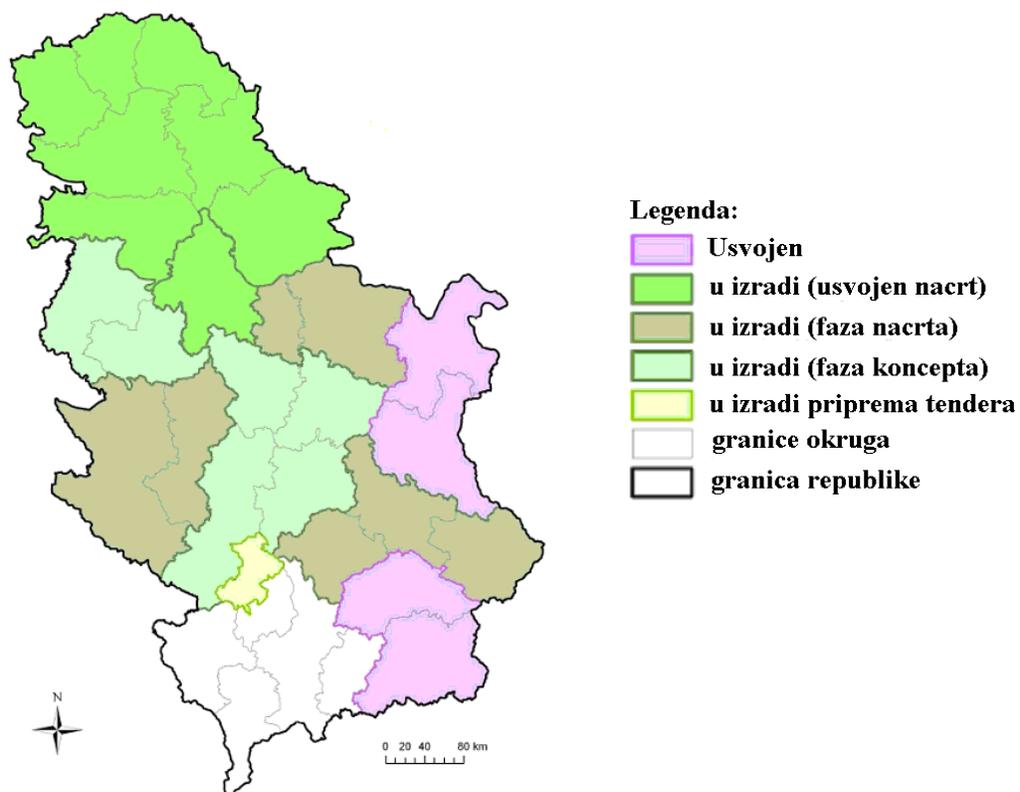
### **Coverage of the Republic of Serbia by planning documents**

By adoption of the Law on Planning and Construction in 2003, a formal framework was created for setting up of the *Republic Spatial Planning Agency*, one of the key activities of which was improvement of the situation in the sector of production of spatial and urban plans, particularly of the Spatial Plan of the Republic of Serbia, Regional Spatial Plans, and spatial plans of regions of special use.

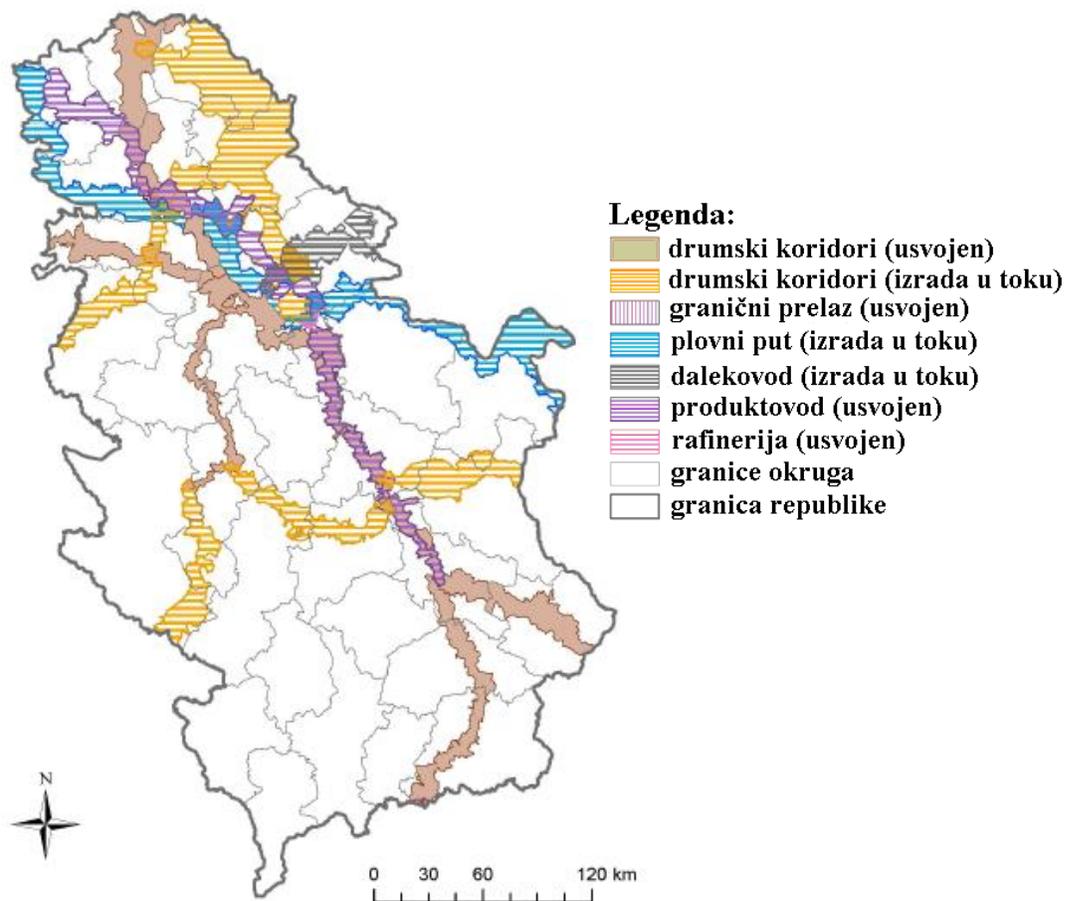
Due to the fact that local self-governments are directly in charge of production, adoption, and implementation of urban plans, as well as that the life cycle of production, amendments of urban plans is very dynamic, updatedness in monitoring of the status of adopted and valid urban plans is exclusively within the powers of local self-governments. The Spatial Planning Agency has set up a system of monitoring of adopted spatial and urban plans of local self-governments (<http://www.rapp.gov.rs:4000/planovi/>), but local self-government units are exclusively in charge of updatedness of the specified data.

Additionally, we are providing below the tabular presentation of the state planning documents in local self-governments according to the data of the Ministry of Environment, Mining and Spatial Planning of the Republic of Serbia of May 2012.

*Map of regional spatial plans (state in June 2011)*



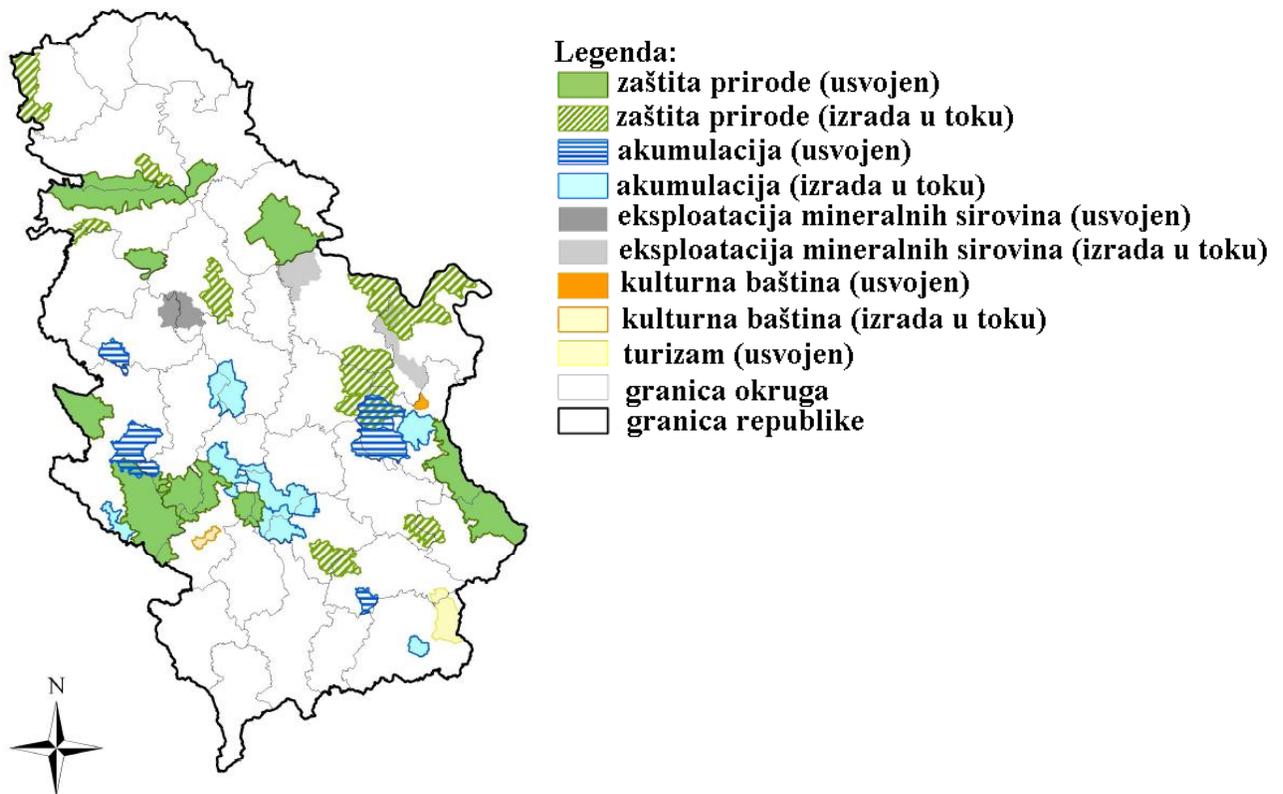
*Spatial plans of the regions of special use - infrastructure (state in June 2011)*



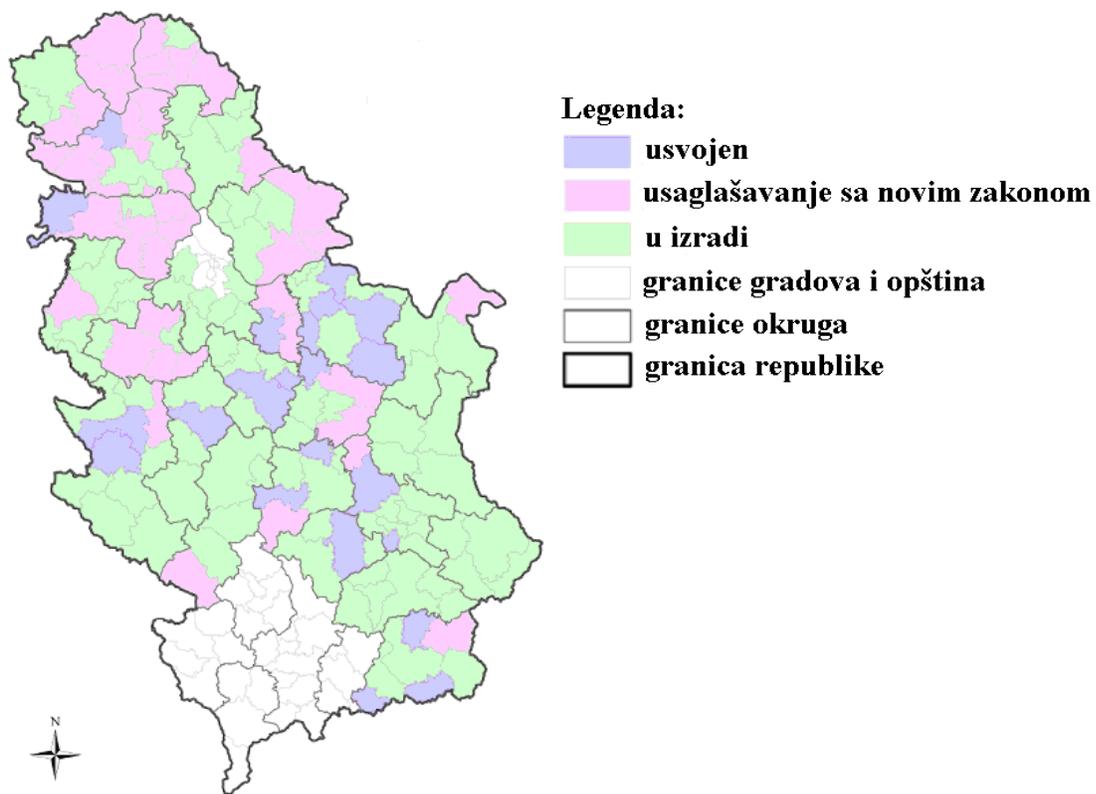
---

*Spatial plans of the regions of special use*

*– Protected and tourist areas, accumulations, and mining basins - (state in June 2011)*



*Spatial plans of municipalities and cities – state June 2011*



Source: *Program of Implementation of the Spatial Plan of the Republic of Serbia from 2010 to 2020 – for the period from 2011 to 2015*; Belgrade 2011

---

## ANNEX 3. REVIEW OF PROCEDURES MANAGED BY COMPETENT BODIES, ORGANIZATIONS AND PUBLIC ENTERPRISES

### 1. Introduction

The administrative steps taken during the construction process are stipulated by the umbrella Law on Planning and Construction (Official Gazette of RS, No. 72/2009, 81/2009 - corr., 64/2010 - Decision of Constitutional Court and 24/2011 – Hereinafter: LPC) and number of sector laws regulating the usage, managing and financing of public resources as one of the most critical elements of the construction process (water, roads, electrical power grid, environment, etc.)

However, sector laws which regulate the management of public resources stipulate additional administrative steps in regard to the umbrella Law on Planning and Construction. Most of the sector laws introduce, apart from and contrary to provisions of the Law on Planning and Construction, new decision-making instances which are within the competence of bodies responsible for managing resources of public importance. As a rule sector laws introduce several procedures to which every construction project must be subjected to. In most cases, these are: a) issuance of technical requirements by institutions authorized to manage specific public goods; b) issuance of approval of the project documentation, and c) final administrative approval of the public resource managing body, confirming that the construction was performed based on signed agreement. In this way, completely new relevant bodies are introduced as part of the administrative framework for construction, each of which having the capacity to stop the permitting procedure either by acting or failing to act. In this way, procedures are unnecessarily multiplied and additional costs introduced.

A list of technical requirements below is an illustrative example of new points of communication with the administration, at which administrative decisions are made which can approve or stop the construction process. These are mandatory requirements for a typical project on industrial building construction:

1. Requirements for connection to the electric grid,
2. Requirements for connection to the water supply and sewage system,
3. Requirements for connection to public road (local government unit),
4. Requirements for connection to the gas pipeline network,
5. Requirements for connection to the telecommunications network,
6. Requirements for connecting to the district heating system,
7. Water requirements issued by Public Enterprise - Srbija vode / Vode Vojvodine,
8. Requirements and measures of fire protection (Ministry of Internal Affairs)
9. Decision on the need for development/development of an Impact Assessment Study,
10. Requirements for connection to state roads, issued by Public Enterprise - Putevi Srbije,

- 
11. Requirements for railway infrastructure (Public Enterprise - Železnice Srbije),
  12. Requirements for construction of emergency shelters, or payment of fee calculated at 2% of the structure value,
  13. Document on requirements for nature protection issued by the Institute for Nature Protection,
  14. Requirements from the Institute for Protection of Cultural Monuments,
  15. Requirements for protection of importance to national defense (Ministry of Defense),
  16. Requirements from the Civil Aviation Directorate,
  17. Requirements from other relevant institutions, depending upon the type of building.

A schematic diagram of this process is shown in Chart 3.

The legal framework governing spatial planning and construction is composed of a wide variety of legal acts that have been adopted in the past 10 years.

Legal basis for preparation of planning and technical documentation, as well as other documents required for preparation of technical documentation in construction permit procedure in Serbia:

- Law on Agricultural Land ("Official Gazette of RS", No. 62/2006, 65/08 and 41/09);
- Law on Air Protection ("Official Gazette of RS", No. 36/09);
- Law on Environmental Noise Protection ("Official Gazette of RS", No. 36/09 and 88/10);
- Law on Waters ("Official Gazette of RS", No. 30/10);
- Law on Public Roads ("Official Gazette of RS", No. 101/05 and 123/07);
- Railway Law ("Official Gazette of RS", No. 18/05);
- Law on Environmental Protection ("Official Gazette of RS", No. 135/04, 36/09, 36/09 – other law, 72/09 – other law and 43/11 Constitutional Court Decision);
- Law on Strategic Environmental Assessment ("Official Gazette of RS", No. 135/04 and 88/10);
- Law on Environmental Impact Assessment ("Official Gazette of RS", No. 135/04 and 36/09);
- Law on Integrated Prevention and Control of the Environmental Pollution ("Official Gazette of RS", No. 135/04);
- Law on Expropriation ("Official Gazette of RS", No. 53/95 and 20/09);
- Law on Defense ("Official Gazette of RS", No.116/07, 88/09 and 104/09-other law);
- Law on Geological Research ("Official Gazette of RS", No.44/95 and 101/05);
- Law on Electronic Communications ("Official Gazette of RS", No.44/10);
- Law on Telecommunications ("Official Gazette of RS", No.44/03 and 36/06);
- Law on Tourism ("Official Gazette of RS", No.45/05 and 88/10);
- Energy Law ("Official Gazette of RS", No.84/04);
- Cultural Property Law ("Official Gazette of RS", No. 71/94);
- Law on Mining ("Official Gazette of RS", No. 44/95, 34/06, 104/09 and 85/05, 101/05, 101/05-other laws)
- Law on Forests ("Official Gazette of RS", No. 30/10);
- Law on Environmental Protection ("Official Gazette of RS", No.36/09, 88/10 and 91/10-correction);
- Law on Wildlife and Hunting ("Official Gazette of RS", No.18/10)
- Law on Protection and Sustainable Use of Fish Resources ("Official Gazette of RS", No.36/09);
- Law on Veterinary Medicine ("Official Gazette of RS", No.91/05, 30/10, 130/06 and 3 /10- Constitutional Court Decision);
- Law on Emergency Situations ("Official Gazette of RS", No.111/09);
- Law on Fire Protection ("Official Gazette of RS", No.111/09);
- Law on Non-ionizing Radiation Protection ("Official Gazette of RS", No.36/09);
- Law on Burial and Graveyards ("Official Gazette of RS", No. 20/77);
- Rules on Methodologies for Determination of Acoustic Areas ("Official Gazette of RS", No.72/2010);
- Rules on Noise Measurement Methods, Contents and Scope of Noise Measurement Methods ("Official Gazette of RS", No.72/2010);
- Rulebook on the Methodology for Action Plans Development ("Official Gazette of RS", No.72/2010);
- Rules on the Way of Determination and Maintenance of Sanitary Protection of Water Supply Spring Zones ("Official Gazette of RS", No. 92/2008);
- Rules on Permitted Amounts of Hazardous and Harmful Substances in Soil and Water for Irrigation and Methods of their Analysis ("Official Gazette of RS", No.23/94);
- Rules on Safe Disposal of Animal Carcasses ("Official Gazette of SRS", No. 7/81);
- Rules on Technical Requirements for Construction of Overhead Power Lines with Nominal Voltages from 1 kV up to 400kVA ("Official Gazette of SFRY", No. 65/88 and 18/92);
- Rules on Proclamation and Protection of Strictly Protected and Protected Wilde Species of Plants, Animals and Fungi ("Official Gazette of RS", No.5/10 and 47/11);
- Regulation on Noise Indicators, Limit Values, Assessment Methods for Indicators of Noise, Disturbance and Harmful Effects of Noise in the Environment ("Official Gazette of RS", No.75/2010);
- Regulation on Water Courses Categorization ("Official Gazette of SRS", No.5/68);
- Regulation on State Roads Categorization ("Official Gazette of SRS", No. 14/2012);
- Regulation on Waste Land filling ("Official Gazette of RS", No. 92/10);
- Regulation on Establishing a List of Projects for which the Impact Assessment is Required and List of Projects for which the Impact Assessment can be Required ("Official Gazette of RS", No.114/2008);
- Convention on Biological Diversity ("Official Gazette of FRY – International Treaties", No. 11/01);
- Law on Planning and Construction ("Official Gazette of RS", No. 72/09, 81/09 and 24/11 – correction);
- Rules on the Content, Method and Procedure for Preparation of Planning Documents ("Official Gazette of RS", No. 31/10, 69/10, 16/11);
- Law on Public Roads ("Official Gazette of RS", No. 101/05 and 123/07);
- Air Transport Law ("Official Gazette of FRY", No. 12/98, 5/99, 38/99, 44/99, 73/00, and 70/01 and "Official Gazette of RS", No. 101/05);
- Law on Airports ("Official Gazette of SRS", No. 28/75);
- Law on State Survey and Cadastre ("Official Gazette of RS", No. 72/09);
- Law on Environmental Protection ("Official Gazette of RS", No. 135/04, 36/09 and 72/09);
- Law on Strategic Environmental Assessment ("Official Gazette of RS", No. 135/04);
- Law on Environmental Impact Assessment ("Official Gazette of RS", No. 135/04 and 36/09);
- Law on Electronic Communications ("Official Gazette of RS", No. 44/10);
- Energy Law ("Official Gazette of RS", No. 84/04);
- Law on Fire Protection ("Official Gazette of RS", No. 111/09);
- Law on Explosive Substances, Inflammable Liquids and Gases ("Official Gazette of SRS", No. 44/77, 45/85 and 18/89 and "Official Gazette of RS", No. 53/93, 67/93, 48/94 and 101/05);
- Law on Pipeline Transportation of Gaseous and Liquid Hydrocarbons and Distribution of Gaseous Hydrocarbons ("Official Gazette of RS", No. 104/09);
- Expropriation Law ("Official Gazette of RS", No. 53/95, 16/01, 23/01 and 20/09);
- Law on Defense ("Official Gazette of RS", No. 104/09 – consolidated text);
- Law on Emergency Situations ("Official Gazette of RS", No. 11/2009);

- Law on Emergency Situations ("Official Gazette of RS", No. 11/2009);
- Regulation on Facilities and Regions of Special Importance for Defense of the Republic of Serbia ("Official Gazette of RS", No. 18/92);
- Decree on Criteria and Procedures for Establishing Fee for the Conversion Rights of Persons who are Entitled to Conversion Fee ("Official Gazette of RS", No. 4/2010);
- Decision on Types of Investment Facilities and Spatial Urban Plans of Importance for the National Defense ("Official Gazette of FRY", No. 39/95);
- Rules on Criteria for Determination of Fee in Legalization Procedures, Criteria for Structures for Which the Construction permit cannot be Issued Subsequently and for Content of Technical Documentation and Manner of Issuing Construction permit and Usage Permit for Structures that are Subject of Legalization (Official Gazette of RS, No. 89/2009-49, 5/2010-39);
- Rules on the Content on Information on Location and the Content of Location Permit (Official Gazette, No.3/2010-47);
- Rules on Planning and Designing Facilities with the Unobstructed Mobility of the Children, Elderly, the Handicapped and the Disabled ("Official Gazette of RS", No. 18/97);
- Rules on Technical Regulations for Atomic Shelters (Official Gazette of SFRY, No.55/83);
- Law on Protection from Fire ("Official Gazette of RS", No. 111/09);
- Law on Technical Requirements for Products and Conformity Assessment ("Official Gazette of RS" No. 36/09);
- Rules on Technical Documentation for As-Built Design and Issuance of Construction Approval and Usage Permit for Structures Built without Permission ("Official Gazette of RS", No. 79/2006);
- Rules on the Content, Scope and Method of Preparing Pre-Feasibility Study and Feasibility Study ("Official Gazette of RS", No. 80/2005);
- Rules on the Content, Scope and Manner of Preparing Technical Documentation for High Rise Buildings ("Official Gazette of RS", No. 15/2008);
- Rules on the Content on Information on the Location and the Content of Location Permit ("Official Gazette of RS", No. 3/2010.);
- Rules on the Content and Method of Construction permit Issuance (Official Gazette of RS", No. 4/2010 and 26/2010);
- Rules on the Content, Manner and Procedure for Preparation of Planning Documents ("Official Gazette of RS", No. 31/2010 and 69/2010);
- Rules on the Criteria for Establishing Fee in the Legalization Procedure, Criteria for Structures for which Construction permit cannot be Issued Subsequently, and \_\_\_\_\_ on the Content of Technical Documentation, Content and Method of Issuing Construction permit and Usage Permit for Structures that are Subject of Legalization ("Official Gazette of RS", No. 89/2009 and 5/2010);
- Rules on the Requirements and Criteria for Co-financing the Preparation of Planning Documents ("Official Gazette of RS", No. 51/2010);
- Rules on Technical Requirements for Low Voltage Wiring ("Official Gazette of SFRY" No.53 and 54/88 and 28/95);
- Rules on Technical Requirements for Protection of Structures from Lightning Rods ("OG of FRY" No.11/96);
- Rules on the Content, Scope and Method of Preparing Technical Documentation for High Rise Buildings ("Official Gazette of RS" No. 15/08);
- Rules on Technical Regulations for Protection of High Buildings from Fire ("Official Gazette of SFRY" No.7/84);
- Rules on Technical Regulations for Planning for the Automatic Closing Doors and Flaps Resistant to Fire ("Official Gazette of SFRY" No. 35/80);
- Rules on Technical Requirements for Hydrant Network for Fire ("Official Gazette of SFRY" No. 30/91);
- Rules on Technical Requirements for Protection of Garages for Passenger Cars from Fire and Explosion ("Official Gazette of SMN" No. 31/05);
- Rules on Technical Requirements for Stable Devices for Extinguishing Fire with Carbon Dioxide ("OG of SFRY", No. 44/83);
- Rules on Technical Requirements for Design, Construction, Operation and Maintenance of Gas Boiler-Rooms ("OG of SFRY" No.10/90);
- Rules on Technical Requirements for Protection of Electrical Installations and Equipment from Fire ("OG of SFRY" No. 74/90);
- Rules on Technical Requirements for Stable Installation for Fire Notification ("OG of SFRY" No.87/93);
- Rules on Technical Requirements for Stable Installation for Detection of Explosive Gases and Vapors ("OG of FRY" No.24/93);
- Rules on Technical Requirements for Ventilation and Air Conditioning Systems ("OG of SFRY" No.38/89);
- Rules on Technical Requirements for Construction of Overhead Power Lines with Nominal Voltages from 1 kV up to 400kVA ("Official Gazette of SFRY", No. 65/88,"Official Gazette of FRY", No. 18/92);
- Rules on Technical Requirements for Operation and Maintenance of Power Plants and Power Lines ("OG of FRY", No. 41/93);
- Rules on Technical Requirements for Power Plant with a Nominal Voltage above 1000V ("Official Gazette of SFRY", No. 4/74, 13/78,"Official Gazette of FRY", No. 61/95);
- Rule Book on Technical Requirements for Grounding Power Plant with a Nominal Voltage above 1000 V ("Official Gazette of FRY", No. 61/95);
- Rules on Technical Requirements for Designing Low Voltage Networks and Associated Substations ("Official Gazette of SFRY", No. 13/78,"Official Gazette of FRY", No. 37/95);
- Rules on Technical Regulations for Electric Power Plants with Rated Voltage of 10 kV for Operation at 20 kV voltage ("Official Gazette of SFRY", No. 10/79);
- Rules on Technical Requirements for Electric Installations and Equipment in Open Pit Mines ("Official Gazette of SFRY", No. 66/87, 16/92, "Official Gazette of RS", No. 37/2009);
- Rules on Technical Requirements for Construction of Low Voltage Overhead Lines ("OG of SFRY", No. 6/92);
- Rules on Technical Requirements for Protection of Electrical Installations and Equipment from Fire ("Official Gazette of SFRY", No. 74/90);

Source: Serbian Chamber of Engineers: <http://www.ingkomora.org.rs/strucniispiti/?stranica=literatura>

---

In order to illustrate and assist understanding of the present concept, a description of procedures for obtaining technical requirements and approvals is provided later in the analysis.

Apart from this, a detailed review of the procedure for issuing traffic and technical requirements, approvals and water related documents gives sufficient support for the proposed regulatory “guillotine”. This analysis contains illustration of all problems and measures for improvement. In addition, we listed all regulations governing the issuance of other technical requirements and approvals, which can be used as the basis for further analysis of the procedure for issuing traffic and technical requirements, and water related documents.

## **2. Obtaining traffic and technical requirements and approvals for connecting the structure to the public road**

### **2.1. Legal framework**

Obtaining traffic and technical requirements and approvals for connecting the structure to the public road is a separate administrative procedure within the construction permit procedure.

Apart from the Law on Planning and Construction, this part of the construction permit procedure is regulated by the Law on Public Roads (“Official Gazette of RS”, No. 101/2005, 123/2007 and 101/2011), which regulates the legal status of roads in the Republic of Serbia, including construction, maintenance, managing and financing of public roads. The Law on Public Roads is a separate law in regard to the Law on Planning and Construction which derogates some of the basic concepts and principles of the Law on Planning and Construction.

The following basic provisions of the Law on Public Roads regulate the construction process:

- obligation to issue traffic and technical requirements and approvals as a precondition for construction permit issuance;
- traffic and technical requirements in the framework of the construction permit procedure are issued by the local self-government unit’s body which is competent for municipal roads and streets;
- traffic and technical requirements within the framework of the construction permit procedure are issued by the public enterprise Putevi Srbije for state roads of the first and second category;
- special fee for public roads usage, which is paid within the traffic and technical approval procedure. Article 16 of the Law defines this fee as a source to finance construction and reconstruction, maintenance and protection of public roads;

- 
- apart from traffic and technical requirements, in order to provide connection to state roads of the first and second category it is necessary to obtain the special construction permit issued by the line ministry (Article 133, paragraph 2, point 14 of the Law on Planning and Construction).

## 2.2. Situation in practice

The consequence of the division of roads into state roads of the first and second category and municipal roads is that competences of the public enterprise Putevi Srbije and local self-government units for issuance of traffic and technical requirements and approvals are separated; in practice, this division has often not been rationally implemented. It even happens that certain town streets are categorized as state roads (making Putevi Srbije the responsible authority), which creates serious problems for investors.

The pace by which traffic and technical requirements and approvals are issued, and costs thereof, differ dramatically depending on whether the requirements and approvals are issued by the competent body of the local self-government unit (for the connection to municipal roads and streets), or by the public enterprise Putevi Srbije (for the connection to stage roads of the first and second category).

In municipalities with efficient administrative capacity it takes 7 days for the local self-government unit to issue the requested requirements. The investor is not requested to obtain additional documentation for the purpose of issuing these requirements. Local self-government units which participated in this part of the analysis do not charge any special fees for public road usage.

However, the efficiency and costs of the procedure are dramatically worse when the investor wants to get traffic and technical requirements for connecting to a state road of the first or second category, which is within the competences of Putevi Srbije. Interviews showed that in such cases the relevant procedures take from two and twelve months.

Further on, when issuing the traffic and technical requirements for the connection to state roads, Putevi Srbije requests the investor to present additional documentation to the one

### *Example*

**Investment:** Construction of the local sewage infrastructure.

**Investor:** Local self-government unit (municipality).

It took twelve months to obtain the traffic and technical requirements.

The investor had to pay the following para-fiscal fees for obtaining these requirements: a) fee for the traffic and technical requirements, b) fee for public road usage c) costs for drawing up documentation related to obtaining the requirements (costs for drawing up the design, geodetic survey of the road's profile, costs

---

requested by the local self-government unit. The investor must submit the following documentation:

- a) evidence that according to the official planning document allows the construction (excerpts from the planning document, information on the location etc.);
- b) cadastral and topographic maps;
- c) geodetic survey of the road;
- d) excerpts from the main design of the future structure;
- e) opinion from the competent local enterprise which is maintaining the given section;

The next administrative step to be taken by the public enterprise Putevi Srbije is to issue the approval, which takes around 30 days.

Finally, the investor signs a contract on paying the state road-usage fee, which is actually a para-fiscal fee stipulated by the Law on Public Roads. Apart from this obligation, it was noted that obtaining documentation for getting the traffic and technical requirements also implies significant costs (drawing up the main design, geodetic survey of the road, costs for the survey marks).

In practice, there is a special paradox where individual local self-government units try to overcome the unnecessarily long time it takes Putevi Srbije to issue the traffic and technical requirements; local self-government units issue the construction permit without prior approval. Although such practice is an obvious breach of rules, it demonstrates shortcomings of the procedure and is often identified in the public as “good practice” and competitive advantage of a given local self-government unit in the context of the efficiency of construction permits procedure.

### **2.3. Analysis of the problem**

The analysis of the construction permit procedure indicates a number of conceptual problems related to the inconsistency in regulations, inadequate organization of the state administration and poor institutional capacities of relevant institutions.

#### **Inconsistency in regulations:**

---

The concepts of the Law on Planning and Construction and the Law on Public Roads are not mutually harmonized.

First of all, the general idea of the Law on Planning and Construction is to simplify the construction permit procedure and eliminate unnecessary costs. The Law on Public Roads, on the other hand, introduces additional para-fiscal charges in the form of fees for public road usage, and creates indirectly the framework within which Putevi Srbije and other organizations charge costs for the traffic and technical requirements (drawing up the design, geodetic survey of the road, survey marks). Although the need to finance public roads is indisputable, such indirect way of financing as promoted by the Law on Public Roads is inadequate and non-transparent.

Regarding procedure, the Law on Public Roads stipulates additional administrative steps versus the Law on Planning and Construction. Namely, the latter one does not envisage approval of traffic and technical documentation; whether the design and technical documentation comply with formerly obtained technical requirements is verified by performing technical inspection. Technical inspection is not an administrative procedure, but rather a procedure implemented by authorized persons from the private sector. However, this concept is derogated by the Law on Public Roads, in that it sets forth the obligation of the body managing the public road to issue the approval; this makes the flexible approach of the systemic law completely meaningless.

As already mentioned, the investor must make five additional administrative steps in order to get traffic and technical requirements from Putevi Srbije. In terms of rules which are inconsistent with the practice the key example is the investor's obligation to submit an excerpt from the main design of the future structure. Traffic and technical requirements actually are issued in order to provide technical information necessary for drawing up the main design. It is extremely illogical to request the investor who is asking for technical information, to submit excerpts from the main design which has to be based upon information which is not yet obtained.

#### Inadequate organization of public administration

The Law on Public Roads has an inadequate provision which sets forth that the body managing the public road takes administrative powers in the construction permit procedure; in practice, it is one of the major problems within the entire construction permit procedure. The only logical reason for such organization of competences is to enable public enterprises generate para-fiscal income, which affects the procedure's efficiency and costs from the perspective of the investor. Comparative analysis of the issuance of traffic and technical conditions in the situation where these are issued by the local self-government unit and the Putevi Srbije respectively, indicates that competences granted to Putevi Srbije by the law is not an efficient solution. In

---

the situation where there is a spatial and planning documentation, local self-governments are in the position to issue given requirements, i.e. approval, in a quicker, more efficient, more responsible and less costly manner. In the very same context, Putevi Srbije does not have adequate institutional capacity (sufficient number of people and data bases) to issue the requested requirements as efficiently as the local self-governments are able to. This statement is best illustrated by the example of the additional documentation which Putevi Srbije must obtain from the investor in order to be able to complete the requirement issuance procedure, whilst on the other hand local self-governments have no need to burden the investor with such additional requests (since they already have all necessary information).

It seems unjustified to establish the competences of Putevi Srbije also from the perspective of enhancing the public administration's work in terms of technical quality. General justification for the establishment of competences of separate bodies which are founded within the public administration is to enhance the administration's work through additional expertise. However, at this moment the lack of information and insufficient institutional capacity fully eliminate this argumentation in favor of establishing competences in the manner set forth by law.

#### **2.4. Recommendations**

- Harmonization of the umbrella law and the Law on Public Roads in order to eliminate issuance of approval for traffic and technical requirements in accordance with the concept of the umbrella law and to substitute it in practice with the concept of technical inspection. Result: elimination of one administrative step.
- Revision of competences related to traffic and technical requirements stipulated by law. Competences for issuing requirements and approvals within the construction areas as defined by the planning documentation should be transferred to the competences of local self-government for all public roads, with a list of possible exceptions. Result: instead of 2-12 months, the procedure will take 7 days. Elimination of five administrative steps.
- Revision of competences set forth by law for the construction permit procedure in order to transfer competences regarding connection to state roads of the first and second category to local self-government in case of connections within construction regions defined by the planning documentation.
- Revision of justification for charges on state road usage in the form of a para-fiscal fee. Result: elimination of a non-transparent para-fiscal burden imposed upon the construction. Result: Cheaper construction procedure and transparent costs.

---

### **3. Obtaining water related documents**

#### **3.1. Introduction**

A big number of rules in the legal system of the Republic of Serbia regulate water management: Law on Waters (“Official Gazette of RS”, No. 30/2010) and by-laws, rules on environmental protection, spatial planning, construction of structures, local self-government, capital, navigation, agriculture and forestry, mining and energy, geological research, waste management and others.

The Law on Waters regulates directly the construction permit procedure by introducing documents which are issued by specially assigned administrative bodies; the aim is to ensure a uniform water regime and implement water management. The appropriate request is submitted, pursuant to the law which regulates planning and construction, by the investor who is obtaining the construction permit and drawing up spatial and urban plans, as well as by the body managing the forests. Pursuant to the Law on Waters, the water documents must be issued within two months after the request is submitted to the relevant ministry, the body of the autonomous province, or the local-self-government units.

Administrative documents which are required within the construction permit procedure are: opinion issued within the procedure for issuance of water requirements; water requirements; water approval; and water permit. Further in the text, we present the procedure for issuance of each of these documents individually, and the analysis of identified problems. It might be appropriate to give more detailed “explanation” on these documents. .

#### **3.2 Opinion:**

The opinion issued within the water requirements procedure is a document which defines the body responsible for water requirements. An integral part of this opinion is the opinion of the organization competent for hydro-meteorological affairs and the public water managing enterprise, which the applicant must obtain within the procedure of issuing water requirements related to structures, works and planning documents. Such opinion includes:

- 1) name of structure, works or the planning document;
- 2) hydrographic, hydrologic and meteorological data;
- 3) data on the annual monitoring for nearest water bodies;
- 4) other characteristic data for issuing water requirements;
- 5) opinion of the public water management company (on-site).

##### **3.2.1. Analysis of the problem**

---

In Vojvodina, it takes at least two months for the issuance of opinion within the water requirements procedure, and a fee in the amount of 10,000 to 40,000 RSD must be paid, although the opinion is only a preliminary step necessary to define the body in charge of issuing water requirements.

Basically, three sets of information are requested for the opinion: water protection, protection from water and on-site opinion. On-site opinion is issued by regional enterprises which are in the process of conversion of property rights (former socially-owned enterprises, some of which were privatized). These enterprises are not part of the public administration, but this made them an inevitable participant in the administrative procedure. Therefore, their failure to act may completely block the investment because the procedure cannot be continued. For instance, the regional enterprise Hidrosrem was privatized and was on strike during 2011, with all implications related to the issuance of documents.

The practical implication is that the public enterprise competent for issuance of opinion is not properly technically equipped and positioned to perform the assigned task, because it does not have relevant input data.

Some local self-governments are opting for non-institutional solution by completely ignoring the requirement for opinion, which is a violation of the law; eventually, it appears as a comparative advantage of these municipality because it provides a simpler administrative framework. In our view, it is not a good solution to solve administrative obstacles in this way because projects implemented in this way do not comply with the law; this introduces legal risk and the risk of subsequent denial of possibility to ensure financing (negative legal due diligence). However, such practice demonstrates that it is possible to simplify the administrative framework, which should be achieved through the “guillotine” of rules.

### **3.3. Water requirements**

The Law on Waters, Articles 113–118, sets forth that water requirements are issued within the procedure related to the preparation of technical documentation for the construction of new and reconstruction of existing structures and for other works which may have a permanent or temporary impact upon changes in the water regime. Water requirements define technical and other requirements which must be complied with in the process of construction and reconstruction of structures, the elaboration of planning documents and when carrying out other works.

With the request for water requirements regarding construction i.e. reconstruction of the structure and for carrying out works it is necessary to also submit the following documentation:

- copy of the lot plan;
- excerpt from the real estate cadastre;
- information on the location or the location permit issued pursuant to the Law on Planning and Construction;

- 
- opinion of the public water management company;
  - opinion of the republic organization competent for hydro-meteorological affairs;
  - opinion of the ministry competent for tourism affairs in regard to structures and works conducted in the territory of spa resorts;
  - technical description of the structure, i.e. works;
  - drawings: layout plan, foundation plan, profiles etc.;
  - previously issued water related documents in case of a new structure within the existing one or its reconstruction;
  - evidence of property and legal rights;
  - pre-feasibility study, with the general design, or feasibility with the conceptual design and the report of the commission in charge of technical inspection.

### **3.3.1. Analysis of the problem:**

Issuance of water requirements may be within the competence of the municipality, the public enterprise, or the relevant ministry, or the provincial secretariat (size and capacity of structure may be the criterion).

Comparison of the conduct of the above authorities in regard to costs and duration of procedures, leads to the conclusion of water requirements being an excellent illustration of the incapability of the central public enterprise to render public services quickly and with good quality like the local self-governments. First of all, public enterprises do not have input data for issuing the requirements; they have to obtain them from municipalities (rules and construction conditions, etc.). Also, public enterprises do not have field data, as previously presented.

It takes municipalities with efficient administration to issue water requirements and the approval within 7 days. Municipalities usually do not have permanently employed water management experts, so this deadline includes also obtaining the opinion from an external expert who is a licensed hydro-engineer. This is a good example of how service “outsourcing” can strengthen the administration capacities in an efficient and economically justified way.

The decision on issuing water requirements, or refusal thereof, is not an administrative document and cannot be appealed, whereas its legality may be questioned in procedure resulting in issuing water approval as an independent administrative document; therefore, administrative bodies reject appeals to decisions on water requirements as impermissible, which is contrary to the principle of legal security.

### **3.3.2. Recommendations:**

- Transfer of competences for the issuance of opinion to the level of local self-government, in a manner by which it shall be included into the regular location permit procedure set forth in the Law on Planning and Construction, without additionally burdening the investor with a separate administrative procedure.

---

### **3.4. Water approval**

The request for water approval contains:

- 1) general data on the applicant (full business name, headquarters and address, prevailing activity, registration number, tax identification number (TIN), personal identification number (PIN), data on the contact person with the applicant (name and family name, function, telephone number, fax number and e-mail address);
- 2) basic data (administrative, hydrographic and geodetic data) on:
  - (1) the structure, i.e. works,
  - (2) the planning document, as follows: spatial plan of local self-government unit and the general and detailed urban plan; forest management plan (forest management basics and program).
- 3) place, date, signature and seal of the applicant.

With the request for water approval for structures and works for which the water requirements are issued it is necessary to submit also:

- 1) decision on issuance of water requirements;
- 2) location permit issued pursuant to the Law on Planning and Construction;
- 3) main design and license of responsible design engineer;
- 4) excerpt from the main design relating to its hydro-technical part and the part relating to structures which have impact upon the water regime;
- 5) report on technical inspection of the main design and license of the person who performed technical inspection.

The request for water approval for structures and works for which no water requirements was issued shall contain:

- 1) the main design and appropriate license of responsible design engineer;
- 2) excerpt from the main design relating to its hydro-technical part and the part relating to structures which have impact upon the water regime;
- 3) report on technical inspection of the main design and license of the person who performed technical inspection of the design;
- 4) report on technical inspection of the main design or conceptual design;
- 5) copy of the lot plan;
- 6) excerpt from the real estate cadastre;
- 7) location permit issued pursuant to the Law on Planning and Construction.

#### **3.4.1. Analysis of the problem**

---

Water approval may be issued by the municipality, public enterprise or the relevant provincial secretariat, i.e. ministry. Therefore, the same deficiencies of water requirements procedure in terms of costs and time consumption may also apply to water approval procedure. The following illustrate situations which may occur in Vojvodina pursuant to criteria set forth by law:

- a) requirements and approvals are issued by municipalities: it takes 7 days for each, making a total of 14 days,
- b) requirements are issued by the public enterprise Vode Vojvodine: it takes 1 month for the issuance of approval, in addition to two months for issuing the requirements;
- c) requirements are issued by Vode Vojvodine, and the approvals and water permit are issued by the relevant provincial secretariat. In practice, this procedure takes a total of 6 to 12 months, according to the interviewed.

Example:

Investment in Vojvodina, grain storage facility

It took 2 months to get water requirements from the public enterprise Vode Vojvodine. The local self-government was urging to accelerate the procedure. However, due to amendments to the sector law, the local self-government acquired competences over the case, and the very same approval was issued within 7 days.

Finally, the fact that there are three competent institutions for the water related documents results in politicization and bureaucratization of the procedure, with huge negative effects upon the investor. Unfortunately, all competent institutions clearly reflect political affiliation of their management. This fact often has impact also upon their responsiveness and everyday work.

### 3.4.2. Recommendations:

- Competence for issuance of opinion should be transferred to the level of local self-government, and should include it into the regular location permitting procedure as stipulated by the Law on Planning and Construction, without additional burdening of investors with administrative procedure.

### 3.5. Water permit

The water permit application contains:

- 1) General data on the applicant (full business name, headquarters and address, prevailing activity, registration number, tax identification number (TIN), personal identification number (PIN), data on the applicant's contact person (name and family name, function, telephone number, fax number and e-mail address);
- 2) Basic data (administrative, hydrographic and geodetic data) on the structure, i.e. the works;

- 
- 3) Place, date, signature and seal of the applicant.

The water permit application for structures and works for which water approval or water permit is issued shall also include:

- 1) Decision on issuance of water approval or water permit;
- 2) Report of the public water management company on compliance with requirements contained in the water requirements and water approval related to the water permit;
- 3) Report on technical inspection of the structure;
- 4) The main design or the as-built design;
- 5) Excerpt from the main design or the as-built design.

The water permit application for structures and works for which the usage permit is issued but the water approval is not, shall also include:

- 1) Usage permit;
- 2) Report of the public water management enterprise confirming that the water permit can be issued;
- 3) Main design or as-built design;
- 4) Excerpt from the main design or the as-built design.

The water permit application for structures and works for which the water approval or water permit is been issued and the water approval is not, shall also include:

- 1) For an industrial structure or other structure for which water is taken and brought from surface waters and underground waters; industrial and other structures whose wastewaters are discharged to surface waters, underground waters or the public sewage system; wastewater treatment facility and the facility for drainage and discharge of wastewater; industrial and municipal landfill; underground or above the ground storage for oil and oil derivatives and other hazardous and priority substances; as well as for a thermal power plant or mine:
  - (1) decision of the ministry in charge of health regarding definition of sanitary zones for the protection of water sources;
  - (2) decision of the ministry in charge of geologic research on established and categorized underground water reserves;
  - (3) approval of the ministry in charge of tourism regarding usage of healing waters in the territory of the spa;
  - (4) contract or some other document showing that the public utility is providing cleaning services of the wastewater discharge facility and removing solid waste;
  - (5) report on water quality testing (at intake and discharge point) from the authorized legal person for the preceding period;
  - (6) confirmation of the authorized legal person that the structure is in proper shape for collecting, discharging and treating wastewaters, including septic tanks;
  - (7) report of the authorized legal person on the examination of the level and quality of water in piezometers, in the zone of storage structures;
  - (8) calibration sheets issued by the authorized legal person only for storage structures.

---

### **3.5.1. Analysis of the problem:**

Pursuant to the Law on Water, the water permit is a precondition for obtaining the usage permit. This is a derogation of the concept of the umbrella Law on Planning and Construction. The concept of the Law on Planning and Construction is to verify compliance of the construction with rules and approved requirements through concepts defined in the Law on Planning and Construction and not through additional permits. This introduces, as part of the administrative framework for construction, completely new competent bodies; each of them may, by acting or failing to act, actually stop the construction permit procedure. This multiplies procedures and introduces additional costs.

### **3.5.2. Recommendations:**

- Harmonization of the concept for verifying fulfillment of water requirements and approvals as stipulated by the Law on Planning and Construction.

This practically means that the concept related to issuance of particular requirements, approvals and permits will be replaced by appropriate concepts and mechanisms from the Law on Planning and Construction (technical inspection, commission for approval).

## **4. Other requirements and approvals**

Apart from the above detailed presentation of certain procedures relevant for issuance of technical requirements and approvals, there are also rules on the issuance of other typical technical requirements and approvals. These rules may serve as the basis for further analytical work, the same as for the analysis of traffic and technical requirements and water related documents.

### **4.1 Technical requirements and approval for connecting to the distribution system (electric power, heating and natural gas)**

#### **4.1.1. Legal framework**

The facility of a buyer of electric power is connected to the electric power grid pursuant to requirements and methods stipulated by the Law on Energy (“Official Gazette of RS” No. 57/2011 and 80/2011), Regulation on requirements for electric power supply (“Official Gazette of RS”, No. 107/05) and distribution system operation rules as defined by the operator of power distribution and supply grid, the energy undertaking for heat distribution and supply, the energy undertaking for gas distribution and supply, and in accordance with standards and

---

technical requirements for connecting to and usage of electric power structures, plants, and facilities..

Pursuant to the Law on Energy, the facility of the buyer or producer of electric power and natural gas is connected to the transmission, transportation or distribution system according to this Law and rules adopted in accordance with this Law.

The facility of the buyer or producer of heat energy is connected to the distribution system pursuant to the approval issued by the energy undertaking for heat distribution and supply.

The connection of the facility is approved in administrative procedure upon request of a legal or natural person whose facility is to be connected. The relevant system operator must decide on the request for connection within 30 days upon receipt of the written request, i.e. upon request for the connection of the facility of the producer within 60 days following the day of receipt of the written request. The decision may be appealed with the Energy Agency, within 15 days after delivery thereof. The Agency's decision on the appeal is final and it can be challenged in administrative procedure.

The energy undertaking for heat distribution and supply must decide on the connection of a buyer to the heat distribution system within 30 days upon receipt of the written request. The decision may be appealed with the competent body of the local self-government unit, the town, or the city of Belgrade, within 15 days upon delivery thereof. This decision is final and may be challenged in administrative procedure.

Approval of the connection of the facility to the transmission, transportation or distribution system contains in particular: point of connection, method and technical requirements regarding connection, approved power i.e. capacity, point at which and method by which consumption shall be measured, deadline for connection and connection costs.

Technical and other requirements regarding connection to the transmission, transportation or distribution system shall comply with this Law, the rules adopted on the basis of this Law, technical and other rules and regulations and rules on the operation of the system to which the facility is connected.

#### **4.1.2. Procedure for approving connection to the electric power distribution system**

Requirements for connection define:

- standards regarding connection to the distribution system (DS) and technical, design and facility standards which shall be observed by the distributor, and the DS user's facilities which are to be connected to the DS;
- necessary information which each DS user shall present to the distributor.

---

Procedure for connecting to DS is initiated by a request for issuance of the approval for connections which is submitted to the distributor by a legal or natural person, or entrepreneur, owner or holder of usage rights over the facility whose connection is requested.

Technical requirements for connecting the facility should enable the distribution system operator (DSO) to ensure adequate operation of the DS without disrupting the DS usage for the existing users, and to ensure that the service rendered to the user whose facility is to be connected shall comply with stipulated standards. Technical requirements for connection are established pursuant to the law, regulations on technical norms for construction, as well as the operation, maintenance and protection of electric power structures and facilities, i.e. installations and the rules.

The buyer's facility is connected to the DS on the basis of approval for connection. The request for issuance of approval is submitted on the form defined by the distributor, in accordance with the need to provide data necessary for processing the request.

Within the connection approval procedure, based on operation statistics, the distributor shall check by measuring or calculating (if there is no measuring), whether the parameters related to DS elements comply with technical requirements which enable fulfillment of the applicant's request.

The application contains:

1. Data related to the applicant:
  - for natural persons: personal name, address, PIN, telephone;
  - for legal persons: business name, headquarters, registration number, TIN, account, name of responsible person, telephone number.
  
2. Data related to the facility for which the connection is requested:
  - type and purpose of the structure
  - address/location of structure – place, street and number, cadastral municipality and lot;
  - total number of apartments/business units and other parts of the facility;
  - heating of the structure;
  - method for producing warm water;
  - connection period;
  - character of connection: permanent or temporary;
  - data on the measuring point – total installed power, peak overload, power users, voltage level and type and method of connection (three-phase, mono-phase);
  - total annual consumption – planned consumption and peak power distributed per month and per shift, specific power users (in case that the requested power exceeds 43.5 kW per one measuring device);
  - purpose of consumption;
  - voltage level.

---

Data submitted with the application:

- information on the location;
- copy of the plan from the real estate (land) cadastre from the Republic Geodetic Authority – not older than six months);
- situation given in the conceptual design with marked access roads; borders of the lot and facility; position of the measuring and distribution cabinet, position of the cable junction box and planned route of the internal connection;
- all necessary documents depending on the legality of the facility.

Data submitted with the application for connecting a legally built facility:

- valid construction permit;
- valid decision on the house number (where the address is not given in the approval for construction);
- for a connection of multiple metering devices it is necessary to submit evidence of the number of residential or other units.

After the request was approved, pursuant to the Law on General Administrative Procedure the system distributor shall issue the decision approving the connection. The decision approving the connection of the facility the electric power distribution system contains, among other:

- data on the type of facility and the purpose of consumption;
- approved power and maximum peak overload;
- type, method and point of connection;
- mark of the electric power plant to which the connection is made;
- measuring point and method of measuring supplied electric power;
- connection costs;
- other responsibilities of the buyer established in accordance with the law.

The decision is issued with a validity period corresponding to the deadline for construction of the facility, which shall not exceed two years after the issuance. At the request of the applicant the validity period of the decision may be extended. The request for extension shall be submitted not later than 30 days before the expiration of the deadline defined by the decision.

#### **4.2 Procedure for approving the connection to the district heating system (example: public enterprise Beogradske elektrane)**

a) Submission of the application for issuing technical requirements for connection

A) Based on the information on the location – application for issuing technical requirements for connection to the communal infrastructure of Beogradske elektrane

B) Based on the final decision on the location permit (or the final decision on approval of construction according to the formerly applicable Law on Planning and Construction (“Official

---

Gazette of RS”, No. 47/03 and 34/06) –application for issuing technical requirements for the connection of the home heating installation to the district heating distribution system.

All other structures (existing structures, structures undergoing legalization, structures with individual boiler rooms etc.) shall apply with exclusively technical requirements for connection of the home heating installation to the district heating distribution system.

b) Drawing up of design documentation and submission for review and certification

After receiving the technical requirements for connection, the design agency selected by the investor shall draw up the main mechanical design for the heating substation and internal installation, and accompanying electrical scheme for the heating substation in accordance with the issued technical requirements, and shall submit the design documentation in the necessary number of copies for review and certification to the office for design approval.

c) Submission of request for approval of connection to the district heating system

After obtaining the positive review of the design documentation and the certification of the design, the investor shall submit the approval for approval of connection to the district heating system, so that he can conclude a contract on requirements for connection and be issued the decision on approval of connection.

d) Regulating financial and other obligations

After issuance of approval for connection and contract on requirements being signed, the Investor shall regulate financial and other obligations in accordance with contract.

e) Submission of application for connection

For the purpose of reviewing the works on the heating installation, and in order to start heating service provision and include the facility into the payment scheme, the investor shall apply for connection to the technical operations sector responsible for commissioning.

#### **4.3 Procedure for approving connection to the gas supply system**

Requirements and method for connection to the transportation i.e. natural gas distribution system are set forth in the Regulation on requirements regarding natural gas supply (“Official Gazette of RS”, No. 47/2006, 3/2010 and 48/2010).

Customers’ facilities are connected to the natural gas transportation i.e. distribution system under conditions stipulated by the Law, the above regulation and rules on operation of the transportation i.e. distribution system, and in accordance with standards and technical rules on connecting to and using energy facilities, devices and plants. The structure is connected upon

---

approval of the energy undertaking to which system the facility is being connected with approval of the system's operator..

The application for approval of connection contains data on:

- 1) owner of facility, i.e. holder of usage rights over the facility with the consent of the facility's owner;
- 2) facility for which the approval is requested (address, type, location of object on a copy of the real estate cadastre);
- 3) gas operating pressure necessary for the facility;
- 4) purpose of gas consumption;
- 5) minimum and maximum gas consumption per hour and per day and the total annual consumption with the expected monthly dynamic for facilities with consumption exceeding 16 m<sup>3</sup> per hour;
- 6) technical characteristics of the customer's facility with consumption exceeding 16 m<sup>3</sup> per hour;
- 7) possibilities for replacing gas with another type of energy source and the time needed for the transfer to alternative fuel and vice versa for facilities with consumption exceeding 16m<sup>3</sup> per hour;
- 8) construction permit, i.e. usage permit.

After considering the application, the applicant shall be issued either positive or negative information regarding technical possibilities within 30 days from the application and he shall be instructed on the next steps.

The investor who builds the energy facility himself shall make a contract with the system operator Srbijagas. The aim is to enable the investor to invest own money in order to accelerate connection to the gas supply system.

Technical requirements for constructing energy facilities are defined by the decision on approval issued by Srbijagas.

Precondition for construction is that the investor transfers these constructed energy facilities into the ownership of Srbijagas, unconditionally and without any compensation or claims and unconditionally. In such contractual relationship, Srbijagas has the following obligations;

- to establish preliminary calculation, based on the submitted application connection, which shall regulate part of the costs of the system;
- to issue the decision on approval of connection to the gas system in accordance with technical and technological capacities of the gas system and available quantities of natural gas established by Srbijagas balance in line with regulations;
- to ensure control over implementation of construction of energy facilities which are the subject matter of the contract;
- to conclude a contract on natural gas sales for an undefined period of time (long-term contract) which regulates, among others, permanent and continuous natural gas supply

---

in accordance with the Law on Tort and Contracts, Regulation on gas supply and other rules;

- to cooperate with the investor throughout the entire construction period;
- to evaluate the constructed energy facilities, after signing the minutes on taking over the energy facilities and before entering them into business books as an asset according to accounting rules;
- to properly maintain and cover maintenance costs for the constructed energy facility;
- to pay tax for taken energy facilities.

On the other hand, the obligations of the investor are:

- to submit a request for approval of connection to the gas distribution system Srbijagas with data pursuant to Article 4 of the Regulation on gas supply ("Official Gazette of RS", No. 47/06) and other data requested by Srbijagas;
- to cover part of the system costs based on the pre-calculation made by Srbijagas;
- to finance drawing up of the design and technical documentation, and to obtain other permits, including the usage permit;
- to transfer to Srbijagas the facilities for gas provision that have been financed and constructed by the investor, without any compensation and unconditionally;
- to fully comply with the decision on approval of connection and the design and technical documentation;
- to designate land for metering and regulation stations and other energy facilities related to the subject matter of the contract and ensure with the owner i.e. user of the land free access for authorized persons from Srbijagas to the measuring devices and installations for the purpose of reading, checking, repairing, replacement and maintenance of devices and disconnection of supplies. Exceptionally, Srbijagas shall prior to releasing gas and the beginning of consumption regulate in a legal form mutual relations by which Srbijagas shall acquire easement rights or shall in some other way be able to undertake necessary activities related to the usage and maintenance including the disconnection of gas supply to the owner-user. The final phase in the regulating these relations is the contract on gas sale contract;
- to ensure geodetic survey of the constructed facilities, their entry into the energy installation and real estate cadastre, and the issuance of plan copy;
- to cover all construction costs of energy facilities under the contract (pipes, fittings, armature, and mechanical, assembly and construction works); to construct a measuring and regulating station; to cover costs for fees, charges and other duties related to the acquisition of land.

Upon the conclusion of contract and the receipt of evidence on payment, Srbijagas shall draw up and submit the decision on approval of connection.

The applicant submits technical documentation (main design) to Srbijagas for approval, which shall be issued within 30 days.

Upon obtaining the construction permit, the investor shall submit it to Srbijagas.

---

Pursuant to the Law on Planning and Construction, Srbijagas in the capacity of the technical supervisor of the energy facility construction works, makes a decision on appointing the person responsible for technical supervision.

After the completion of energy facility construction works, the commission of Srbijagas shall check the new gas pipelines for compliance with requirements on gas release. The commission shall also check:

- Decision on usage permit, its number and issuing body, approving the usage of the connection gas pipe-line, metering and regulating station (MRS) and internal gas installations with users of gas,
- Decision of the Ministry of Interior, Sector for Emergency Management, which approves the location for construction of the connecting gas pipeline, MRS and internal gas installations with users of gas,
- Decision of the Ministry of Interior, Sector for Emergency Management, which approves the technical documentation for construction of the connecting gas pipeline, MRS and internal gas installations with users of gas,
- Decision of the Ministry of Interior, Sector for Emergency Management, which confirms compliance with fire protection measures on the connecting gas pipeline, MRS and the internal gas installation with users of gas, as envisaged by the investment and technical documentation,
- Minutes on performed test of hardness and impermeability, prepared by the Republic inspection for pressure equipment,
- technical documentation on attesting the inbuilt parts, welding equipment, additional materials, assembly for welding and radiographic control,
- construction diary certified by the responsible contractor and supervising engineer
- Certificate on entry into the cadastre of underground installations.

After this, The investor then submits the usage permit, after which the following steps take place: evaluation and taking over of the new facility, contracting gas sale, applying for release of gas, and issuing decision on gas release followed by actual gas release.

#### **4.4. Requirements and approval for connecting to the water supply and sewage network**

##### **4.4.1. Legal framework**

The Utility Law ("Official Gazette of RS", No. 88/2011) sets forth the utility services and regulates the general requirements and the methods by which they will be provided. The local self-government units shall ensure the quality, volume, availability and continuity, as well as monitoring implementation thereof. Utility services include, among others, supply of potable water, water intake, treatment, processing and supply of water through the water supply network, as well as treatment and discharge of atmospheric waters i.e. collecting, drainage,

---

treatment and discharge of waste waters, atmospheric and surface waters from public areas, namely from the point of user's connection to the street sewage network.

In accordance with this Law, local self-government units can assign the provision of utility services to: public enterprise, private operator, entrepreneur or some other business. For this purpose, the competent body of local self-government unit issues the decision on water supply and sewage by which it sets forth the requirements and methods for organizing provision of utility services including: treatment and distribution of water; treatment and drainage of atmospheric and wastewaters in its territory which are connected to water supply and sewage network, as well as the requirements and method of using and maintaining public water supply and sewage network are to be used and maintained.

#### **4.4.2. Procedure for issuing requirements and connections to the water supply and sewage network**

As regards the methods and requirements for connecting to the water supply and sewage network, it is envisaged that the user shall comply with the decision on approval issued by the service provider. This decision defines the character of connection (permanent, temporary, or connection for a defined period of time) and technical requirements pursuant to the main design and technical standards. Technical standards are defined in a general document issued by the public utility enterprise.

Requirements for designing form an integral part of documentation for obtaining the construction permit. They do not give the right to commence works, but only to draw up the main design of the internal installations in the facility. Compliance of the main design of internal installations of the water supply network, i.e. the sewage network of the facility with requirements and applicable technical standards. Is confirmed by the decision on approval and certification of annexed drawings.

The main design is submitted to the public utility enterprise with the request for issuing approval for the water supply project. The final step is submission of the request for connection. The completed connection file, i.e. documentation on water supply and sewage connection, is forwarded to competent units, after which the user gets the receipt (green card).

For smaller individual family structures with clear ownership and status, the main design drawn up by the licensed design agency, may replace the connection design (outline plan—which is drawn up by the public utility enterprise upon user request).

The content of the accompanying documents which form an integral part of the documentation of the structure and connection, depending on status of the structure, is defined by the Law on Planning and Construction:

- with the first application for requirements, for all structures it is necessary to submit a copy of the lot plan with the marked structure, evidence of ownership, copy of personal

- 
- identity card for natural persons, or copy of the decision on entry into the registry of businesses in case of legal person; these are documents required for existing structures;
  - additional documents are required – information on the location, for planned, new structures; confirmation that structures will be legalized for structures undergoing legalization procedure; decision on construction and the situation plan, for temporary structures; information on the location and approval of the tenants' assembly, for all interventions on existing structures (building of annexes, extensions, reconstruction, adaptation, physical division...);
  - where the regulation of ownership and legal relations is required, it is necessary to obtain written certified approvals from the owners.

Approval of the main design for internal installation of the water supply and sewage network is issued with the location permit, i.e. with the decision on performed works, in case of works under Article 145 of the Law on Planning and Construction.

Upon the submission of the construction permit, documentation for connection is complete.

## **4.5. Environmental impact assessment**

### **4.5.1. Legal Framework**

Environmental impact assessment is a preventive protection measure based on studies and consultations with public participation and the analysis of alternative measures, with the aim to collect data and assess detrimental impact of projects upon human life and health, flora and fauna, land, water, air, climate and landscape, material and cultural goods etc., and mutual impact of these factors. Its aim is also to establish and propose measures by which detrimental impacts may be prevented, reduced or removed in view of the feasibility of these projects. The study is elaborated pursuant to the provisions of the Law on Environmental Impact Assessment („Official Gazette of RS”, No. 135/2004 and 36/2009), rules on scope and content and decision on the scope and content of the study on the environmental impact assessment study of the project (“Official Gazette of RS”, No. 69/2005)

The Law on Environmental Impact Assessment regulates the procedure for impact assessment of projects with significant environmental impact, the content of environmental impact assessment study, participation of interested stakeholders, etc.

The subject matter of impact assessment are projects which are planned and implemented, changes of technology, reconstruction, expansion of capacity, closing of operations and suspension of projects which may have significant environmental impact. The subject matter of impact assessment are projects implemented without a study on impact assessment, which do not have approval for construction, or construction permit. Impact assessment is made for projects in the field of industry, mining, energy, traffic, tourism, agriculture, water management, waste management and public utilities, as well as for projects related to protected natural property and implemented in protected area of an immovable cultural good.

---

The Government of the Republic of Serbia establishes a list of projects for which an environmental impact assessment is mandatory, as well as a list of projects for which it may be requested. In the latter case, the competent body shall decide on the need for developing environmental impact assessment study for the projects.

#### **4.5.2. Environmental impact assessment procedure**

Environmental impact assessment procedure consists of the following phases:

- 1) decision on the need for environmental impact assessment in case of projects for which it may be required;
- 2) definition of the scope and content of the environmental impact assessment study;
- 3) decision on approval of the environmental impact assessment study.

Article 7 of the Law sets forth the obligation of competent bodies and other bodies and organizations to ensure, upon request of the investor, the necessary data and documentation which are relevant for the establishment and assessment of possible direct and indirect environmental impact of the project within 15 days upon the submission of the request, or to inform the investor within the same deadline in writing that the requested data, information or documentation are not available.

##### **4.5.2.1. Decision on the need for environmental impact assessment**

The investor of the project for which an environmental impact assessment may be requested shall obtain from the competent body the decision regarding the need for an environmental impact assessment.

The application for the decision regarding the need for environmental impact assessment is submitted on prescribed form and shall contain:

- 1) data on the investor;
- 2) description of the location;
- 3) project description;
- 4) presentation of the main alternatives;
- 5) description of environmental factors which may be exposed to the impact;
- 6) description of possible significant detrimental impacts of the project;
- 7) description of measures for prevention and mitigation of detrimental impact;
- 8) any other data that may be requested by the competent body.

The following documents shall be enclosed to the request: excerpt from the urban plan, or the approved urban project, i.e. act on urban requirements which is not older than one year (location permit);

- 1) preliminary design or conceptual design, or an excerpt from the conceptual design;
- 2) graphical presentation of micro and macro location;

- 
- 3) requirements and approvals by other competent bodies and organizations obtained under special law;
  - 4) evidence on the republic administrative fee paid;
  - 5) any other evidence as required.

Within the decision-making procedure, which takes ten days upon the receipt of the correct request, the competent body shall inform interested stakeholders and the public on the submitted request about the need for environmental impact assessment. The information contains data particularly on:

- 1) the investor;
- 2) name, type and location of the planned project;
- 3) the place and time of public access to data, information and documentation filed by the investor;
- 4) type of decision which is to be made on the basis of the request;
- 5) name and address of the competent body.

All interested stakeholders and the public may, within ten days after the receipt of information, give their opinion. Within ten days following the expiration of the deadline, the competent body shall decide on the request taking into account the specifics of the project and the location, as well as the opinion of stakeholders and the public.

When a competent body decides that an environmental impact assessment study is necessary, it may also define its scope and content. When such body decides that an environmental impact assessment study is not necessary, it may establish the minimum requirements relevant for environmental protection according to special law. The competent body submits its decision to the investor, and informs the interested stakeholders and the public on the decision within three days after the day on which such decision was made.

#### **4.5.2.2. Defining the scope and content of the environmental impact assessment study**

In case of a project for which environmental impact assessment study is mandatory and for which the competent body has established such obligation, the investor shall submit a request for defining the scope and content of the environmental impact assessment study.

The request for determining the scope and content is submitted on a prescribed form and shall contain:

- 1) data on the investor;
- 2) description of the location;
- 3) description of project;
- 4) presentation of main alternatives;
- 5) description of environmental factors which may be exposed to the impact;
- 6) description of detrimental impacts;
- 7) description of measures for prevention and mitigation of detrimental impact;
- 8) non-technical summary of data related to points 2) to 6);

- 
- 9) data on difficulties encounters by the investor in gathering required data and documentation;
  - 10) any other data that may be requested by the competent body.

The following documentation is submitted with the request:

- 1) excerpt from the urban plan or the approved urban project, i.e. the document on urban requirements which is not older than one year (location permit);
- 2) conceptual design i.e. excerpt from the conceptual design;
- 3) graphic presentation of the micro and macro location;
- 4) requirements and approvals by other competent bodies and organization obtained under the special law;
- 5) evidence on the republic administrative fee paid;
- 6) another evidence, as required.

The competent body shall inform the interested stakeholders and the public on the submitted request for defining the scope and content within ten days upon its receipt. Interested stakeholders and the public can give their opinions on the request within 15 days upon the receipt of the information. The competent body shall make a decision on the scope and content of the environmental impact assessment study not later than ten days upon the expiration of this deadline taking into account the specific characteristics of the project and location, as well as opinions of interested stakeholders and the public..

The competent body shall submit the decision to the investor and shall inform the interested stakeholders and the public about it within three days upon making such decision.

#### **4.5.2.3. Decision on approval of the environmental impact assessment study**

The investor shall submit the request for approval of the environmental impact assessment study to the competent body along with the following documents:

- 1) at least three hardcopies of the study plus one copy in electronic format;
- 2) decision on the scope and content of the environmental impact assessment study.

The investor shall submit the request for approval not later than one year upon receipt of the final decision by which the scope and content of the environmental impact assessment study are defined. If the investor submits the request for approval after the given deadline, the competent body shall decide on the request depending on the circumstances of each case.

The environmental impact assessment study and its approval, i.e. the decision that such study is not necessary, form the the integral part of the documentation which is submitted with the request for approval of construction, or with the announcement of the beginning of project implementation(construction, works, performance of works, change of technology, change of field of activity and other activities).

---

## 4.6. Document on requirements for nature protection

### 4.6.1. Legal framework

The Law on Nature Protection ("Official Gazette of RS", No. 36/2009, 88/2010 and 91/2010 - corr.) establishes the competencies of the Institute for Nature Protection, including among others: setting requirements and measures for nature protection, natural resources and protected areas, on the basis of spatial and urban development plans, planning and design documentation, basics and programs for management and use of natural resources and goods in mining, energy, transport, water management, agriculture, forestry, hunting, fishery, tourism and other activities affecting the nature.

According to the Law, the investor, i.e. legal entity, entrepreneur and private entity that uses natural resources, performs construction and other works, activities and interventions in nature shall act in compliance with measures for nature protection defined by plans, bases and programs and in compliance with design-technical documentation, in the manner that shall ensure avoidance or minimization of endangerment and damaging of nature.

Provisions of the Nature Protection Law applied in the process of issuing construction permits are:

- Obtaining the document on requirements for nature protection is a mandatory step in the development of plans, bases, programs, projects, works and other construction activities.
- The document on requirements for nature protection is issued by a competent institute for nature protection (Republic Institute for Nature Protection and Vojvodina Institute for Nature Protection for the autonomous province).
- A complaint may be lodged for the document on conditions for nature protection to the ministry responsible for environmental protection affairs within 15 days, and to competent authority responsible for environmental protection affairs of the autonomous province.
- In case that applicant does not start works and activities for which the document on requirements for nature protection was issued, within two years from the delivery of the document, the applicant shall apply for new document.
- Charge shall be paid for collection and evaluation of information needed for issuance of the document on requirements for nature protection. The amount and manner of calculation and collection of charges shall be defined by the Institute, with the Government's consent.
- In case that during the procedure of issuance of conditions for nature protection it has been established that there is probability that plans, basics, programs, projects, works and activities may have considerable impact upon goals of conservation and integrity of ecologically significant areas, the Ministry, authority responsible for environmental protection affairs of autonomous province, i.e. authority responsible for environmental

---

protection affairs of local self-government unit, shall perform the assessment of acceptability.

- For plans, bases and programs for which, compliant with special law, strategic impact assessment has to be performed, and for projects, works and activities for which, compliant with special law, environmental impact assessment has to be performed, the assessment of acceptability shall be carried out within those processes.
- In cases when based on the assessment of acceptability, it has been established that plans, bases, programs, projects, works and activities may have considerable impact upon goals of conservation and integrity of ecologically significant area, competent authority shall reject to give consent.

#### **4.6.2. The procedure for issuing the document on requirements for environmental protection**

The competent Institute for Nature Protection usually issues the requirements already during the planning document phase, but it happens that the requirements must be obtained for individual projects. An explanation for duplicating procedures is that designated use of structures that can be built on some location was not sufficiently specified during the development of the general and detailed regulation plans. Thus, it can happen that some location is designated for industrial zone, which is not specific enough because the level of environmental impact is not the same for all industrial plants and factories. In case of requirements issued for developing the spatial plan for special-purpose areas, it is possible to use the same requirements for individual projects.

Since the Law on Nature Protection does not stipulate a specific deadline for issuing the requirements, general provisions of the Law on Administrative Procedure are applied, according to which, the requirements are issued within 30 days upon receipt of completed application. According to representatives of the Institute for Nature Protection, lack of staff is one of the reasons for exceeding the statutory limit. In practice, it takes two to three months for obtaining the requirements. Duration of procedure is often affected by incomplete or inadequate documentation submitted by investors. In some cases, time is lost at the local level because of untrained staff who lack expertise and are unable to give the investors right information about requirements or approvals. This problem is solved at the level of the competent authority, through efficient control and supervision.

Given the importance of nature, legislation governing key sectors of economy indicates the need for nature protection and preservation. However, there are many inconsistencies including terminological inconsistencies in the laws, especially the Law on Energy, Law on Mining and Geological Exploration and Law on Forests. In principle, they promote nature protection but there are no specific provisions ensuring that the issuance of approvals and permits in the field of construction is done in compliance with the document on requirements for nature protection.

On the other hand, the competent institutes for nature protection do not have adequate institutional capacity, including a sufficient number of employees and updated databases, to be

---

able to issue the requested document within the statutory deadline of 30 days.

The application for issuance of the document on requirements for nature protection shall be accompanied by the following documentation:

- 1) Data on type and developer of the document referred to in paragraph 1 of this Article and on the investor;
- 2) Data on location and spatial coverage with appropriate mapping and graphic appendices, and designs with a copy of the cadastre plan;
- 3) Short description of goals for which the document is being developed, intended activities at its implementation and main expected results, and for the design, a preliminary concept as well.

The document on requirements for nature protection shall be issued as a ruling by the Institute.

In case that applicant does not start works and activities based on which the document on requirements for nature protection was issued, within two years from the delivery of the document, the applicant shall apply for new document.

Charge shall be paid for collection and evaluation of information needed for issuance of the document on requirements for nature protection. The amount and manner of calculation and collection of charges, obligated entities, exemption from charging, or reduction of charge, shall be defined by the Institute, with the Government's consent.

A complaint may be lodged for the document on requirements for nature protection to the ministry responsible for environmental protection affairs (hereinafter referred to as: Ministry) within 15 days, to competent authority responsible for environmental protection affairs of the autonomous province.

In case that during the procedure of issuance of conditions for nature protection, it has been established that there is probability that plans, bases, programs, projects, works and activities may have considerable impact upon goals of conservation and integrity of ecologically significant area, the Ministry, authority responsible for environmental protection affairs of autonomous province, i.e. authority responsible for environmental protection affairs of local self-government unit, shall perform the assessment of acceptability. For plans, bases and programs for which, compliant with special law, strategic impact assessment has to be performed, and for projects, works and activities for which, compliant with special law, environmental impact assessment has to be performed, the assessment of acceptability shall be carried out within those processes.

---

In cases when based on the assessment of acceptability, it has been established that plans, bases, programs, projects, works and activities may have considerable impact upon goals of conservation and integrity of ecologically significant areas, competent authority shall reject to give consent.

In cases when based on the assessment of acceptability, it has been established that plans, bases, programs, projects, works and activities may have considerable impact upon goals of conservation and integrity of ecologically significant area, competent authority shall give consent only under the following conditions:

- 1) There is no other alternative solution;
- 2) With respect to ecologically significant areas with at least one priority habitat type and/or priority species, only if there are imperative reasons of prevailing public interest, which pertain to human health and public safety, and to useful effects of primary importance for the environment; if there are other prevailing reasons of public interest, with previously obtained opinion from the European Commission. With respect to all other ecologically significant areas, only if there are other imperative reasons of public interest, including interest of social and economic nature, which are prevailing in comparison to the interest of conservation of these areas;
- 3) If it is possible to undertake compensation measures necessary for conservation of overall coherence of ecological network.

#### **4.7. Requirements for taking measures of cultural property protection and approval of technical documentation**

##### **4.7.1. Legal framework**

In the process of issuing construction permit, depending on the type and location of structure, it is necessary to obtain the requirements for protection measures and consent from the authority in charge of cultural property protection.

The basic law governing this segment in the process of issuing construction permits is the Cultural Property Law ("Official Gazette of RS", No. 71/94, 52/11 and 99/11) and the Rules on the Content, Review and Evaluation of Projects and Documentation for Taking Measures of Technical Protection Measures and Execution of Other Works on Immovable Cultural Property.

Cultural Property Law defines the notion of cultural property as objects and products of material and spiritual culture of general interest placed under special protection determined by the law.

---

Measures of technical protection of immovable cultural property are stipulated by Articles 99 to 110 of the Law and cover the works on conservation, restoration, reconstruction, revitalization and presentation of cultural property.

#### **4.7.2. Competent authority**

The competent institute for the protection of cultural monuments determines the conditions for taking measures of technical protection and other works on immovable cultural property and cultural property of great importance, and the Republic Institute for the Protection of Cultural Monuments on cultural property of exceptional importance.

The ministry responsible for culture shall determine the conditions for taking measures of technical protection in cases when projects and documentation are prepared by the Republic Institute for the Protection of Cultural Monuments.

The competent institute for protection of cultural monuments gives consent to execution of works on immovable cultural property of great importance, and the Republic Institute for the Protection of Cultural Monuments in regard to cultural property of exceptional importance.

#### **4.7.3. Legal provisions directly affecting the construction process**

- The requirements for keeping, maintenance and use of cultural property and property under prior protection, and determined protection measures shall be incorporated into spatial and urban plans.
- The Rules define the architectural / construction project as the main design for executing measures of technical protection and other works on immovable cultural property. This implies construction regulations for the works for which the construction permit is issued, and conservation project for other measures and works on immovable cultural property.
- The Commission for review and evaluation of studies and projects for execution of works on immovable cultural property reviews and evaluates submitted projects and studies.
- The Commission reviews all completed applications and decides on it within 30 days from the date of receipt of the application.
- The Commission may engage consultants to review studies and projects or parts thereof, and to monitor the works for which the consent was granted or to develop methodology for preparation of projects and studies.

- 
- An applicant whose application is denied may appeal to the Commission within 25 days of receiving the notice of denial.
  - Works on immovable cultural property, envisaged by the project and documentation to which consent was given may be executed by protection institutions, other institutions and enterprises, and other legal entities and entrepreneurs that have professional staff and equipment prescribed in line with the Law (Article 102).
  - If works on immovable cultural property are executed without determined requirements for taking measures of technical protection or without consent to the project and documentation, the competent institute for protection of cultural monuments or the Republic Institute for the Protection of Cultural Monuments in regard to cultural property of exceptional importance shall prohibit further execution of works and file a request to a competent authority for demolition or restoration of a structure to the previous state, at the investor's cost. If works on immovable cultural property are not executed in line with the project and documentation to which consent was given for execution of such works, the competent institute for protection of cultural monuments or the Republic Institute for the Protection of Cultural Monuments in regard to cultural property of exceptional importance shall temporarily suspend the works and set the deadline for the fulfillment of conditions for continuation of such works. If the investor fails to suspend the works, the competent institute shall file a request to competent authority for demolition or restoration of a structure to the previous state at the investor's cost (Article 103).
  - The investor shall within 15 days from the completion of works on immovable cultural property inform thereof the competent institute that adopted the decision thereby it granted consent to the project and documentation for execution of works. If it determines that works were not executed in line with the project, the competent institute shall by means of its decision order the investor to bring the works executed in compliance with the project within the set deadline. If the investor fails to act in line with the decision thereof, the competent institute that brought the decision shall file a request to the competent authority for demolition or restoration of a structure to the previous state, at the investor's cost (Article 105).
  - The investor shall ensure the keeping of documentation on taking measures of technical protection and execution of other works on immovable cultural property and its protected environs in line with special regulations and shall after the completion of works submit a copy of documentation to the competent institute for the protection of cultural monuments or the Republic Institute for the Protection of Cultural Monuments in regard to cultural property of exceptional importance (Article 106).
  - Works cannot be executed under the project older than 5 years, unless it has been previously revised. If the execution of works is designed in stages, the remaining part of the project has to be revised every five years.

---

#### **4.7.4. Documentation submitted with the project:**

- 1) Copy of the final decision on requirements for performing measures of technical protection and other works based on which the design was prepared, if such requirements are required by law;
- 2) Information on the investor;
- 3) Decision on appointment of responsible designer and evidence that the designer fulfills the criteria for designing such projects;
- 4) Narrative description, technical and photo documentation of pre-existing state of the cultural property;
- 5) Information on the previous interventions performed on the cultural property;
- 6) Stylistic and chronological analysis of the cultural property valuation, carried out by the competent institution for protection;
- 7) Historical data on the cultural property and data gathered during the previous archeological excavations and/or other relevant research;
- 8) Findings of the conservation and laboratory research, interpretation of findings and/or confirmation of the central laboratory that laboratory research is not necessary;
- 9) Defined methods and techniques of performing measures of technical protection and other works;
- 10) List of approved materials and equipment for performing measures of technical protection and other works.

#### **4.8. Emergency shelter construction - construction and maintenance fees**

##### **4.8.1. Legal framework**

The obligation of construction and payment of fees for construction and maintenance of emergency shelters is stipulated by the Law on Emergency Situations (Official Gazette of RS”, No. 111/2009 and 92/2011). Thus, Article 60 establishes the obligation of state administration body, local government body and company to ensure, within the scope of their rights and duties, that citizens and employees take shelter in emergency shelters or other facilities suitable for protection with a view to protection from natural and other threats. With regard to investors, during the construction of facilities in cities and commercial centers, as well as in other populated areas potentially targeted in war according to the risk assessment, the investor shall ensure construction of shelters or other protective and sheltering facilities, pursuant to the urban planning design.

Nevertheless, Article 64 of the Law stipulates the possibility that investor may be exempted from the obligation to build emergency shelter through a decision of the Public Company for Emergency Shelters, passed on the basis of opinion of a body in charge of urban planning. The opinion confirms the non-existence of technical requirements for construction of emergency shelters pursuant to the law and other regulations. The investor who is not obliged

---

to build emergency shelter pays fees calculated at 2% of the structure value to the special account of the public company for Emergency Shelters. The fees are calculated by the Public Company for Emergency Shelters. Upon payment, the public company for Emergency Shelters issues the investor a certificate on fulfillment of obligation.

#### **4.8.2. Procedure for determining fees charged for emergency shelters**

The obligation to construct emergency shelters and pay fees is determined by the location permit on the basis of urban planning documentation, whereas the payment is made in the process of issuing construction permit and usage permit.

Documents submitted by investors required for determining fees charged for emergency shelters in the process of issuing construction permit are:

- Request for determining fees charged for construction and maintenance of emergency shelters
- The main design and installation designs of the structure

Documents submitted by investors required for calculating the final amount of fees charged for emergency shelters in the process of issuing usage permit are:

- Application for determining fees charged for construction and maintenance of emergency shelters
- Construction permit and location permit
- Main design and installation designs of the structure
- Final certificate of the contractor, minutes of technical inspection of the structure or other relevant evidence for determining the actual value of construction works.

It usually takes one day to obtain the calculation of the amount of fees for construction of emergency shelters, whereas for more complicated structures it takes no longer than 3 days. After payment, the investor is issued a certificate used as evidence in the process of issuing building/usage permits that the obligation is settled.

### **4.9. Approval from the managing body of the public enterprise Železnice Srbije (Serbian Railway)**

#### **4.9.1. Legal framework**

Law on Railway (Official Gazette of RS”, No. 18/2005) in the part relating to protection of railway infrastructure (Article 46) stipulates that in the rail safety belt, the construction of buildings, installation of facilities and equipment, and construction of other structures within 25

---

meter perimeter from the outermost railway track axis, with the exception of the facilities in the function of rail transport, is prohibited.

Exceptionally from the provision, cables, low-voltage lighting power lines, overhead telephone and telegraph lines, tram and trolleybus contact lines, sanitation systems, pipelines and other ducts and similar facilities and objects may be installed in the rail area, subject to the approval of the managing body.

In the rail safety belt, construction of buildings, installation of facilities and equipment, and construction of other structures is allowed outside the 25 meter perimeter on the bases of the approval issued by the managing body.

#### **4.10. Market Structure Impact Study**

##### **4.10.1. Legal framework**

The Law on Trade ("Official Gazette of RS", No. 53/10) stipulates the obligation of preparing the Market Structure Impact Study for trade formats with total sales and warehouse space over 2000 m<sup>2</sup> of gross size (hereinafter: MSIS).

MSIS particularly contains the assessment in regard to:

- 1) the interest of consumers and other buyers for existence of a retail facility of a given size and purpose;
- 2) the need for existence of different structure of trading formats and different trade facilities on wider and immediate market area;
- 3) the need for improving trade by introducing new ways of sale and distribution of goods, and
- 4) impact on other economic entities, small and medium, involved in retail trade in a relevant area, after opening, and/or building of a given trading format.

The impact study is conducted by a scientific/research organization specialized in economy and market research, accredited pursuant to legislation on scientific and research activity.

The impact study with approval from the previous paragraph constitutes a part of the required documentation enclosed with the request to the institution in charge for issuing the construction permit in accordance with the regulations defining the construction, for the facilities comprising the trading format in question.

If the trading format is organized in the already built space, the impact study with approval is prepared prior to the beginning of its operation.

Minister in charge of trade shall specify the content and methodology of the study. Accordingly, Minister issued the Rules on the Content and Method of Preparing MSIS (Official Gazette of RS", No. 47/2011). In the introductory part of the Rules, it is stated that MSIS is an analytical tool that is applied with adequate scientific research methods to determine circumstances and

---

assess the impact of facilities comprising the trading format in question, i.e. retail facilities of prescribed size, in the market area where the site of the future facility is located.

In functional terms, the basic objective of MSIS is to professionally assess the impact of new trading facilities on improvement of competition and consumer interests in a given area.

MSIS is based on answers to questions of the MSIS development program (integral part of the Rules), which contains:

- 1) The analysis of current situation and impact assessment of the future trading facility;
- 2) Impact assessment report based on the essential and other relevant elements, with the conclusion about the final assessment of general impact on market structure;
- 3) Research results, data, reviews and other documents serving as the basis for preparation of the report.

The purpose of MSIS is not to prevent, restrict or obstruct the construction and operation of large trading facilities, but to give guidance for their development primarily toward the interests of consumers and development of competition in the market of the Republic of Serbia.

## **5. Supervisory inspection throughout the construction process**

### **5.1. Introduction**

Construction permitting process implies a complex interaction of the government and investors, for the purpose of protecting interests of investors, citizens, resources and the environment. In this context, the republic construction inspection authorities directly check projects and actions of natural and legal entities to ensure compliance with laws and regulations and, depending on findings, impose measures that are within their authority.

According to legislation of the Republic of Serbia, sector laws governing specific administrative procedures, regulate the supervisory inspection function - authority, rights, duties and powers of inspectors in different administrative areas. Types of inspections that significantly affect the construction process are the following:

- Urban Planning and Building Inspection
- Inspection of Public Roads
- Inspection in the field of Fire Protection
- Inspection of Environment
- Inspection of Public Utilities
- Labor Inspection and Safety at Work

---

## 5.2. Problems

The main weaknesses of the inspection function are: inadequate attitudes, habits and conduct of inspection authorities and inspectors. While poor quality of legal framework is perceived as the crucial problem of permitting process, most serious objections to the inspection are human resources and weak institutional capacity.

In practice, the construction inspection is perceived as an instrument of repression rather than prevention. Inspectors rarely perform preventive inspection in line of their regular duties and do not meet statutory obligations concerning the provision of "technical assistance, expert opinions and explanations." Instead, they usually react when complaints are lodged, i.e. when regulations are violated, or damage already made. For example, in the case of informal construction, an inspector will visit the site when the building is already in advanced stage of construction. Likewise, a fire inspector will carry out inspection when fire occurs.

The inspection function is therefore limited to a basically "repressive" role. However, such practice has a number of shortcomings which are reflected through:

- Unequal treatment of investors. There are no instruments which can be used by inspectors to exercise their authority and protect themselves from the influence of investors who have political or economic power, or those who simply inspire fear. On the other hand, investors who do not have above attributes are exposed to much higher pressure, which cannot be justified as preventive control or the need to remove identified irregularities.
- Too much discretionary powers. Various inspections and inspections at different administrative levels lack transparency in the decision making process often resulting in opposite decisions for the same problems or irregularities. Inspectors have too much discretionary powers and can act differently in the same legal situation (e.g. when filing charges against the investor or extending the deadline for issuing construction permits within 30 days).
- Lack of transparency of the procedure. Too many procedures whose compliance is checked, their frequent amendments and extensive powers of inspectors, put investors in a position of being unable to properly recognize their rights and obligations. It can happen that even the investors who comply with all procedures suffer great losses in terms of time and money, due to complexity and inefficiency of administrative procedures. Naturally, such situation provides an "ideal" framework for corruption.

---

**Example:**

**Investment in storage facility in Vojvodina**

This example involves an investor who obtained the location and building permit in accordance with the procedure. Upon the complaint that was lodged, the construction inspection checked both permits for compliance, followed by extraordinary inspection that was carried out (location permit was checked first).

Although the inspection findings confirmed that both permits were valid, the second instance authority turned down the decision on issuing location permit due to formal reasons (the other side in the dispute was not heard).

Consequence: the process of issuing construction permit took almost 14 months.

In addition to inappropriate attitudes and conduct which cause inadequate treatment of investors undergoing the procedure, other major problems are caused by the following deficiencies in institutional capacities:

- Uncoordinated work of inspectors;
- Inspectors having insufficient knowledge about the use of new technologies that are being inspected;
- Lack of transparent records and information about performed inspections and findings;
- Lack of independent control of inspectors' work.

### **5.3. Recommendations**

The main problems of inspection are related to wrong attitude and conduct of inspectors and weak institutional capacities. These are the problems that cannot be solved quickly and their solution requires a radical change of administration's mindset and ethics.

In the meantime, bearing in mind that certain level of discretionary powers is necessary for inspectors' work, the focus should be on objectives and measures for improving transparency and institutional capacity of relevant bodies. Some of these objectives are:

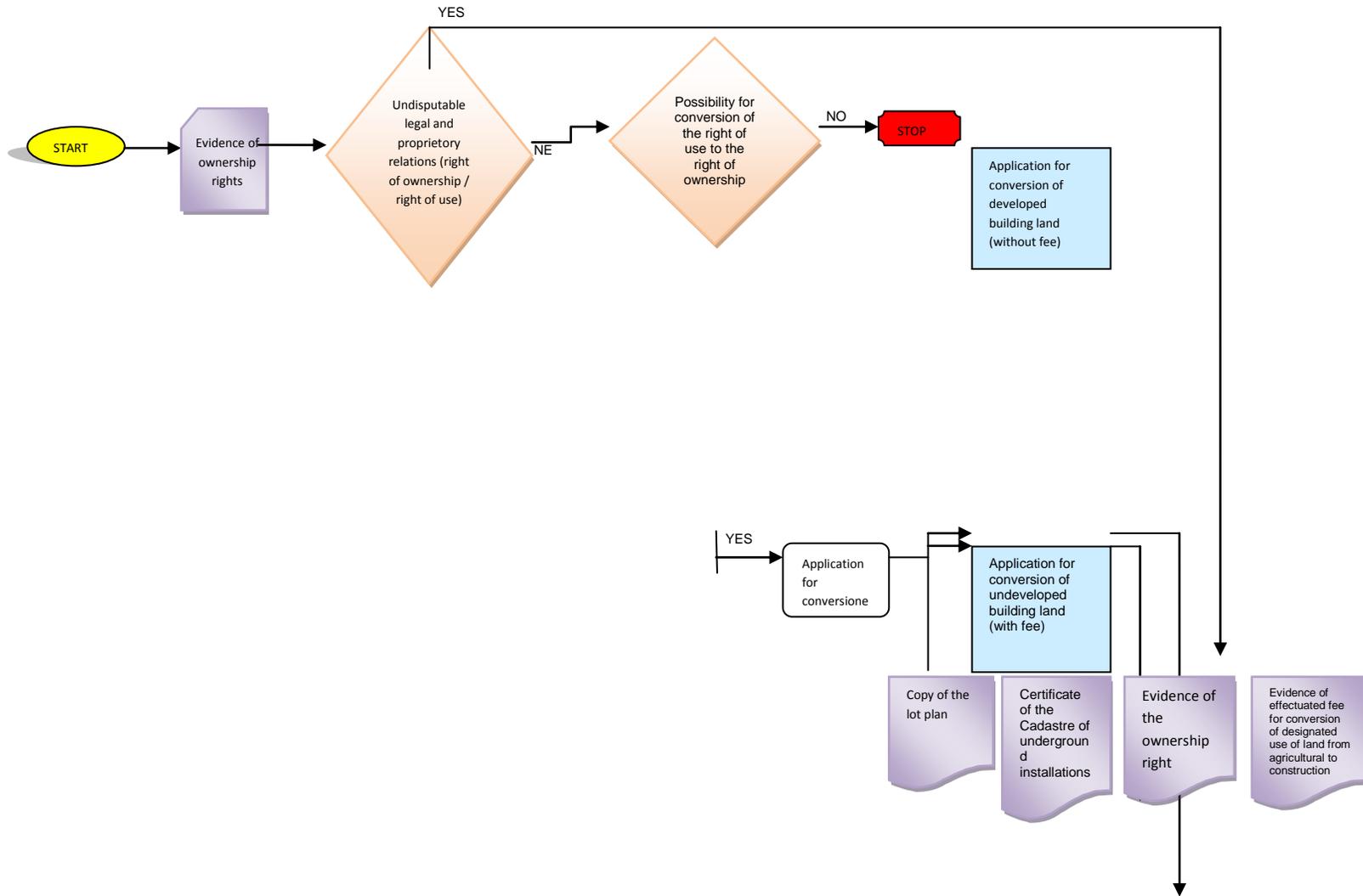
- To encourage preventive function of inspection, and provide clear and measurable guidelines for inspectors;
- To adopt regulations that give more specific guidance for determining penalties, based on the risk criteria and social threat (e.g. people's lives and health should be separated from property);

- 
- To establish a system of personal responsibility and clear system of reward and penalty for inspectors and adequate measures against corruption;
  - To train administration staff involved in construction issues;
  - To harmonize inspection activities at various levels of administration;
  - To develop a transparent database of information on performed inspections and their findings. In the final stage, it can be networked with other inspection databases to enable transparent monitoring of the use of information and flow of documents, with personalized responsibility and monitoring of deadlines.
  - To develop an independent system for controlling the work of inspectors.

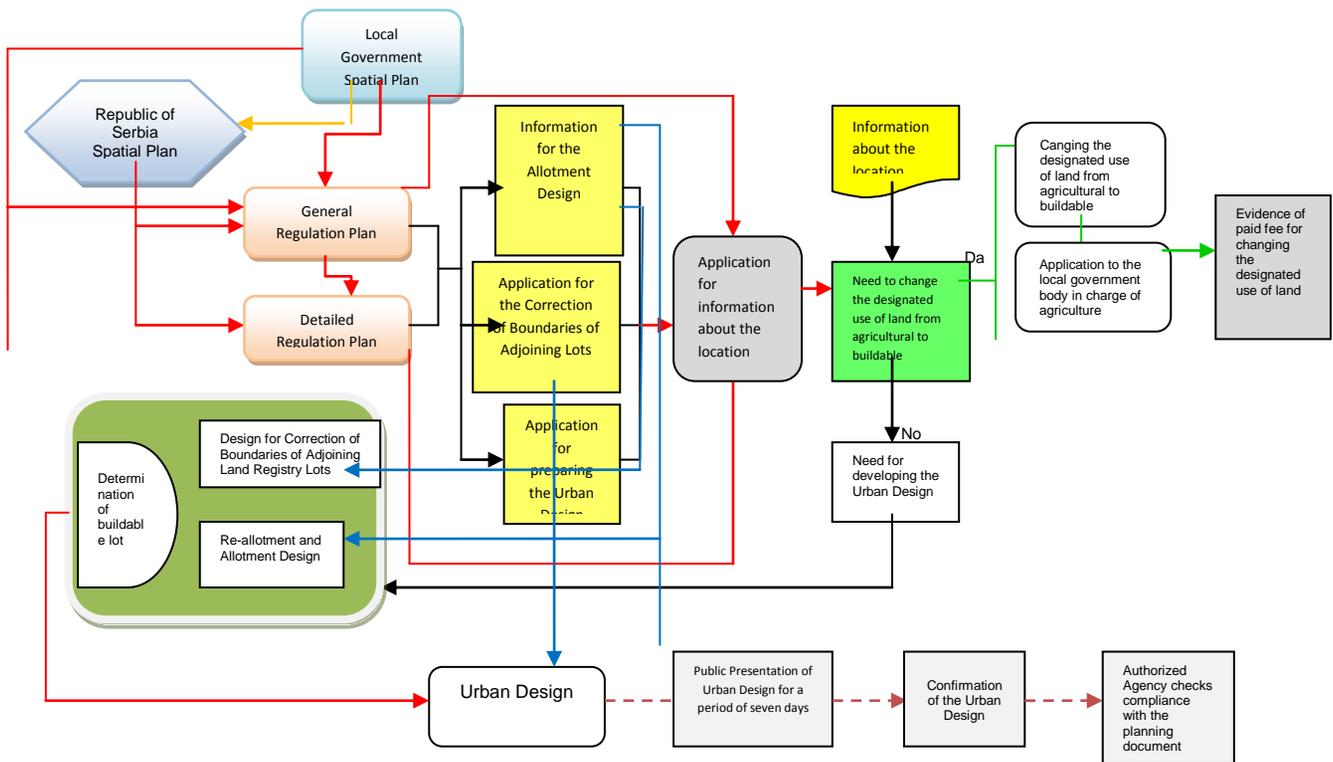
Construction Phases	Steps	Activities	Documents	Responsible party
---------------------	-------	------------	-----------	-------------------

I  
P  
R  
E  
P  
A  
R  
A  
T  
O  
R  
Y  
  
P  
H  
A  
S  
E

Republic Geodetic Authority – Sector for Real-Estate Cadastre



Spatial and Urban Plans	Activities	Responsible party
-------------------------	------------	-------------------

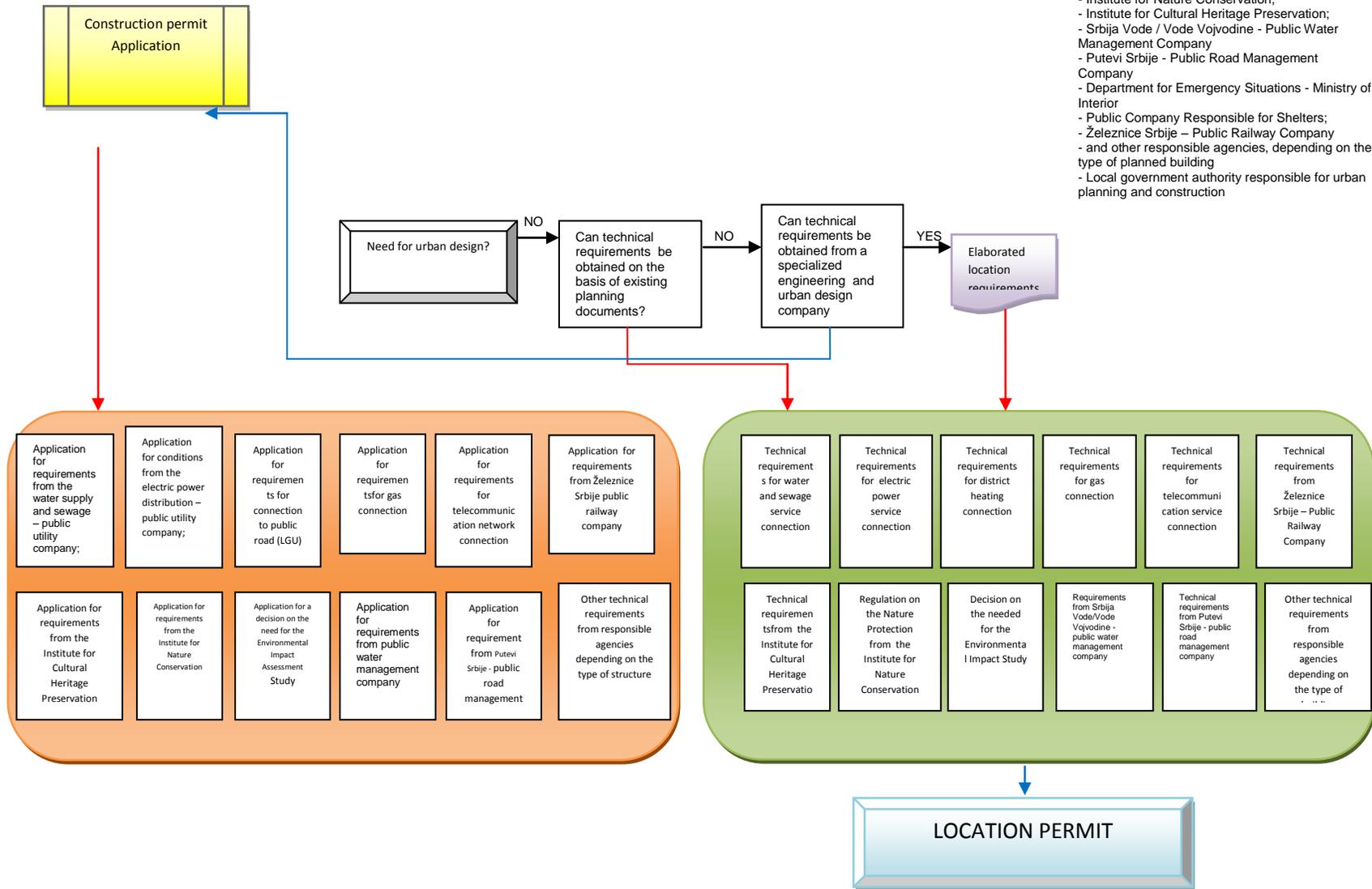


Local government authorities responsible for:  
 - planning and construction;  
 - agricultural land

Legal/natural person authorized for preparation of planning documents

Activities	Documents	Responsible Party
------------	-----------	-------------------

- Water Supply and Sewage – Public Utility Company;
- Electric Power Distribution - Public Utility Company;
- District Heating - Public Utility Company;
- Gas Distribution - Public Utility Company;
- Telecommunications - Public Utility Company;
- Institute for Nature Conservation;
- Institute for Cultural Heritage Preservation;
- Srbija Vode / Vode Vojvodine - Public Water Management Company
- Putevi Srbije - Public Road Management Company
- Department for Emergency Situations - Ministry of Interior
- Public Company Responsible for Shelters;
- Železnice Srbije – Public Railway Company
- and other responsible agencies, depending on the type of planned building
- Local government authority responsible for urban planning and construction



Activities	Documents	Responsible party
------------	-----------	-------------------

- Company, legal entity, entrepreneur entered in the appropriate register for development of technical documentation;
- Responsible designer:
- Construction PUC
- Water Supply and Sewage PUC
- Electric Power Distribution PUC
- District Heating PUC
- Gas Distribution PUC
- Telecommunications PUC
- Srbija Vode / Vode Vojvodine
- Putevi Srbije - Public Road Management Company
- Department for Emergency Situations - Ministry of Interior
- Public Company Responsible for Shelters;

