

# Reform Framework for Urban Land Management in Serbia in the Period of Transition

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**Abstract**—A preliminary evaluation of the urban land system is presented in the article together with the instruments of land policy in Serbia. The main reason for the analysis is demand for definition of reform framework for urban land management in Serbia in the period of transition towards market-led system. It is concluded that due to the limitations of the current regulation it will be impossible in the future to apply market principles in the urban land policy (supply and demand of land, land capitalization, investment efficiency, et al.). Based on the estimation that the urban land system and land policy are key factors of competitiveness between regions and towns in Serbia, it is necessary to initiate changes in this field. There are indicated on an option of privatization of urban public land and possible establishment of leasehold land. A comparative analysis of the possibilities of the reform urban land system in Serbia has been carried out in relation to two approaches of market systems: (a) with dominant private ownership of urban land (neo/liberal approach) and (b) with dominant public ownership of urban land (system of leasehold) whose findings can be a basis for further study of the new system in Serbia. The attained results are part of studies matter for the making of Strategy of territorial development of Serbia.

**Keywords**—Urban Land System, Urban Land Management, Instruments of Land Policy, Evaluation, Market.

## I. INTRODUCTION

ACCORDING to the Law on Planning and Construction [1] urban land is land on which objects are constructed and land which serves for regular use of these objects, as well as land that is projected for construction and regular use of these objects. In Serbia, there are two types of urban land – *public urban land* – construction land in state ownership on which public objects have been built that are of general public interest and serve as public spaces, as well as purposefully planned land which cannot be transferred from state ownership. And *other urban land* – land already constructed and land planned for construction, which is not public urban land, which is in all forms of ownership and is a commodity. The area of construction land management in Serbia is regulated by the Law on Planning and Construction (of urban land), by expropriation, communal activities, as well as by municipal decisions. In the following text, a preliminary evaluation is given of the current urban land system in Serbia, as well as a comparative analysis of the basic elements of this system in Serbia in relation to two market systems with different forms of ownership. Preliminary analysis of urban

land and reform framework for land management system in Serbia are part of research project *Approach and concept for the making Strategy of spatial development of Serbia*. Results of research should be implemented into Strategy of spatial development of Serbia.

## II. CURRENT SYSTEM OF URBAN LAND IN SERBIA

Obtaining urban land in Serbia can take place in several ways: (1) purchasing land on the market, which is in private or state ownership (category „other urban land”, if it is on sale). It is necessary to have a public tender in accordance with the Law on state-owned assets when urban land is being transferred from State ownership; (2) purchasing the user rights for urban land in state ownership – undeveloped other urban land in state ownership based on article 84 of the Law (by purchasing rights of use from the previous owner), with the transfer of user rights and sale of absolute rights; (3) leasing land in state ownership (undeveloped other urban land up to 99 years, in a public tender or in direct agreement) with a contract between the municipality i.e., the organization that manages the urban land owned by the state and the user/leaseholder; (4) leasing undeveloped public urban land for a fixed time period, and (5) expropriation. Granting/ceding State-owned land is carried out in public tenders (51%), by collecting bids (30%) and by direct agreements (19%) [2].

### A. Renting Public Undeveloped Land and Other Urban land in State Ownership

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

determine the future use i.e., future expediency and usage have a particular influence on this.

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

### *B. Urban Land Development*

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

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

Land development fee is basically a relict of the earlier period and it is obvious that its amount does not depend on the costs of infrastructure development, but on other benchmarks

and criteria. The practice of calculating the land value by a „formula“ is basically irrelevant of the real costs of infrastructure, especially since it is possible nowadays to collect not the alleged costs of infrastructure, but the leases for specific locations depending on their attractiveness (in biddings).

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

Land development fee in Serbia in 2005 was 10,5 billion dinars (120 million EUR) or 10,3% of the fiscal revenues of the municipalities and towns [3].

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

According to the same law, the municipality determines the fundamentals and measures for determining the land development fee. In practice, during the legalization process of unlawfully constructed objects (around 1 million in Serbia), the municipalities have determined that owners of these objects pay a significantly smaller land development fee than the other citizens who have lawfully constructed objects and paid fees in total. Such socialization of debts and their

marginalization has very negative consequences for unlawful contractors – the municipal budgets are smaller, whereas lawful contractors bear the brunt of financing land development. Such a practice presents a continuation of the former socio- realistic discourse in urban land and urban policies and demands an urgent transformation.

### C. Use of Urban Land

Since urban land is owned by the State, its users are in fact leaseholders who pay a lease that is called – *usage of urban land fee*. The fee is intended for developing communal infrastructure on urban land and is basically comprised of two components: a) rent for use of land in state ownership and b) duties for utility services (common utility services). In practice, there is double taxation on the right to use urban land through compensation for urban land use and property tax. The fee for using urban land in Serbia in 2005 was 5.5 billion dinars (60 mil.EUR) or 5.1% of the budget [3], for 194.441 ha in state property (Table I).

TABLE I  
THE CHOSEN INDICATORS FOR URBAN LAND IN SERBIA, 2005. [4][5]

Indicators	SERBIA	Belgrade City
Total urban land (in ha)	695,415	123,673
Share of urban land in the total area (in %)	9.0	38.3
Urban urban land (in state ownership), in ha	194,441	63,005
Area of urban land outside the city boundaries (in %)	47.5	15.3
Share of the real estate sector u GDP 2005.god. (in %)	4.23	8.4
Share of real estate business in employment (March 2008.) in %	3.68	7.35

Urban land should be used in accordance with the planned intended purpose and the regulations concerning implementation of plans. The grounds and measures for determining the fees for urban land use are established by the municipality based on the communal equipment and on the benefits that the payers acquire with its use. For using developed urban land, the owner of the object or the holder of the right of use of object or the lessee pay a usage fee of 1 m<sup>2</sup> per developed area. For undeveloped public and other urban land in state ownership, the user pays a fee for urban land use (per 1 m<sup>2</sup>). Municipalities usually define 3-4 intended purposes of urban land and implement zoning of the area (between 2-400 zones, usually 3-6 zones), determine corrective coefficients, score et sl. This fee is very low – e.g., it was around 10 euro-cents/m<sup>2</sup> of apartment per month in Belgrade in December 2008. The legal solutions have not opened any possibilities for establishing the basic elements, instruments and market system institutions in urban land management adapted to conditions of transition.

### III. CRITICAL REVIEW OF THE CURRENT URBAN LAND SYSTEM IN SERBIA

The basic flaws of the current urban land system in Serbia are: it creates various limitations in the development of settlements; it puts the owners of other urban land in an unfavorable position; it implies different limitations for the development of economic activity, because unresolved

property and legal relations slow down and raise the costs of construction, and prolong the time needed for construction and obtaining a building permit. Although the current solutions of the land policy are partly inspired by social reasons, the system is effectively unfair in the local practice (e.g. there is an evident inequality among the business sectors in all instruments of the land policy, which is not defined by market principles). The current way of managing urban land is taking place in the absence of a real land market, market mechanisms and institutions, with the application of quasi-market elements for calculating fees for use and development of urban land, market prices when leasing urban land, and it is followed by relatively complicated administrative procedures.

The current system of financing and the instruments of land policy have remained since the time before the transformation and privatization processes of all structures began [6] [7]. Apart from many different sources of financing urban land, of a fiscal and parafiscal nature, a mechanism for their complete restitution and efficiency has not been provided [8].

The urban land use fee is relatively undervalued, despite the fact that its function should be more important, considering the fact that urban land is one of the key resources of towns, which is not being capitalized enough presently by the local authorities. Land, like some other property that has a certain economic value is capitalized by putting it to use in making a social product/GDP. The success of capitalizing land is achieved by making greater profits than the invested means in it activation. Unfortunately, the principle of capitalizing urban land (location) has not been achieved in practice for various reasons, among which we can single out the weaknesses and solutions of the current management of the urban land system (instruments, administrative procedures, non-market approaches, absence of land market and economic principles, etc.)[8].

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

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

In the urban land market, the differences between values and the prices of land lead to speculation (purchasing at a lower price and selling at a higher one). Plots of land of the same value can have different prices depending on the various factors that influence the location market. The speculation on the prices of land in Serbia – land adjacent to a major public infrastructure (highway, bypass, airport et. sl.) increases the value of land (e.g. agricultural and other urban land) tenfold, public announcements on planned intended purposes for urban land tenfold and communal equipping tenfold – in total for 1000 times [11] [12].

The price structure of urban land in Serbia comprises on average 35-50% the costs of improving and equipping, whereas the price structure of 1 m<sup>2</sup> of equipped land in major European cities comprises 15-20% of the costs of equipping land. Concurrently, the share of increased land value – rents in European cities is 75-80% [13] [14] with rent taxation of 40-80%, mainly by applying the method of residual values in the land price policy [12], whereas in Serbia there is no tax on land rent. For example, in the past two decades in Belgrade, approximately 20,000 ha of agricultural land that has been converted to urban land have been in free purchase [11] whereas the owner and agent appropriate the rent without taxation. Effects of the current urban land system in Serbia are:

Weaknesses of the current information system *on land* are: lack of adequate statistic data, indicators, especially on town level; incomplete cadastral registry of property and underground installations (approximately 70% of real estate is registered in the cadastre, in Belgrade around 50%); authenticity of the documentation on ownership of objects mainly on land register data in courts (which are more complete and often differentiate from a cadastre); the existence of several parallel and uncoordinated systems of particular real estate data inside the government tax authorities, cadastre, local home offices for urban land and development, municipal agencies for planning, statistics etc.

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

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

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

*Decrease in local land revenue, deficiency of locations and other problems* are a consequence of reduced fiscal effects due to a less efficient use of urban land i.e. dependency of fiscal town revenues on market values of real estate (as a tax base). A higher price of real estate triggers higher property revenue, and a decrease and slow down in real estate investment et al. As the main negative effects of the current urban land system in town and spatial planning, apart from the aforementioned, are problems with deficiency of urban land of different levels of development, at acceptable prices according to the purchasing power of households, high costs of urban land development (30-50% included in the price of a constructed 1 m<sup>2</sup>), a volatile and unregulated urban land market, location, inefficient public programs for urban land development, entrepreneurs' unwillingness to follow unrealistic plans and programs for land development (which consequently leads to numerous cases of unlawful building, urbanistic chaos, substandard settlements, lesser quality of living in towns, etc.). The state and local community lose enormous potential tax revenues in land transactions, as well as for the fact that an urban rent has not been determined yet, and the fee for urban land use plays this „role“ of a parafiscal instrument of a symbolic amount – for example, it ranges from 10-12 EUR/per flat of 60 m<sup>2</sup>/per year.

#### IV. REFORM FRAMEWORK FOR URBAN LAND MANAGEMENT IN SERBIA

The current system and practice of managing urban land have not been harmonized with the main courses in transitional reform and change. A great number of basic, conceptual problems have not been solved yet, which indicates the necessity to outline the reforms in this field as soon as possible, considering the fact that on its organization considerably depends the realization of the policy of sustainable spatial and urban development and the policy of organizing, developing and using space. The urban land market is undeveloped, therefore basic regulatory mechanisms and institutions, as well as more up-to-date ways of financing

urban land development. In the conditions of an undeveloped market, the mechanism of urban land rent seems incomplete and distorted, and it does not contribute to a rational use of urban land and to a private and socially acceptable distribution of costs and profits among various parties. For example, as a result of unauthorized and uncontrolled parcelization of agricultural land, enormous rents from land use for the best city locations, in zones of heavy infrastructure go to private owners, various intermediaries in this business, investors et al. There are numerous speculations with land, illegal construction, substandard urbanization et al. In Serbia, this rent is not adequately taxed (property sales tax covers only 2% of the market value). In a situation where spatial and urban planning are underdeveloped, and there are radical changes in the ownership relations and structure, the current solutions cannot have an adequate impact on the sectoral and spatial structure of intensifying investment, which should be one of the main roles of a sound policy of urban land management.

Transformation of urban land system should rest on a greater number of complete expertise, in which all the key problems would be analyzed and strategic solutions offered, as long-term bases for managing urban land policy in the future organization and spatial planning and urban development policy of Serbia. The formulation of a new land policy is a result of political will and implies the understanding of the land market business. The government needs a defined land policy with clear aims in order to assure an efficient land market, social equality and ecological sustainability. Considering that the regulation of relations in this field presents one of the most complex and socially, economically and politically most delicate fields of social regulation (social management), it is necessary to establish urgently *the most widespread social dialogue* about all key problems and to arrive to the mainstream solutions by social compromise and consensus.

Reformed and transparent urban land system and policy should be, on one hand, a powerful leverage for competitive national space policy, competitive economy, an instrument for securing better fiscal effects, as well as an important leverage in the prevention of the corruption process, speculations with urban land, elimination of possible stock market manipulations, prevention of potential activities of the so-called „urban mafia“; and suppressing and limiting illegal construction etc, on the other.

As far back as in 1992, the World Bank has pointed out to the frameworks of institution and urban land policy reform in developing countries (including countries with economies and societies undergoing transition), among which of particular importance are the following: [15] 1) *General problems of urban land system* (market, analysis of the current land policy system – what „works“ and what „doesn’t“, the political dimension in the land regulation field, possible improvement of the current system etc). 2) *Overcoming a long, confusing and difficult road to legal status of land* (establishing registration/urban land records and the development of land system and policy etc.) 3) *Determining the reasons for the blocking of the process of land management* (what is bad in the current system of land management, who are the losers and winners, the problems and trends in the main institutions).

4) *Overview of the state of the inefficient operation of the urban land management process and instruments of policy*, especially in the domain: a) ownership rights, legislative framework, leasehold policy problems, availability of *freehold* (of land) and *leasehold*, model of *landlord-tenant*, limitations for land transaction, leasehold reform techniques et. al.); b) registration of transaction and titular of land; c) Regulation framework of land use (influence of various factors, pressures, force on the land market, land purchase, costs of development, questions of ways of de/regulation, the role of planners etc.); d) direct public/state intervention in land purchase; e) nationalization of land; f) forced land purchase and purchase of other real estate (expropriation); g) the need to form land banks for development; h) reconstructions and resettlement of certain settlements, zones, objects; i) *readjustment of land*. 5) *Determining the framework and course of reform* (priorities and principles, main questions and problems in urban land management, strategy and activities, institution reforms, administrative procedures, activities and the role of legal institutions, reform of land policy instruments, introduction of various forms of leaseholds, enforcement of land/real estate registration, better regulation of land use, public/state intervention, assessment of projected results and profits, etc) The World Bank has approved 200 million euros to Serbia for organizing the cadastre and has given the following recommendations for its land policy: [16].

- Introduction of legislative amendments as a framework for improving ownership security, financing the real estate market and attracting FDI, change in the urban land concept – a conversion into a modern lease system or private ownership.
- Writing and passing *the law on denationalization*,
- Preparation of the study for improving the administrative procedure in the process of obtaining *urban land* and suggested measures of improvement; removing administrative barriers in questions concerning land and its assessment,
- Evaluation of the current law on planning and construction and the suggested changes and improvements; improvement of the land and real estate registration system (cadastre),
- Legalization of objects.

The key courses of reform in urban land management should include: a) Aims and possible concepts of the urban land system, b) Ownership problems (restitution and development of new ownership forms of public ownership – for example municipal land, cooperative land, condominium institute for multi-storey buildings – land as common property, institute of partnership, limited leasehold for commercial and highly profitable purposes and freehold for living, control of land transactions etc), c) Organizing land books (cadastres, land registers), d) Improvement of urban and spatial-planning regulative and planning in the period of transition, e) State intervention in land market, f) Transformation of urban land system (selection of approaches and models).

General strategic aims of urban land policy in the conditions of transition are rational use of urban land (1) and

establishing an efficient system of urban land management (2). This includes the establishment of adequate regulatory mechanisms and institutions, the formation of a new way of financing land and instruments of land policy (introducing a stock market, mortgage loans, mortgage bonds, concessions, donorships etc.) taxing land rent, solving open questions about privatization of urban land in state ownership, as well as dilemmas regarding the way urban land is managed in state/public ownership (leasing or sale) and assessing the consequences of pursuing an urban policy, planning and expanding the urban area, equipping and developing urban and other spaces, policy of local public funds, policy of developing local economy etc.

*A. Open Questions Concerning the Choice of the Urban Land System Concept – Whether and How to Privatize Public Urban Land?*

The reform of the urban land management should consider different solutions within the present dominant models: a) liberal approach, with the emphasis on the main role of the market and private property domination, with attendant mechanisms, instruments; b) the Scandinavian-type land market model, with equality of all forms of property (public, private and joint etc.), with attendant mechanisms and instruments; and c) various combined modalities.

The key open questions and dilemmas are concerned with the selection, evaluation and definition of the new possible concept for the urban land system i.e., alternative options of model ownerships and land management. As a basic step in the choice of the concept of the urban land system (method of privatization of public urban land and method of retaining public urban land and introducing leaseholds of public urban land) there should be a comprehensive analysis of the effects of the suggested alternative options (above all from the point of view of public interest, development and regulation of spaces and settlements, numerous private legitimate interests). In the past two decades, there has been a preference for privatizing public urban land in Serbia. During this period, several study documents and the Law on urban land privatization have been written, whereas the possibility of system reform of urban land in public ownership by introducing leaseholds has never made the agenda. In other words, the question whether urban land in state ownership should be privatized has not been posed yet, but discussions and research have been directed towards examining the privatization model of urban land. The neoliberal approach of public land privatization implies the dominance of private ownership and free market activity with as little as possible regulation by the state and local authorities in this segment. The followers of this concept of land privatization in Serbia have identified more than 10 types of land parcels and methods of privatization of each, which are all complex and heterogeneous and because of this they demand more than one method of privatization [2] [3]. Natural restitution is one of the methods of privatization (for undeveloped urban land, which has a very limited scope of use). Natural restitution cannot meet the principles of efficient and just restitution due to the many confronting legitimate interests (vested rights), without an effective mechanism for solving these conflicts.

Denationalization of one part of the town urban land is possible as well, by compensating the previous owners and taking into consideration the value of the property at the time of nationalization. It is also necessary to enable direct sale of urban land to local and foreign investors in order to enhance the legal security of the transactions. Conditions for treating urban land as part of the property of enterprises undergoing privatization that will finish in 2009, should be created in order to stimulate new investments.

From the point of view of the landlord's interest, leaseholder/tenant and potential investors, the main principles of transparency in the transition towards a market system of urban land management are: leasing a state-owned lot to an investor like in the other market economies; collecting rent in the form acceptable to both parties involved (periodically, one-off or combined); rent for land use should be paid in reasonable amounts, for which the different lease modalities have to be elaborated, and the institutions, mechanisms and arrangements established as well.

One of the conditions of transition in ex-socialist countries is the change in property relations, planning systems, with the introduction of market institutional mechanisms. Changes to the area (due to investments/new construction) imply the regulation of social relations for urban land development, through rules, legal norms, urban legal norms and acts. Investments in towns unite the real estate/land market and capital and labour market, i.e., transformation of money/capital into investments. Land/real estate market is one of the main factors and guarantees of secure investment and crediting (mortgage loans and rights et. al) of town construction, which has been partly deflated by the global financial crisis.

One of the weakest links in the urban land system of Serbia is registering land (cadastre, land register). The land market has a stratified demand (according to purpose – commercial purposes, industrial production, residential, according to allocation – in certain towns, local environments. Investing into new urban land intended for economic activity, living and services has an institutional-legal framework, which exists, among other things, in urban legislation, local community and public finance regulation et al.

In Serbia, obtaining urban land in state ownership (by leasing or purchasing), as the investor's first step, is extremely legally insecure nowadays. The most attractive town locations became state-owned having been forcefully taken away from previous owners (nationalization, confiscation et al). Due to such legal origins of the greater part of urban land, there is no reliable legal guarantee of security for investors concerning such land. Public tenders for the leasing or selling state-owned land do not have reliable data about whether the previous owners and their heirs have a right to the land or not, because the Law on restitution has not been passed yet. The absence of data and the current ones not being up-to-date in the public records (cadastre, land register) have led this country to feel legal insecurity in managing its land, which legitimately belongs to it, as well as the investor (as the leaseholder or landlord).

In the market system of urban land, there are two concepts: (a) a neoliberal market system of urban land with dominant private ownership and (b) a market system of urban land with

dominant public ownership. The first concept is characterized by a dominant private ownership of urban land, free urban land market, modern market, financial and legal institutions and mechanisms in urban land usage, minimized role of State in urban land use et al. Private owners of urban land must adhere to urbanistic norms and acts of law, which leads to the conclusion that there is no predominance of private ownership. The other concept is characterized by a dominance of public ownership of land, land leasing, market system and mechanisms of managing land, well-developed institutional and organizational mechanisms, arrangements, instruments of land and urban policy, aspiration towards an ideal balance of natural, economic, socio-political and eco-spatial demands. Preliminary evaluation of the listed systems and the current urban land system in Serbia isn't made in Serbia.

#### *B. The Possibilities of Urban Land Privatization*

The aims of urban land privatization are changes in the management of this resource, i.e., changes in the property relations of the land, abandoning the current administrative manner of the local authorities giving land to the investor (eliminating the nontransparent and quasi-market manner of choosing the investor/user of land; disappearance of the practise of determining the land development fee and charging it via a contract with the local authorities, i.e., the possibility for charging the fee exclusively for urban land equipping or introducing a fee for infrastructure); introducing market mechanisms and instruments in land management, increasing the role of the local authorities.

The expert opinions about the concept and dynamics of urban land privatization are conflicted. Milićević G. [18] finds that it is "better to omit at least the central town areas from the program of total reprivatization, in order not to interrupt the process of transforming social into private property in all the fields of economy." The advocates of neoliberal discourse and the creators of several studies of urban land privatization in Serbia promote the privatization of the greatest part of urban land [2]. In Serbia, there are two official models of urban land privatization which are in collision regarding the approach and dynamics of this process. The Ministry of Foreign Economic Affairs supports the approach – privatization after restitution, whereas CLDS (Center for Liberal Democratic Studies) promote the approach – privatization now and denationalization in the course of the process, as one of the models of privatization [7].

Strategy of urban land privatization implies the political will and decision to start land privatization – land identification, defining principles, models and privatization policies, necessary regulation changes, institutional and human resources capacities, post privatization regulation (registers, rights, real property records, urban and spatial planning et al). Article 87 of the Constitution of the RS envisages that urban land privatization can be performed in accordance with the law. This means that there is a political will to begin with privatization of urban land and to pass laws on privatization of town urban land which entails the following elements: 1) model, 2) methods, 3) volume and dynamics of privatization and 4) delegation of authorities between the central and local governments. The key open

questions in this process are the establishing of the role of the state in privatization, managing and distributing the proceeds of privatization, who will pass decisions regarding privatization and its implementation, the role of local authorities etc. CLDS [7] suggests several *methods of urban land privatization*:

- 1 – Restitution of urban land (physical return of the same plots which the state had confiscated or nationalized to previous landlords),
- 2 – Giving urban land to users (physical and legal persons),
- 3 – Public sale-auction/tender (principle "who gives more"),
- 4 – Public sale to current users (at simulated market prices – through agencies),
- 5 – Time-limited lease of land (it is treated as an „assisting” method and a transitional solution).

#### *C. Leasehold of Urban land. Should Public Urban Land be Sold or it Should be Leased?*

*Leasehold* is a form of leasing /renting land and property where one party purchases the right to lease land or an object for a defined period of time (up to 99 years). A leasehold implies a selection of five different parameters: time-length of leasehold; value of time; market value of land that is being leased; annual rent payment; market value of property at the end of the leasehold. The ratios between these parameters are conditioned by the market conditions or policy of public decision –making, which is why the contract can have a number of particulars for some of the parameter variations. In other words, leasing is the right to hold and use land that belongs to another proprietor (the state, private owner). In all land transactions the landlords keep the property rights over the objects, but allow the trade of rights and interests to use urban land. There are a number of legal-economic mechanisms that allow the transfer/transaction of land and other property (objects) ownership. Renart, V. [19] points out that from the viewpoint of economic philosophy leasing is more a form of land co-ownership, because the leaseholder pays annually to the lessor. The key question refers to the legal nature of the contract due to the acceptance of the leasehold right as a "real property right" which implies that it can be mortgaged. The development of the leasehold as a "real property right" is opposed to "individual rights", which is essential to the development of this type of instrument.

Leasing land enables a correspondence of interests of the landlord, lessee and municipality. The landlord's aim is for the land to have value in use, the aim of the owner of capital is to capitalize it at a favourable rate of return, the aim of the municipality/town is to collect rent (as a landlord) and by taxing the rent to improve its financial situation. In other words, the landlord's interest is for the leaseholder to use the land as efficiently as possible in order to give the landlord a higher rent. Leasing land requires greater investment from the public funds into urban land, i.e., for the municipality to obtain land and to adapt its land policy to urban and socio-economic changes. Leasing requires efficient property and tax legislation and enables the municipality to, based on a feasibility study, assess the effects of leasing or sale and to pass decisions. Leasing land and property of objects is an important practice in many countries in different parts of the

world, which apply it in significantly or in a limited way [20] [21]. The local authority establishes clear rules for the use of land, which in the cities of North Europe, Hong Kong, China, Korea, Israel etc, is mainly in its ownership [22] [23].

#### V. CONCLUSION

Based on the analysis of the urban land system in Serbia and its effects on the development of towns and municipalities, it is estimated that it is necessary to bridge the „gap“ between the theoretical-methodical in the current system and the urban land market system. Main courses of change should include the introduction of urban land use and management market system, the increase of the role of the local authority, as well as the use of measures and instruments of urban planning as the main corrective. Possible types of change – target models are: (a) liberal market approach with dominance of private ownership of urban land, with attendant mechanisms and instruments, b) market model of urban land with dominance of public ownership of urban land (with introduction leasehold of public land), and other 'hybrid' models. A new system of planning and transformation of the current system of urban land is necessary. This process is greatly hampered by a lack of social dialogue about the main goals and methods of transformation of planning, as well as possible methods of construction land privatization. There is a lack of political will to solve problems of urban land reforms in new market conditions on fair way. In practise, suggested reform is based on privatizing of public urban land, with the absence of research of other options (leasehold of public land). Results of analysis are part of research project which should define basis for new urban land policy. It implemented in the Strategy of spatial development of Serbia.

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