

## Institutional Framework for Development of Real Estate Market in the Republic of Serbia

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**Key words:** Real Estate Market, legal framework, institutional framework

### SUMMARY

Historic development of the Real Estate Market in the Republic of Serbia is interesting in several aspects. Up to the 90-ies of the last century, the activities in the Real Estate Market were virtually non existent because the apartment housing units were 95% publicly (socially) owned. After 1992, when the Government of the Republic of Serbia allowed the purchase of said apartments and their transfer to private property by passing legislative acts, the first step was made towards creating supply and demand system in the Real Estate Market. Unfortunately, due to unfavorable economic climate, political and war developments in the region, instead of live Real Estate transactions and development of new apartment buildings, stagnation in the market was recorded that lasted over 10 years. After abolishment of economic sanctions against Serbia, the construction engineering industry started to emerge and the numbers of newly developed properties began to rise, although in some cases inappropriate for the surrounding ambience and frequently without proper permits, so-called: "illegal construction". The first serious step taken by the state in suppressing illegal construction was made at the beginning of this century with the creation of institutional framework for modern market economy and investments in Real Estates, as a form of capital, became more attractive and less risky. The adoption of relevant legislation in the area of urban planning, Cadastre and Real Estate trade brought a turnover in the fluctuations of the Real Estate Market.

Modern institutional framework consisting of legislation, fiscal policy, Governmental instigative measures, government bodies, organizations and other forms of associations of legal and physical entities all enabled the development of an efficient market ambience that should accelerate the transaction procedures and help to develop a reliable system of Real Estate Management in the Republic of Serbia.

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## **1. BACKGROUND**

A property market of any country is characterized by a specific supply and demand for Real Estates, i.e. the level of free or non free Real Estate trade. The activities in the Real Estate Market depend directly from the economic situation in the country, legislative regulations and its spatial position. When analyzing any Real Estate Market, it has to be primarily geographically defined, because it is generally recognized that Real Estate (living and commercial space, development land) in urban areas is much more attractive than in rural areas.

A Real Estate sale and purchase mainly depend of the following:

- Characteristics, geometrical and positional elements of the Real Estate, such as the surface area, shape, location, distance from the town center, main roads and important objects (such as schools, hospitals, cultural, sports centers and malls), etc,
- Legislative regulations and free market,
- Socio-political factors,
- Market saturation,
- Legal status of the object (legal construction, legal property relations solved, etc).

Real Estate Market in Serbia has been largely shaped by the historic events in the country. With the change of the political regime and the abolishment of economic sanctions imposed on the Republic of Serbia at the beginning of the century, the construction of new commercial and housing properties started. By passing the relevant legislative acts, the Government enabled the influx of foreign investments in the country, the procedures for legalization of illegal buildings were initiated and the environment for development of free market was created. Numerous legislative regulations and change in the work of the government agencies and other factors in the Real Estate Market (Municipalities, Courts, Tax Authority, Republic Geodetic Authority, Real Estate Agencies, Banks) all contributed to the creation of the institutional framework for development of the Real Estate Market in Serbia and its international recognition after a long period of its non existence.

## **2. HISTORIC DEVELOPMENT OF THE REAL ESTATE MARKET IN THE REPUBLIC OF SERBIA (CHARACTERISTIC PERIODS)**

History of the Real Estate Market in the Republic of Serbia is specific and requires a flashback to the period after World War II, when vast areas of agricultural land, forests, urban land, buildings and factories were confiscated by the government. Private property was abolished by law and enforced measures of converting private to public were put in place, quite frequently involving penal measures. This transformation of property ownership, with or

without compensation (nationalization, agricultural reform, confiscation, sequestration, expropriation), represents one of the first and most radical economic–political measures in the history of Republic of Serbia. This process unfolded in several stages, and the most important nationalization happened in 1958 when the entire urban land was confiscated along with all commercial and housing buildings (3). This policy led to a complete shutdown of the free Real Estate Market as perceived according to modern definitions, resulting in total non existence of the market for a large number of years.

First reform of property ownership came in 1992 when the Law on Housing was adopted and which enabled the transfer of apartments from public property into private through purchase. At the time, all legal tenants of public owned apartments, i.e. lessees were given the opportunity to become owners of Real Estate with minimal financial compensation due to huge economic crisis and inflation in the country. Unfortunately, due to sanctions and war torments hitting the country, development of new properties as well as sale and purchase of existing property were practically nonexistent due to low economic power of the population in general.

Armed conflicts in the Balkans, during the last decade of the 20<sup>th</sup> century, caused large migrations of people, which in turn, resulted in vast activities in the illegal construction market in Serbia, primarily in bigger towns and populated areas that were inhabited by refugees and internally displaced persons from afflicted areas. Intending to provide themselves roofs over their heads, they built houses in suburban areas without any permits and licenses issued by urban planning sections of local governments. Political leadership of the country quietly tolerated this illegal construction. Said buildings were constructed as housing for their owners and were not intended to enter the market to earn profit for the investors. The development of collective housing (multi floor apartment) buildings was virtually nonexistent. It was possible to register the construction financed by the state, but those buildings were intended for housing of government staff, like police or military, i.e. displaced military and police officials. Such buildings once again were not subjected to market sale. The conclusion easily drawn from all of the above is that at the time the Real Estate Market didn't really exist at all.

The first awakening of the Real Estate Market and the passing of legal regulations enabling free trade of Real Estate are linked to the change of political regime in 2000 and the abolishment of economic sanctions imposed on Serbia. The new Government in the country was determined to stop the illegal development and decided to stimulate the construction industry, the influx of foreign capital, strengthening of banking, financial markets and the economy of the entire country by passing new regulations. Construction of new buildings recorded a trend of accelerated growth, the market was revived overnight and the trade of Real Estate registers incredible growth. Due to enormous demand for apartments, prices in larger cities went to enormous heights, there were a lot of interested buyers who could pay in cash and the number of sales started to increase.

Next crucial moment in the development of Real Estate Market was in 2006 when institution of mortgage loan was brought back to life due to a large number of commercial banks

operating in financial market. Amount of cash money in the market was reduced, but property development and determination of people to provide a home for themselves was not, so the property market continued to thrive in the following period.

World economic crisis in 2009 that all the countries of the world resulted in stagnation of property development financed either by local or international investors. Mortgage loans recorded sudden drop and demand for Real Estates slumped as a consequence of the drop of the economic power of the people. Also noted was a drop in Real Estate prices due to decrease in demand. Said economic crisis continues to this date. The Government tried to use subsidized loans for acquisition of new apartments by financing projects of significance for the country (development of commercial–housing objects, facilities to be used by government bodies and intended for market sale by favorable prices), by regulating the requirements for obtaining loans, etc, and thus trying to affect an improvement in the overall situation of the Real Estate Market in Serbia.

### **3. FOUNDATIONS FOR DEVELOPMENT OF REAL ESTATE MARKET IN THE REPUBLIC OF SERBIA – LEGAL FRAMEWORK**

Safety of property and ownership of property and protection of real property rights cannot be achieved unless it is regulated by relevant legislation. Government creates institutional framework for achievement of these rights. Real Estate Market and the actions of subjects participating in the market in each country of the world are under great influence by legislation of that country. By passing laws, regulations, instructions and other legal acts government may influence positive growth of transactions in Real Estate Market, but can also cause full shut down of a free market. Turbulent history of Serbia is a practical example of both.

When the Law on Survey, Cadastre and Registration of Property Rights and the Law on Housing were enacted in 1992, the creation of a modern real property register started, i.e. the purchase of Real Estates and their transfer from public to private ownership began. Transfer and registration of private property in the Real Estate Cadastre was a base for the start of the development of the Real Estate Market in Serbia.

Completing the sale of public apartments to private ownership, the Law on Real Estate Trade was adopted in 1998 that in its first article emphasized the free trade of Real Estate in Serbia, unless otherwise regulated by the law (5). The same law defined that the transfer of ownership right on a building is automatically reflected on the transfer of ownership right on the land under the building, as well as over the land which is needed for a regular use of the building. At the same time, the transfer of ownership of the building built on the land where the building owner is not entitled to ownership of the land but only the right of use, means automatic transfer of the right of use over that land as well as the land used for servicing the building. The law also regulates that the agreement on Real Estate trade/transfer has to be made in written form and the signatures by the parties have to be verified by the Court. Said law enabled free Real Estate trade in Serbia.

### 3.1 New legislative solutions in the area of urban planning and fiscal policy

Aiming to bring some order in the field of urban development and spatial planning, in 2003 the Law on Urban Planning and Construction was adopted. This law regulated the conditions and requirements for urban planning and land configuration, use of urban construction land and property development. Under specific conditions, the law enabled the sale and transfer of the rights of use of nationalized undeveloped urban land from government to private ownership, as well as the start of legalization of illegal buildings, although the owners of the objects on developed urban land remained merely the users of that land. Sale of buildings included the sale of the right of use of land, i.e. the urban parcel where the building is located.

With the adoption of the new Law on Urban Planning and Construction in 2009 and its amendments and supplements in 2010 it became possible to convert the government development land into other forms of ownership. The said conversion is applicable to both developed and undeveloped urban construction land.

The developments in the Real Estate Market in Serbia are certainly influenced by the laws in the area of fiscal policy because full ownership over the purchased Real Estate can not be achieved before tax obligations towards the state are settled. The Law on Property Taxes passed in 2002 regulates the collection of property tax, inheritance and gifts taxes, as well as tax on transfer of absolute rights. This law went through a number of amendments, the latest one happening in 2011.

Tax rate for transfer of absolute rights in Serbia is 2.5%. While the rate is uniform, there are categories that are exempted from this tax. According to the latest amendment of the Law, conveyance of absolute rights on a single family dwelling is eligible for tax exemption if the buyer of the property is a natural person buying a property for the first time and the area of the property does not exceed 40m<sup>2</sup> for the buyer plus 15m<sup>2</sup> per every other member of the buyer's household who, between July 1<sup>st</sup> 2006 and the time of court verification of purchase, did not own or co-own a residential property on the territory of the Republic of Serbia pertaining that:

- The buyer is an adult citizen of Republic of Serbia, with residence in Republic of Serbia;
- The buyer, between July 1<sup>st</sup> 2006 and the time of court verification of purchase did not own or co-own a residential property on the territory of the Republic of Serbia.

With amendments to the law in 2007, the government tried to influence the Real Estate Market and to motivate citizens to buy Real Estate and stimulate investors to finance new construction.

Law on Changes and Supplements to the Law on VAT, that came in effect on July 8<sup>th</sup>, 2007, defines a right to get a refund of VAT on a purchase of a new apartment. This was the next stimulating factor introduced by the government in order to improve the Real Estate Market. VAT is refunded for an apartment that does not exceed 40m<sup>2</sup> for the buyer plus 15m<sup>2</sup> per

every other member of the buyer's household who, between July 1<sup>st</sup>, 2006 and the time of court verification of the purchase, did not own or co-own a residential property on the territory of the Republic of Serbia (10). Previously mentioned legislative measures introduced by the state stimulated the Real Estate Market and resulted in increase of trade. Supporting this statement is the increase in the number of registered mortgages in the Central Mortgage Register which compiles the data from the Real Estate Cadastre system in Republic of Serbia (Fig. 1).

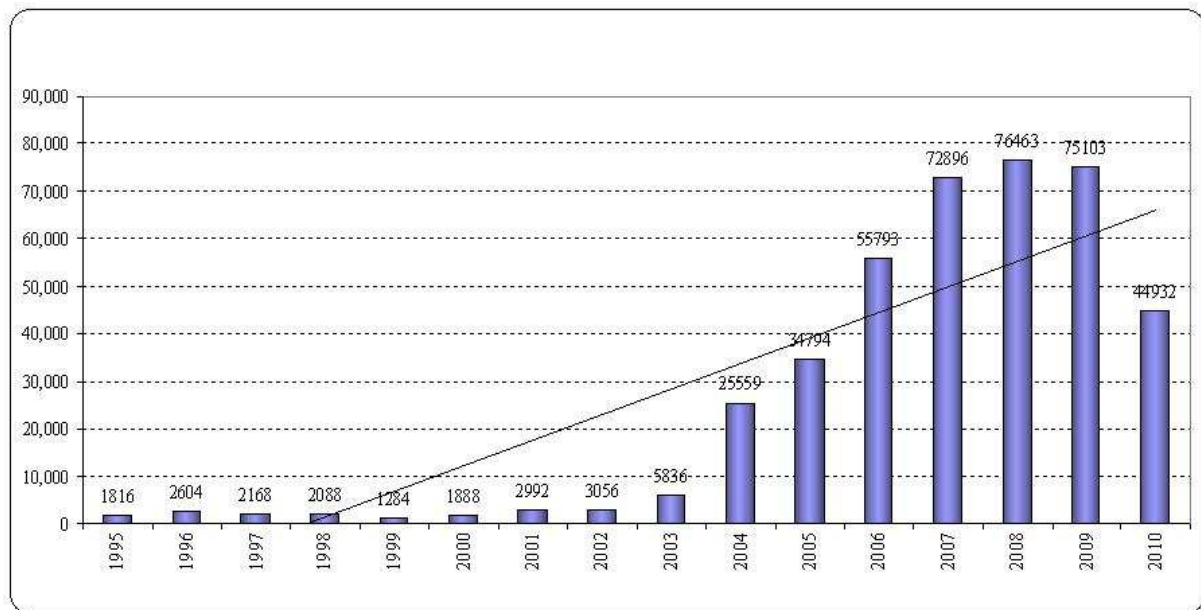


Fig. 1: No. of registered mortgages in the Central Register of Mortgages per annum (11)

#### 4. BASE FOR DEVELOPMENT OF REAL ESTATE MARKET IN THE REPUBLIC OF SERBIA – INSTITUTIONAL FRAMEWORK

Any planned transaction related to Real Estate starts by advertising the intentions of the owner, whether they are buying (demand) or selling (supply). Without proper information on the available Real Estates, it is impossible to imagine the functioning of the market. Further text will therefore provide short overview of the Real Estate Market and the role of each factor.

In Serbia, with the appearance of Real Estate Agencies at the beginning of this century, active advertisements and Real Estate trade started. Agencies serve as mediators between buyers and sellers of Real Estates and charge commission for their services that can range between 2.5% and 3% of the agreed value of the property. Development of telecommunication systems in Serbia and mass use of Internet, brought information about supply and demand at the Real Estate Market within one click of a mouse, and the improvement in quality of legal and institutional framework, reduced the buyers' fear of being deceived in the process.

Agreement (contract) for a trade of a Real Estate must be in written form, signed and verified in Court that has jurisdiction over the territory where the Real Estate is located. Unfortunately, the Court only verifies identity of parties signing the contract and thus guarantees that the signatures are genuine but does not verify the content and validity of the facts stated in the contract. With such practice, it used to happen that one Real Estate was sold more than once to different buyers. Only while submitting papers for registration of ownership in local Cadastre could the buyer realize that the property had already been sold before and was owned by a third party.

Procedure for transfer of ownership from buyer to seller requires that the buyer, after signing and verification of the contract in Court, pays the tax for transfer of absolute rights and only after receiving the confirmation from the Tax Administration on paid tax or liberation from payment, the buyer can be registered as the owner of the property in question.

The establishment of Real Estate Cadastre in Serbia started in the 90s of the 20th century, by creating the legal base for establishment of Real Estate Cadastre as the unified records of real property rights over Real Estates. In other words, the law regulated that the Land Books and the Books of Deeds (managed by the courts) and Land Cadastre (managed by the Cadastre offices) should be merged into one unified register. Secure transactions on the Real Estate Market are only those that involve legally constructed building for which the ownership can be registered in the Real Estate Cadastre. The registration of ownership is done in the Real Estate Cadastre Offices that represent individual units managed by the Republic Geodetic Authority. Republic Geodetic Authority is a governmental body controlled by the Ministry of Environment, Mining and Urban Planning.

The need for establishment of Real Estate Cadastre in the territory of Serbia was recognized among others by the International Development Agency – IDA which in 2004 signed the Agreement on Development Loan: “Real Estate Cadastre and Registration Project” partially financed by the World Bank loan and partially from the budget of the Republic of Serbia. The goal of the project was establishment of Real Estate Cadastre for the territory of the entire country and creation of unified records on all Real Estates and real property rights, having in mind that rights over real properties are only acquired, transferred and abolished after they are registered in the Real Estate Cadastre.

So far, in the paper, were listed government institutions which, through implementation of the legislation, influence the Real Estate Market. However, along with the government institutions, big influence is exerted by the banks through their business policy towards development investors and citizens who apply for mortgage loan in an effort to solve their residential issues. According to the official data of the National Bank of Serbia, there are currently 33 banks in Serbia. Majority owners of most of the banks are mainly foreign investors. The banks’ operations are, to an extent, controlled by the Government through legislative regulations, although with the increase in the number of banks, they are increasingly competing to attract potential clients. In the period from 2000 until present, drop of interest rates is recorded which resulted in increasing demand for mortgage loans. The

housing loans have to be secured through mortgage that is registered in Real Estate Cadastre, maintained by the Republic Geodetic Authority.

#### **4.1 New institutes of protection of Real Estate buyers**

It is evident that with the increase of number of Cadastral Municipalities in which Real Estate Cadastre is established and with the passing of legislative acts in the period 2003 – 2006 the number of mortgages registered in the central register increased astonishingly, i.e. the number of Real Estate transactions financed by loans of commercial banks.

On the other hand, with the revival of the market in Serbia, the number of frauds by property investors also increased. Multiple selling of one apartment, disappearance of building investors with the cash money, purchase of apartments in buildings under construction that never get finished, are just some examples of frauds happening. Government of Serbia determined to put a stop to such developments on the Real Estate Market and enacted a new Law on Urban Planning and Construction in 2009 that envisages the creation of the Register of Investors. This register contains public records with all available information on natural and legal entities acting as investors and is available at the local governments, as well as in electronic form on Internet. The intention of the government was to reduce the number of frauds by introducing this register, so the buyers need not per force trust the “honest word” of the investors, but can instead make inquiries on their own. In practice this means that anyone attempting to buy an apartment from an investor can find the information on the Internet on the subject investors past work, how many levels and apartments can be built on a specific location, whether the debts towards the Urban Construction Land Directorate, Electric Power Company or some other institutions have been settled, etc. Unfortunately, the data from this register has not been made available on the Internet yet.

Beginning in January 2010, and pursuant to the Law on Amendments and Supplements to the Law on Real Estate Transactions adopted in 2009, the courts and court units when verifying contracts on Real Estate transactions are obliged to enter full information on contractual parties and contracted property. All information is entered in the Central Register of Real Estates which is established by the Ministry of Justice. Only after completing the check whether the subject Real Estate has been sold before, the verification by court clerk can be done. If the clerk conducting the verification after checking the records finds that the court has already registered transaction involving the Real Estate in question, with the same seller, he or she is obliged to decline the verification of the signatures on the agreement on transaction of Real Estate. Improved control of verification of contracts has lead to greater security in Real Estate transactions, all for the purpose of avoiding multiple sales of the same Real Estate. Nevertheless, the current data base contains only contracts signed in 2010 and only they are protected from potential frauds. For others, until they are registered in the Real Estate Cadastre, new property owners have no practical protection from being cheated.

Under the provision of the new Law of State Survey and Cadastre adopted in 2009 it is the task of the Republic Geodetic Authority to establish and maintain records on the market values of Real Estates. Those records should also contain the information from the transaction



contracts and contracts on lease of Real Estates, for the needs of mass property value estimation. Data base of market prices is a register that was supposed to be formed on January 1<sup>st</sup> 2011, but to date there is no official information on the availability of these records for interested users. Formation of these records and their availability to general public will undoubtedly influence the Real Estate Market in Serbia. The objective is to reduce the price and to make purchase of apartments affordable for more people.

## **5. ANALYSIS OF THE INFLUENCE OF INSTITUTIONAL FRAMEWORK ON THE REAL ESTATE MARKET CHANGES**

Influence of institutional framework on the changes in the Real Estate Market in Serbia is somewhat dominant. Numerous laws have been passed along with other relevant legislative acts that have helped fully turn around the situation on the market. Over the past 20 years, the image on the type of ownership over Real Estate has changed rapidly. Serbia continues to try to adjust its laws to European Union legislation and that change is not easy and cannot be quick.

The Government passed modern laws with relatively quick pace over the past two decades but the implementation of those laws by government institutions did not follow suit. There are many reasons for that, and one of the problems is frequent change of legislation that was notable in the recent period. The employees of the government institutions are practically not sufficiently trained to apply the new working rules and that slows the entire process. The Real Estate Market is directly hit by these influences.

Numerous institutions (Local government, judiciary, Tax Authorities, Real Estate Cadastre Offices, Banks, Real Estate Agencies, etc.) through their work influence the development of the market in Serbia and functioning of one is frequently dependent on the others. Procedure of Real Estate transaction can last for months, regardless of the fact that the buyer and the seller were instantly able to agree on the price and signed the contract. If the transaction is financed by a mortgage loan of a commercial bank or with subsidies by the government, then the process can last several months, because, as explained previously, the ownership is obtained only after registration in the Real Estate Cadastre.

At the same time, the work of the mentioned institutions is regulated by laws and other legal acts. It happens that especially due to the legal limitations, some procedures require long time. A party in the process can often be unfamiliar with the procedures and thereby the envisaged procedure is delayed and lasts longer than planned.

## **6. CONCLUSION**

With the adoption of the new laws and legislative acts and the changes in the work of the government institutions the Republic of Serbia tries to attract national and international investors to invest in Serbia. The Real Estate Market currently notes stagnation of activities as the consequence of the world financial crisis that has hit the entire world.

Real Estate Market in Serbia is free, but the purchasing power of the citizens continues to decrease. The census is under way in Serbia and the data collected will show the full picture of the situation in the country, among others, how many inhabitants there are per housing unit. It is obvious, without a doubt, that the housing needs in Serbia are enormous, having in mind that sometimes three, even four generations live under the same roof.

Currently the drafting of the Law on Restitution is in process. This law will allow the restitution of the property nationalized after the World War II to their owners. It remains to be seen what consequence this law will have, after it is adopted, on the Real Estate Market.

There is no perfect law, but the objective of the Government is to use the legislation to regulate certain area. The problem in Serbia is that with the change of Government, there is realistic fear that change of legislation will follow, and that that will reflect on the work of the government institutions. Due to the decrease in purchasing power, the citizens are more reluctant to take mortgage loans, because of the fear that even worse crisis will come and that payment of installments will become impossible. There are numerous people in Serbia who are debited in loans and the renowned economists through the media continue to warn the citizens not to go into debt beyond their possibilities. Hope remains that this crisis will end and that development investors will continue to build, that the government will utilize legislative acts to make real estate more affordable to the citizens, that the government institutions, banks and other private entities, will work together to achieve better cooperation and provide quicker services, which should all result in more families being able to afford a home.

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