CONSTRUCTION LAND AND URBAN DEVELOPMENT POLICY IN SERBIA: IMPACT OF KEY CONTEXTUAL FACTORS

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Abstract

The aim of this paper is to provide a systematized overview of urban land policy in Serbia, primarily regarding the impact of key contextual factors (historical, institutional, legal, etc.). Various historical and developmental contexts have caused regulation changes concerning construction land and its impact on the urban development in Serbia from the mid-19th century to the beginning of the 1990s. The analysis starts with an overview of the theoretical background of urban development policy and land regulation, followed by a brief reflection on the impact of key historical and legislative factors focused on the post-socialist period. The analysis of the urban land policy in the post-socialist period includes: key legislation; ownership status of construction land and property rights; conversion of ownership status; general policy instruments; key urban land management issues in Serbian cities; and a preliminary evaluation of the implementation effects of the existing urban land system in Serbia. Several research methods have been applied here, viz., the conceptual benchmarking framework for the dominant legal doctrine; a general qualitative analysis of the contemporary context; institutional and comparative analyses, etc. Although the former socialist concept of the welfare state has been transformed into a neoliberal concept in a short period, there is an evident delay in the reforms of the Serbian urban land policy. The paper presents numerous findings regarding the impact of the current system and practice on the general urban land policy in Serbia, while also focusing on the concomitant developments in the Belgrade Area. The paper concludes with the recommendations regarding the harmonisation and innovation of urban land policy and urban development policy in Serbia in the post-socialist era.

Keywords: *urban land policy, urban development, contextual factors, Serbia*

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1. INTRODUCTION

Urban land is one of the most important sources of wealth and social prestige in many societies (among property, land revenues, consumer goods, socio-cultural values, social status, power, etc., see Weber, 2014), as well as an important economic and social advantage.Construction land is a very important part of the physical territorial capital in urban development. Research of the urban land policy (ULP) has become the key point for understanding the socio-economic, political and other processes of urban development, planning, and governance. The urban land, as a public good, is the subject of government intervention and control (through land registers/cadasters, urban plans, fiscal instruments, and market price of land). However, state repression (e.g.expropriation and possible free public urban land "grabbing") may also belong to this sort of regulation.

ULP is an important part of the state economic policy, the implementation of spatial/urban plans, as well as the overall development of cities and their better governance. The role of ULP is as follows: sustainable and resilient urban policy; improvement of economic and urban competitiveness; maximization of land-use effects; increase of urban land efficiency and land values; impact on economic ambient; growth of assets; safety of the investments; decrease of utility costs; limitation of illegal and informal construction; support for urban re/development and the revitalization of brownfields; better fiscal effects on the city budget; and prevention of corruption, speculation, and urban land "grabbing".

Historical contextualisation and current transformation processes have caused numerous changes in ULP of Serbia. According to UN-Habitat (2015a), a lack of ULPs and clear regulations can lead to uncoordinated city growth and increase in informal settlements, while excessive regulations can lead to division of urban land-use into exclusive residential, commercial, or industrial areas.

Key aim of this paper is to provide a systematized historical overview of legal frameworks of ULP and its impact on urban development, especially in the post-socialist transition in Serbia. The paper has focused on ULP as a complex instrument in the process of urban re/development. Main starting-points in this analysis are: 1) despite short-lasting transition of the former socialist concept of the state into a neoliberal concept, there is a delay in the reform of Serbian ULP; 2) various inefficiencies of ULPs in legal, social, economic, urban planning and governmental terms; 3) coherence of the ULP and planning framework; and 4) social contextualization of ULP, urban planning, development, and governance.

The analysis includes the following: 1) theoretical background on ULP and its impact on urban development policy; 2) contextual (and institutional) framework

for main transformations of ULP and urban planning in Serbia, especially in the post-socialist period; 3) general developments in the ULP of Serbia with a short comment on the Belgrade area; and 4) some recommendations for an innovation of the ULP and urban development in Serbia.

2. THEORETICAL BACKGROUND ON URBAN LAND POLICY AND URBAN DEVELOPMENT POLICY

Urban issues are sensitive to the discontinuity of conceptual frameworks, approaches and methodologies, especially in the post-socialist era. Urban theory is under the impacts of large structural crises, global economic and financial crises, different contextual factors, regulations, etc. Urban theories are faced with complex issues, e.g. social contextualization of city planning and governance, investments and regulations, including e ULP. From the 1970s to 1980s, under the pressure of globalisation, cities started their economic and structural transformation according to the "Post-Fordist" pattern of the service sector development. Global and national politics and ideology shape urban theory of global cities (Brenner 1998, Sassen 2008, Cochrane, 2006, Scott & Storper 2015). In terms of theoretical framework, contemporary cities are developed in accordance with the combined processes of agglomeration, urban land-uses, and social interactions, more or less, in different contextual environments.

Lefebvre (1970) and Castells (1972) have supported a concept of the city centred on land markets as "urban growth machines" for the allocation of economic priorities, facilitation of urban decision-making to generate and accumulate wealth, and the concept of the citizens' right to the city. Brenner (1999) and Cochrane (2006) have initiated a reconceptualisation of urban politics and governance. Harvey (2005) identified a shift from managerial to entrepreneurial governance. These changes are realized through large development projects and new political economy of space. The concepts of "entrepreneurialism" and "state spatial rescaling" denote a shift of relationship between capital and territory, from national to urban scale (Brenner, 2004), or a multi-scalar urban governance. Later, Harvey (2012) suggested an another shift of this neoliberal domination, now in the changing pattern of political governance scales (from cities over states to global level).

Salet (2001) indicated that key trends in planning are those that have produced strong institutional shifts, viz: globalization of new information-led economy; liberalisation of economic markets; and a new differentiation in intergovernmental relationships. This trend has affected the former "welfare state", with shifts to supranational frameworks. National governments have a strong impact on urban

development, within the policy arena and its dominant patterns "multi-actor" and "multi-scale game".

Under these circumstances, challenges for the ULP and urban development policy coordination are complex. Salet & de Vries (2013) argued that the innovative potential of contextualizing legal norms in the processes of urban governance is synonym for "context". Urban governance is a form of land management at the local scale with multi-scale and inter-jurisdictional dimensions. Regulatory theory is based on legal theory and includes different theories (e.g. public interest; interest group; and private interest and institutional theory, cf. Baldwin & Cave, 1999). Main emphasis of institutional theory is the influence of organisational rules and social structures on the regulation system. Under the influence of various contextual factors, like global economic discourse and political pressure, the existing rights lose their power and disappear, as they are replaced with other solutions imposed by the new urban order. By strengthening this new urban order, the new legal order becomes stronger, which establishes, in a different manner, public interest in space, role of the state and local self-government in urban development. This is how the legal matter of spatial planning (Lefebvre, 1970) and the legal nature of urban order (Purcell, 2002)[3] are created, both undergoing constant change, as does the urban society. Urban order has legal substance, resulting from the dynamism and the contextual requirements and urban phenomena of society[4].

ULP has a key role for urban development transformations, especially in the post-socialist society. Land policy is a part of the national policy instrument, which includes the goals of economic development, social justice and equality, and political stability (Enemark, 2005), as well as security and allocation of various property rights and leases, land-use and land management, access to land, etc. Also, ULP includes different principles, rules, methods, measures and tools in urban development and governance (i.e. regulation of the property rights, land transfers, transactions, land values, land-use, land markets, land development, land administration, prevention of land speculation, "land grab" of public construction land, etc.).

Literature on ULP and its role in urban planning transformations relates some legal theories (e.g. classical natural law theory, legal positivism, legal realism,

[3]See Krstić (1968) and Pajović (1987, 2005).

[4]In an urban area, there are many conflicting interests that vary due to changes in the economic and social contexts. Urban order arises from constraints: it enhances the limits of private property and delves into the private ownership of real estate, i.e. property as an absolute right that gives the owner the possibility to own a thing, to use it, and dispose of it for an unlimited period (Gams, 1979).

legalism, cf. Lilić, 2002), theory of property (theory of appropriation, theory of ownership, theory of entitlement, cf. Hann, 2007), and so forth. The theory of polyrational land policy (Davy, 2014) indicates that connection of multi-scale planning and ULP is based on the interrelations between land-use and land ownership. Begović (1995) and Knaap (1998) concluded that land markets are, in general, imperfect, and subject to government interventions. Land values and land-use are determined by the interaction of supply and demand (Harvey & Jowsey, 2004). Hartmann & Needham (2012) argued that planning approaches are rooted in the property rights over land.

Stahl (2013) concluded that the property values are determined by a complex web of forces beyond the control of local governments, as the real estate downturn has illustrated. Various factors outside the local control have had an impact on this state of affairs, through macroeconomic trends and real estate market. Because of this, local zoning practices have a very limited defence against this powerful and destructive force (e.g. real estate collapse)[5]. Policy-makers have long "romanticized" urban zoning for stabilizing property values, ignoring the real contextual impacts. It can lead to a political system with devastating impacts on local urban land-use. Banzhaf et al. (2017) stated that land-use is always under pressure because of the impacts of different factors. The transformative process has been seen as highly dynamic and non-linear, and with various consequences. Additionally, priority in land-use depends on pools of power, stakeholders' relations and governance interests (Van den Dool et al., 2015). Van der Dool demonstrates that a good urban governance is presented as a balancing act, interplay between government, business and civil society, in which the core values need careful and timely attention. Steel et al. (2016) find that global "land grab" is also going to be urban and needs a relevant conceptualisation in analysing the different ways for land commodification and speculation. In this respect, Zoomers et al. (2017) suggested a new, socially inclusive urbanisation agenda that addresses emerging urban land grabs. Public debates about "urban land grab" are very rare, and they are usually related to land administration, the formalisation of property rights, compensation, inclusiveness, and participation. These urban land issues are identified as "new avenues for research", especially focusing on urban investments (commercial properties, public space accessories, and public services), often under the influence of gentrification and speculative urbanism (Steel et al., 2016)[6]. Investments in properties, the gentrification process and urban speculation over urban-land lots raise the question about the

[5]He called it "the public choice model's fatal flaw".

[6]Steel et al. (2016) argue about the leading role of city governments in land management "only in close cooperation with other national and transnational actors...under the influence of transnational corporations, global finance and international brokers such as consultants, real estate investors and architects".

role of ULP in urban development. Transfer of urban land lots cannot be understood without urban land markets, public policies, local and global economic preferences, as well as the pressure to resettle some inhabitants. Thus, it is important to consider the interplay between urban land-use change and urban re/development. This multifaceted approach to urban land governance is a consequence of numerous urban land acquisitions, the attractiveness of urban spaces, multiple actors, and the aims of urban transformations. Steel et al. (2016) argued that the urban land "grab" tends to be very fragmented and less visible, all under the pretext of multi-functional redevelopment and commercial, or unintended gentrification.

Land "grab" can be in the basis of urban transformation, i.e. land-use changes at various lot size levels. Land governance can contribute to the increase of speculation in the transformation of the cities. Complexity of urbanising context is under the impact of various actors, their mobility and capability, interests, and participation. There are controversies among global economic investments, strengthening of gentrification, some types of speculative practices in urbanism (e.g. project pressure), and position of democratic participation in local development. Key changes in land-use, infrastructure and real estate markets, led to speculation in sharing the benefits of rising urban land prices. Cities have fallen under the influence of international companies, global finance and international institutions by promoting city branding, usually for the rich. Goldman (2011) finds that speculative urbanism in developing countries is related to a significant involvement of city governments in the division of competitive and speculative urban land strategies, at the same time attracting private investments and large projects. Table 1 illustrates a possible scheme of urban land "grabbing" in urban developments in the post-socialist countries.

2.1. Methodological approach

Research of Serbia's legislation related to construction land and urban planning combines some benchmarking, analysis of dominant legal doctrines and institutional analysis, by comparing three different contextual frameworks. This approach includes a benchmarking of main components of ULP and their interdependence against urban development policy. It concludes with putting forth some recommendations regarding their harmonisation and innovation in the post-socialist period. The benchmarking of the key contextual phases includes a brief analysis of ULP regulation and its reflection on urban development. Also, we applied a contextually appropriate method, which links different approaches based on various analyses. It includes both a brief analysis of historical changes of the legal framework of ULP and urban planning in Serbia, and an integrated empirical analysis of urban development and ULP in a number of Serbian cities,

including Belgrade. The important role in research has a discourse theory as an approach which analyse and examines different social contexts, concepts, various structures, and institutions.

Table 1. Possible scheme of urban land "grabbing" in urban developments in post-socialist countries

	Urban land policy- a new urban land "grabbing"	**Urban development policy**
Type of property	Focus from urban land to real estate; land-based investments; internationalisation of land rights; increased impact of the brokers in land rights (e.g. banks); etc.	"New city" projects (spectacular projects of famous architects); urban mega-projects as instrument of urban redevelopment; "flagship projects"; emergence of neo-liberal concepts ("smart city", "vertical city", etc.), private and public ownership; etc.
Spatial impacts	Possible adverse impact on the territorial capital; decapitalisation of urban land; sharing rising land value; loss of public revenues; socio-economic and legal challenges; high public financial risks; a lack of land (especially utility-equipped urban land); etc.	Speculative urbanism; "tabula rasa" approach to urban redevelopment; impact on housing, commercial, quality of life; growth of poverty; impact of the "Dubaization" process on the cultural framework of post-socialist city; etc.
Process	Land-use change; land redevelopment; urban rezoning; hi-tech urban design and urban reshaping; city branding; transformation of legal and institutional frameworks; urban land readjustment; etc.	Gentrification; resettlement; change in population; weakening of the role of urban planning; city government as factor in governing land and conflicts; etc.
Scale	Territorial fragmentation; dispersion; numerous small or bigger lots; etc.	Large-scale city projects; core urban areas or peri-urban areas; and corridors.
Stakeholders/ actors	International business elites; financial funds and companies; national agencies; domestic companies and public-private partnership; etc.	Pure public participation and local power; exclusion of citizens from decision-making; possible urban protests; etc.
Outcomes	Growth of real estate investments, especially high-tech housing, elite skyline, commercial spaces; coercive dispossession of land and construction properties; leashold and/or alienation of public construction land without any appropriate compensation; leashold and/or alienation of public construction land applying ''quasi-market'' land values; a lack of infrastructure; etc.	"Gated housing or community" (closed, controlled housing oasis in the center of the city, i.e. hi-tech ghettoes); new social structure; social and urban alienation; favouring business-led technical solution vs. strategic public interests and goals; and new priorities (e.g. profit-oriented urban development, growth of global city, increase of both green-fields and brown-fields, increase of empty built spaces, and so on).

3. CONTEXTUAL FRAMEWORK OF CONSTRUCTION LAND DEVELOPMENT AND URBAN PLANNING IN SERBIA

The key objective of this topic is to provide an overview of historical context of construction land development and its relations to urban development in Serbia.

According to two key legal European concepts[7], the post-socialist countries, including Serbia, have created a new framework for regulating a myriad of different interests in construction land development. Due to various interests and contextual changes, there is a stronger interdependence between ULP and the urban area. There is a discrepancy between legal and real property rights and urban development, especially in the insufficiently institutionalised post-socialist system[8].

In accord with the results realized within the German-Serbian cooperation project "Strengthening of Local Land Management in Serbia" (Müller et al., 2015), and within the project SPUDS (Support to Process of Urban Development in Serbia), the development of construction land is determined by the framework and the influence of three different historical and developmental contexts (Zeković & Maričić, 2016, Zeković et al., 2016), with domination of various political and socio-economic systems. Contemplatively, first context, from the mid-19th century until the World War II, includes the order based on the capitalism in terms of undeveloped agricultural country. Second context includes the period after World War II up to 1990, which is characterized by an authenthic development of a socialist system and state legislative structure, in two phases: 1) the phase of central-administrative system and post-war restoration based on communist paradigm (1946–1950); and 2) the phase of authenthic socialist system of self-governance (1950–1990), with the sub-stage of associated labor and consensus economics (1974–1990). The third context includes the breakup of Yugoslavia and collapse of the socialist system (1990–2000), paralleled by post-socialist transition of the society and economy within the capitalist system of neoliberal discourse. In Table 2, 3 and 4, a very brief comparison is presented of ULP, urban and spatial planning in Serbia, and local governance, with a "panoramic" review of Belgrade example (Figure 1, 2 and 3).

[7]The essence of the current European *acquis communautaire* is the implementation of a principle of legality (French *principe de legalite*), the concept of a legal state (German *Rechtsstaat)* and *rule of law* within the two legal systems – the European continental law and the Anglo-Saxon common law (Craig, 2006; van Gerven, 2008), as well as their hybrids.

[8]There is a constant conflict between the regulated and the actual matter of things, between private and public property and different interests, between economic interests and social requirements, which is reflected in strong battles with shares, finance and capital, especially on the real estate market (Scott & Storper, 2015, Harvey, 2012), and followed by conflicts in the political arena.

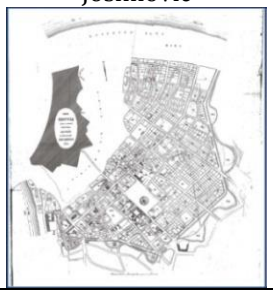
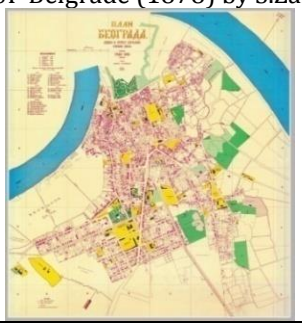
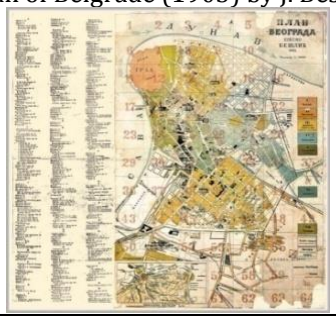
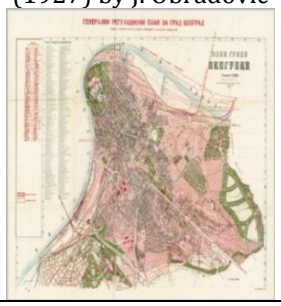
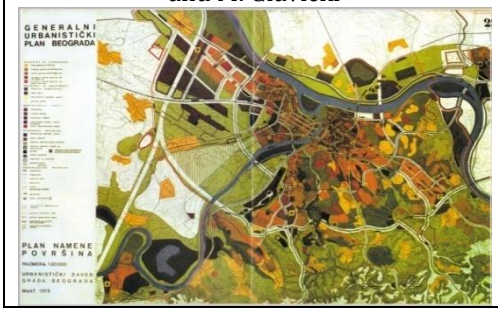
Urban plan of Belgrade (1867) by E. Josimović 	MUP Belgrade (1878) by S.Zarić 
Plan of Belgrade (1903) by J. Bešlić 	Plan of Belgrade (capital of the Kingdom of Serbia), 1910 by V. Lazarević
Master plan of Belgrade (1912) by Alban Chambon 	MUP Belgrade (1923) by Đ. Kovaljevski
General regulation plan of Belgrade (1927) by J. Obradović 	General regulation plan Belgrade (1939) by M. Krstić

Figure 1. Urban planning development of the Belgrade from 1867 to 1941
Source: Urban Planning Institute of Belgrade http://www.urbel.com/

Master plan of Belgrade (1948) by N. Dobrović

MUP of Belgrade (1950) by M. Somborski

MUP of Belgrade (1972) by A. Đorđević and M. Glavički



GUP of Belgrade (1984) by K. Kostić and its Amendments (2002) by K. Kostić

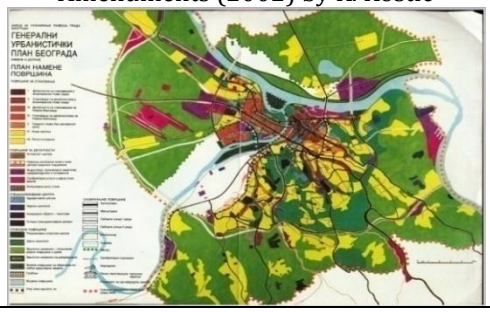


Figure 2. Urban planning development of the Belgrade (socialist period, 1946-1990)
Source: Urban Planning Institute of Belgrade http://www.urbel.com/

3.1. Development of construction land from mid-19th century to II World War

Serbia's undeveloped agriculture from the mid-19th century to the beginning of II World War was founded on a constitutional legal system based on capitalism and the development of a civil society (Table 2). On the territory of Serbia**,** there were three parallel, mutually different systems of basic legal records on the rights to real-estate, on real-estate owners and loads on real estate, i.e. on the legal status of land: 1) system of land registry books; 2) system of title deeds; and 3) cadastre of property - cadastre of land, which does not have the same legal significance as the other systems because it only records user (holder), not ownership and other rights *in rem*.

Land registry books and title deed books are the basic legal records on the rights on real estate, their owners and any encumbrances on real estate, i.e. the legal status of land. System of land registry books was introduced by adopting the Serbia Civil Code in 1844, which foresaw the registration of property in books of legatees, i.e. land books. Land registry books were established in 1855 on the

territory of Serbia, which was under Austro-Hungarian rule (Vojvodina, Belgrade, etc.). In the undeveloped agricultural Serbian economy based on the capitalist system, the first laws regulating the planning of cities and land use were adopted in 1865. In the period of reconstruction of towns (1867-1901), the Serbian State Council was verified the Law on expropriation (1865), Law on public buildings (1865), with fragmentary interpretation of urban legal matter in the Law of settlements (1866), and the first Law on the regulation of Belgrade (1867). The first urban plan of Belgrade by Emilian Josimović was adopted in 1867 (Plan varoši u šancu). Title deed system functioned in one part of Serbia under Turkish governance until 1912, where land registry books were not introduced (Southern Serbia and Kosovo and Metohija). Cadastre of land ownership in Yugoslavia was introduced in 1929, and before that it existed on the territory under Austro-Hungarian governance.

The first construction law in the Kingdom of Yugoslavia was passed in 1931[9], and General guidelines for writing the regulations for the implementation of the 1932 Regulation Plan[10].

3.2. Socialist context (1946-1990)

3.2.1. The phase of central-administrative socialist system and post-war restoration (1946-1950)

After the II World War and the establishment of the new administrative-socialist system FPRY, the legal continuity of the Kingdom of Yugoslavia was interrupted by destroying the previous system, including the land registry laws from 1930/1931. In 1947 was passed an Ordinance regarding the registration of state-owned real estate property rights, the Basic regulations on planning and construction (1948), Basic regulation on general urban planning (1949), in accordance with communist paradigm (Table 3). The FPRY socialist system was based on state ownership, with strong social control by the communist party, due to the SSSR model. After rejecting the Cominform resolution (1948), centralisation of the administrative-socialist system continued, with etatisation and a security system which proved to be efficient in post-war restoration of the country. The government passed laws by which the transfer of private and other forms of property to state ownership was carried out (Law on agricultural reform,

[9]It included the regulation of cities, towns, regulatory rules, a regulation plan, technical regulations, construction development, land subdivision, land management, public review, etc.

[10]This act was included the regulation of cities, towns and villages, building regulations, regulation plans, technical rules, hygiene regulations, regulations for infrastructure, construction sites, land parcelling, expropriation, building permit, public insight and discussion, and land registration.

confiscation, nationalization, expropriation, etc.). Domination of state ownership implied insufficient care for coordinating the cadastre system and land registry books and incomplete land records. The courts were responsible for the land registry book and it represented a legal record of real estate based on the land cadastre as a factual record[11].

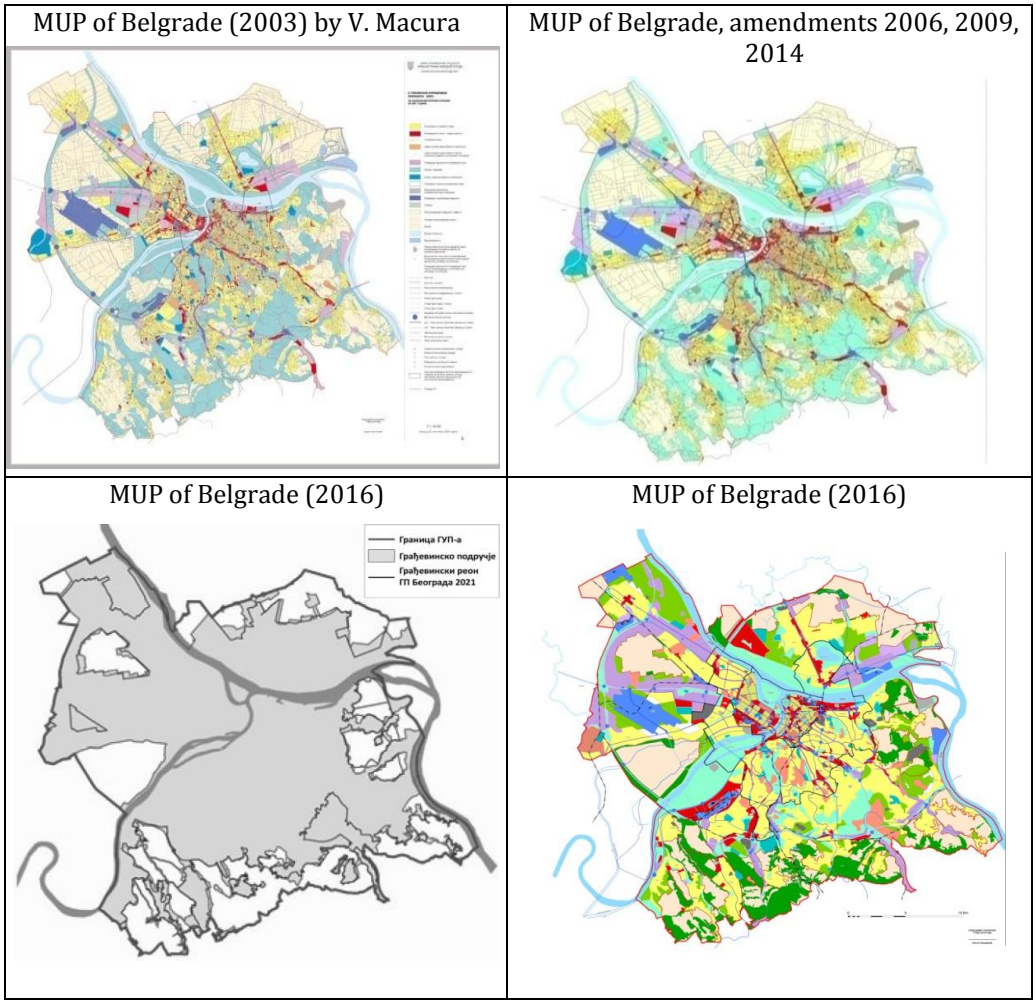


Figure 3. Urban planning development of the Belgrade (post-socialist period, from 1990 onwards)
Source: Urban Planning Institute of Belgrade http://www.urbel.com/

[11]The data on property and other rights existed in the municipalities where the land registry books were kept, i.e., of roughly 25% of Serbia.

Table 2. Local governance, urban land policy and urban planning in Serbia, and Belgrade (from 19th century to WW II)

Type of local governance	Key regulations in urban land policy	Key regulations and urban plans in Serbian cities and Belgrade
19th century		
•Act on Counties and Act on the Establishment of Municipalities in the Dukedom of Serbia/ "Ustrojenija" (1839) •From 1839, there were rural and urban settlements and municipalities, the town of Belgrade, and counties •Act on the Government of Belgrade Town (Ustrojenije Upraviteljstva varoši Beograda) had introduced "city" governance (1860) •Model of centralistic governance from 1866 to 1889 (Milosavljević, 2015)	•Serbian Civil Code (1844) - registration of property in the legatee books •Three parallel systems of legal records on the rights to real-estate, rights of owners and the legal status of land: 1) land registry books, 2) system of title deads, and 3) cadastre of property (only land cadastre) •Land books were established in 1855 in some areas of Serbia •Expropriation Act (1865)	•Public Buildings Act (1865) •Act on Settlements (1866) •Act on the Regulation of Belgrade (1867) •First Urban Plan of Belgrade ("Plan varoši u šancu") by E. Josimović (1867) •The period of reconstruction of Serbian towns (1867-1901) •Master Urban Plan of Belgrade (1878) by S. Zarić
From 1900 to 1941		
•Rural and urban settlements, municipalities, and the town of Belgrade •City governance in Belgrade (from 1860 to 1920) •From 1929-1941 there were governances of regions (banovina) •Belgrade City Government was independent in the "Danube Banovina" •Provincial self-governance	•Regulation on the Implementation of Partial Land Expropriation of Large Real Estates for Public Interests, Colonialisation and the Construction of Workers' Dwellings and Gardens in the Kingdom of Yugoslavia (1920) •Cadastre of land ownership in Yugoslavia (1929) •Construction Act in the Kingdom of Yugoslavia, 1931 (regulation of land parcelling, expropriation, land regulation, land consolidation)	•Plan of Belgrade (1903) by J. Bešlić •Plan of Belgrade (1910) by V. Lazarević •Le Corbusier (1911): "Belgrade – ridiculous capital, worse even: dirty, and disorganized, in the most beautiful place in the world" •Master Plan of Belgrade (1912) by A. Chambon •MUP Belgrade (1923) by Đ. Kovaljevski •General Regulation Plan (1927) by J. Obradović •Construction Act in the Kingdom of Yugoslavia, 1931 (regulation of cities, construction zones and raions, building regulations, technical rules, public review and discussion, etc.) •General guidelines for writing the regulations for the implementation of the Regulation Plan (1932) •General Regulation Plan (1939) by M. Krstić

Table 3. Local governance, urban land policy and urban planning in Serbia and Belgrade (socialist context)

Type of local governance	Key regulations in urban land policy	Key regulations and urban plans in Serbian cities and Belgrade
Central- administrative socialist system (1946–1950)		
•Strong étatisation of local authorities •Part of city under the administration of the state councils (town districts/raions), cities, and counties	•Ordinance regarding the registration of state-owned real estate property rights (1947) •Act on Confiscation, Nationalization, Expropriation •Domination of state ownership	•Post-war restoration •Basic Regulations on Design and Construction (1948) •Basic Regulation on General Urban Planning(1949) •MUP of Belgrade (1948) by N. Dobrović (New Belgrade) •MUP of Belgrade (1950) by M. Somborski
Socialist system of self-management (1950–1990)		
•FPRY Constitution (1963) introduced self-management in all "social-political communities", and workers' self-management •Decentralisation in decision-making •From 1952-1955 - rural municipalities, towns, towns in counties and outside of counties, city municipalities without any special rights and urban municipalities with special rights •From 1955-1963 - municipalities and cities with their self-governments •From 1945-1967 - county' governance by people's committees (county differed from district) •Provincial self-governance •From 1963-1990 - municipalities and cities •SFRY Constitution (1974) introduced a concept of associated labour, consensus economics, self-management arrangements and social agreements, decentralisation in decision-making •From 1974 governance and cooperation through inter-municipal regional communities	•Federal Regulation on Land Cadastre (1953) •Act on Nationalization of Rentals and Construction Land, Built and Non-Built Construction Land in Urban Areas and Urban Settlements in FPRY (1958) •Construction land passed into state property, later - social ownership •Act on Transfer of Land and Buildings (1965) •SFRY laws on construction land in urban areas and settlements with an urban character (1968) •Laws on construction land (1969, 1971-1975, 1986) •Cadastre of real estate was introduced in Serbia (1983) •State ownership of urban construction land •Right of urban land use •No transfer of urban construction land	•Bottom-up approach in urban planning •Land nationalization influenced the organization of cities •Act on Urban and Regional Spatial Planning in Serbia (1961) •Le Corbusier's Concept of Urban Development according to the Athens Charter (1933) wasapplied, as it was compatible with the socialist system and urban planning •"Architects... guilty of superficial understanding of modern urban planning" (Corbusier, 1955) •MUP of Belgrade (1972) by A.Đorđević and M. Glavički •All key development decision-making was done by the state or political nomenclature •The decision-making was transferred to the local level •Constitution Act (1974) introduced social planning •All republics adopted spatial plans (not Serbia) •Built capacities and the methodology of spatial planning; initiated plans •Planning and Spatial Organisation Acts (1974, 1985 and 1989) •Social housing construction •GUP of Belgrade (1984) by K.Kostić •Decision on the Temporary Urban and Building Permit (1985)

3.2.2. The phase of authentic socialist system of self-management (1950-1990)

With the laws from 1950/1951 FPRY initiated the development of an authentic socialist self-management system. Constitutional Law (1951/53) was prepared in accordance with the principles of debureaucratisation, democratisation and decentralisation. The system was constituted after numerous reforms, and its pillar was the "exotic" social ownership, as a unique form of ownership in the world. Socialist self-management was a unique model of decision-making in society, in economy, enterprises, and in the political system at all levels. The operationalisation of the system required constant development of legislation, up until its collapse in 1990. The Constitution of FPRY of 1963 introduced self-management in all the "social-political communities". Reforms from the period 1964-1967 introduced measures to reduce the role of the state in economy; foreign investments were facilitated, and conditions for developing market socialism were created. The five-year central state planning was replaced by flexible and decentralized urban planning, which was singled out from the previous policies. The model of self-governance promoted decentralization and a strengthened "bottom-up" approach in decision-making, planning and governing[12]. According to Bockman (2011) and Kirn (2010), the self-management system had more elements of the neoclassical economics than elements of centralised state-planning. In 1953, a federal regulation on land cadastre was adopted.

In 1958, FPRY adopted the Law on nationalization of rentals and construction land, nationalising built and non-built construction land in urban areas and urban settlements. Construction land passed into state property/ownership, meaning the state took full control. Since the adoption of the Law on Determining the Construction Land in Cities and Urban Settlements (1968), this land became socially-owned. Owners of construction land became its users, and the right of access could only be inherited. Given that construction land could not be marketed, it stopped the legal transfer and the development of the real estate market. Socially directed housing construction intensified. Land nationalization influenced the organization of cities and intensive illegal construction.

Since 1957, regional development was accepted as part of the integrated spatial development policy. In 1961, in Serbia, the first Law on Urban and Regional Spatial Planning was adopted, determining the basic legal terminology and legal nature of these plans. An amendment of this law was adopted in 1965, as well as the Law on Land Survey and Cadastre and the Law on Transfer Land and Buildings (1965) that forbids the disposal of socially-owned construction land.

[12]Simmie and Hale (2007) indicate that the Yugoslav experiment in self-management is particularly interesting for its attempt to confront the problems of power and bureaucracy.

Changes in the authorities of the federation and republic led to the adoption of republic laws on land survey and cadastre in 1967, 1971, and 1976. In the period 1961-1974, a set of laws was brought regarding the definition of construction land in urban areas and settlements with an urban character (1969-1974).

Within the period of self-management socialism and workers' self-managed socialist economy, there has been a particular period during which the concept of associated labor, consensus economics, self-management arrangements and social agreements dominated, and these were introduced by the SFRY's Constitution in 1974. The Constitution introduced social planning of social-political communities that were obliged to determine the policy, guidelines and measures for realizing these plans. By the end of 1980s social planning disappeared, and spatial development was directed to municipalities. Ever growing socio-economic planning system and practice, in accord to the concept of associated labor and consensus economics, also contributed to urban and spatial planning losing their significance**.** Laws on planning and spatial organisation were passed in 1974, 1985 and 1989 triggered a weakening of state control in the urban system, together with a hypertrophy of state functions in social-political communities. At that point of time, basic capacities and methodology of spatial planning have been built, upon which the elaboration of numerous spatial plans was launched[13].

In accord the Laws on construction land (1975, 1979, 1983 and 1986), this land was given by public competition to state enterprises for use. Fees for using and developing construction land were introduced, as well as the opportunities for the investor to finance the construction of secondary infrastructure on the land. The Constitution determined that real estate with property rights attached could be expropriated with a just fee. In order to merge the land cadastre and registry books, a cadastre of real estate was introduced in Serbia, in 1983, as a unique, factual and legal record of real estate according to a cadastral parcel.

In the socialist system, the so-called “societal directed housing construction” was first made possible due to almost non-exhaustible quantities of disposable lands in the urban outskirts, mostly agricultural; then due to relatively low costs of their conversion to various urban uses, and due to dominant social/collective ownership of urban land. Housing policy in the period from the 1970s until the 1990s was characterised by dominant socialist values and postulates prescribed

[13]All the republics brought spatial plans (Serbia in 1996) and this meant the beginning of the constitution of the future states and Yugoslavia's disintegration, which was a middle-developed industrial European country in 1980s.

by legislation on the level of Yugoslav republics[14]. Le Corbusier's concept of urban development according to the Athens Charter (1933) was applied in that period in Yugoslavia, as it was compatible with the socialist system and urban planning, especially to the socialist principle of justice, humanity and equality, but also market-oriented (Gulin-Zrnić, 2009). This initiated the construction of New Belgrade, i.e. prefabricated multi-family housing blocks, well-serviced and with many amenities.

3.3. Post-socialist context (from 1990 onwards)

3.3.1. The phase of the break-up of SFRY and the collapse of the socialist system (1990-2000)

At the end of the 1980s, the international institutions (e.g. the World Bank, EBRD, EuropeAid) imposed a transition program in the SEE countries (including Serbia) based on the imperatives of neoliberalism: liberalisation, privatisation, commercialisation and minimization of the role of state in different spheres. After 1989 the European socialist countries introduced market reforms in accordance with the so-called "shock therapy", followed by sacrifising growth[15] and a subsequent transitory drop in almost all macroeconomic indicators (GDP, employment, standard of living, etc.). The transitional gap has been widely explained by international financial institutions and other advocates as a consequence of the mistakes in the introduced macroeconomic policies, non-readiness for market reforms, lack of some necessary reforming steps, etc. At the end of the 1990s, the shock therapy was abandoned in favour of the gradualist approach. This model advocated for gradual reforms, the importance of institutional and legal framework and the minimum of the social costs of reforms (Stiglitz, 1999).

Dissolution of Yugoslavia in 1990s was a consequence of complex international circumstances that culminated in political and armed conflict (with the NATO bombing in 1999). What contributed to the break-up of the country was the absence of economic and social reforms, as well as the incompetence of the political elites to transform the system. Dissolution of the FRY after the conflicts and the 1990s wars led to the formation of new states, among which was FRY (Federal Republic of Yugoslavia), i.e. the Federal Republic of Serbia and

[14]E.g. the Housing Relations Act (1973) and its amendments (1980) were based on tenure rights in a social ownership. The political contextual framework supported the transformation of housing policy into main directions: 1) mass and almost free privatisation of socially-owned dwellings in Serbia has finished from 1990 to 1996; 2) mass illegal construction (especially in Belgrade); 3) intensifying commercial housing construction; and 4) initiating solidarity housing construction.
[15]So-called "growth without development" - see Vujošević et al. (2012).

Montenegro (Table 4). The new Serbian Constitution was adopted in 1990, and the Constitution of FRY in 1992. Serbia was exposed to economic destruction, inner rifts, international isolation and war devastation, without a clear strategic policy.

In 1995, Serbia passed a "set of building laws" on construction land, on building structures, on planning and spatial development and the Law on spatial plan of Serbia (1996), as well as the first Spatial plan of Serbia. These laws have make one part of the ambient for attracting foreign investors. Many authors (Mirić et al. 1995; Petrovic, 2001; Vujosevic, Nedovic-Budic 2006; Petovar, 2010) criticised the planning and urban policy in Serbia in this time. According to the Law on construction land (1995), construction land could be public construction land or other type of construction land (private or state-owned), with the right of access or long-term lease.

3.3.2. The phase after 2000 onwards

Following democratic changes in 2000, there was the post-socialist development context, in which a new institutional framework was created on a neoliberal capitalist system. Since 2003, Serbian legislation regarding construction land has been joined with spatial-urban planning legislation, i.e. the mechanical unification of legal matters of urban and spatial planning, construction land and building structures into one law (PCA with 25 by-laws) was carried out. An extensive alteration of the system of land disposal by municipalities and cities was implemented: private property of other lands for construction was allowed, by-passing the then valid Constitution of 1990 (Table 4). The Constitution of 2006 prescribed that construction land could be in private ownership. The law allowed the sale and transfer of rights of access of unbuilt land. The right of long-term lease of state-owned land for 99 years was introduced instead of the permanent right to land access. A new PCA was adopted in 2009, with amendments (2010-2015). The new Spatial plan of Serbia was adopted in 2010. Also, until 2016 all regional spatial plans were adopted, with most of their implementation programms. According to the PCA, regarding construction land, there can be all forms of property, it is marketed (construction land in public property as well). An important role in adopting frequent amendments and addendums to laws plays the government and its aspirations to create urban planning and other legislation that will allow subsidies to investors in the field of construction land, a fast and efficient approach to cheap and attractive locations, as well as a fast issuance of building permits. Regulation of construction land has undergone the biggest changes, and practice has shown that there were the greatest difficulties in that segment. The PCA, which is not *sui generis* for the privatization of construction land, especially before the restitution (Act on property restitution and compensation, 2011), regulates the

Table 4. Local governance, urban land policy and urban planning in Serbia and Belgrade (post-socialist context)

Period	Type of local governance	Key regulations in urban land policy	Key regulations and urban plans in Belgrade
Dissolution of the SFRY and the socialist system (1990–2000)	•Disintegration of the SFRY after the 1990s conflicts led to the formation of new states •Serbian Constitution (1990) •Municipalities, cities and City of Belgrade	•Act on Construction Land (1990-94) •Law on Cadastre and Registration of Real Estate Rights (1992) •Act on Construction Land (1995): construction land can be public, private or state-owned, with the right of access or long-term lease •Law on Expropriation (1995)	•Planning and Spatial Development Act (1995-1998) •Act on Building of Objects (1995, 1996) •Act on Spatial Plan of Serbia (1996) •Amendments to the GUP of Belgrade (1999): regulated adding rooftop floors •Started "investor urbanism" in Serbian cities Kiosks occupied the public spaces of cities
From 2000 onwards	•New institutional framework based on the capitalist system of neoliberal discourse •Municipaliti-es, cities and City of Belgrade •From 2006-2014-urban municipaliti-es	•Law on Expropriation (2001, 2009, 2013) •Planning and Construction Act (PCA) has allowed private property on construction land •Radical change of the system of land transfer by municipalities and cities •Selling and transfer of rights to use undeveloped land •PCA (2009) regulates the conversion of access rights to use built land into property rights, without/with a fee •Introduction of the right to lease of state land for 99 years •Construction land may be in all forms of ownership and on the market •Introduction of urban land consolidation by PCA (2011) •Regulation on the conditions and procedure for the alienation or lease of construction land in public ownership by the RS at a price lower than the market one or free of charge (2011, 2012, 2015) •Act on Property Restitution and Compensation (2011) •Act on Converting the Land-Use Right into the Right to Property of Construction Land with a Fee (2015)	•Act on Building of Objects (2001) •Amendments on the GUP of Belgrade (2002) by K.Kostić •Planning and Construction Act (2003, 2006), with ex-post public review •Decision on temporary rules and conditions for building and exploitation permits for buildings constructed or reconstructed without a building permit before 13th of May, 2003 (2003). •GP of Belgrade (2003) by V. Macura, Amendments (2005, 2006, 2007) •Planning and Construction Act (2009, 2010, 2011, 2012, 2013) •GP of Belgrade 2021 (2009, Amendments (2014) •Law on the Amendments to the Planning and Construction Act (2014), with the introduction of early public review •GUP of Belgrade (2016) •"Investor urbanism" in Serbian cities •Illegal construction

conversion of access rights to nationalized built land into property rights, without or with a fee (Nedović-Budić et al., 2012). Natural and legal persons that were founded by the state, region or municipality are allowed to convert access rights to urban construction land into public property rights, without a fee. Persons who have the right of lease on other state-owned construction land are allowed to remain leasees. It is also predicted that companies on state-owned construction land that hold access rights, and which hold this status due to privatization of enterprises or bankruptcy, can convert their access right into right of property by paying the market value of the land minus the costs of acquisition, where the Serbian government prescribes the fee based on the conversion[16]. Problems in law implementation indicate that for the codification of these three legal matters the right conditions have not been met yet. The PCA's provisions on the conversion of construction land with a fee have been contested by a decision of the Constitutional Court and repealed (2013). The right of property of public-owned construction land belongs to the Republic of Serbia, province or unit of local self-government. With the introduction of the real estate cadastre (laws in 1992 and 2009), land registry books and other systems of recording property have become invalid.

With the amendments of PCA (2011), urban land readjustment was introduced. By adopting the ammendments and addendums on the PCA (2014 and 2015), the controversial provisions on the conversion of access rights to construction land into right of property were excluded, with a fee, and for this field, the adoption of a special law is predicted. The Act on converting the access right into right on property of construction land with a fee was brought in 2015. All construction land in public ownership can be subject to the conversion procedure, unless designated for public use or subject to restitution claim. The law provides the conversion of the public land leasing into property right.

Decisions on the alienation or lease of public construction land (free) for each land lot in the city area is under the jurisdiction of the municipality, with the consent of the Government[17]. The Decree regulating the free disposal of public construction land and/or its free lease is one example of “planned” decisionism in ULP (with the opening of opportunities for urban land “grabbing” and de-contextualisation of urban land capital). Thus, several FDIs and large projects in Serbian cities were achieved.

[16]The PCA enable the holders of privatized land to convert their rights of use and right of lease into the right of ownership. This legislation made it possible to donate land to privatized companies, thus closing the circle of corruption and malpractices that accompanied the privatization.
[17]I.e. tender commission headed by the Minister, and the Republic Directorate for Property of the Republic of Serbia.

4. CURRENT DEVELOPMENTS OF ULP IN SERBIA

The construction land market in Serbia is underdeveloped, some regulatory mechanisms and institutions are missing, and appropriate models of financing land development are lacking as well (Zeković, 2008). The case of Serbia's incomplete reforms illustrates the challenges of ULP in a post-socialist transition.

The system and practice of ULP and urban planning cannot cope with the challenges of the key contextual factors, viz., transition processes, global economic and financial crisis, growing uncertainties and risks, and the policy of attracting FDIs. It has contributed to the spreading of "the real-estate bubble", the housing boom, and to intensive urban sprawl that is reflected in the massive illegal construction in Serbia (with a total of 2.05 million buildings, of which 266,655 in Belgrade). Characteristics of ULP and the delay in the reforms of urban land management (*periculum in mora*) illustrate the complexities of the reshaping institutional framework under the conditions of economic and other uncertainties of social transition. The current Serbian framework of ULP does not reflect the requisite regulation changes, the implementation of the new market, financial and planning instruments, and the taxation of increased urban land values, although good land management is vital for the city's development and urban planning improvement.

Construction land management takes place in the absence of a real and segmented land market, market institutions and mechanisms, with relatively complicated administrative procedures. In the post-socialist period, financing and construction land instruments have not changed significantly. According to the World Bank (2004), the prices of construction land in Serbia were extremely high (even up to 1,000 times higher compared to the price of agricultural land). Due to the significant reduction of investments, especially after the beginning of the global crisis, the local public budget revenues related to land development fees have reduced. The reduction of local revenues, a need for new capital infrastructure and the readjustment of construction land have been exceeded by credit indebtedness of the local governments (since 2007). The lack of taxation or capture of the increased urban land value (as a result of social investment) is one of the main challenges of the local public finances crisis.

From the point of construction land equipping in cities of Serbia, it can be assessed that there are different challenges in overcoming the inefficiencies of the existing solutions as follows: the impact of the global crisis and the collapse of real estate markets; delay in the reform of local public utility enterprises; their compliance with the construction land policies and tools; high expectations from the European funds in financing the urban infrastructure; and uncertainty in

programming of the ULP instruments due to unpredictable dynamics of the investment realization.

The state is heavily involved in determining the "market" price for the conversion of the land use right into land ownership. From 2009 to May 2013, the Government through the Ministry of Finance and the Tax Bureau, i.e. experts, determined the "market value of land" and price reduction, by adopting a few by-laws. In the process of converting the building land-use rights into property rights (with payment of fee), the market price of building land is determined by the Law of Conversion (2015), by an act of the Government, as well as on the basis of a General Act of the local self-governments (according to urban zones).

The PCA foresees that the municipal committees should determine the approximate value of real estate (based on the data from the records of prices in the buying and selling contracts, taken from courts). It is evident that there is a lack of application of transparent and effective approaches and methods of urban land evaluation and real estate appraisal; however, mass real estate appraisal started to be applied since May 2013. In other words, there is a lack of transparency and stability on the real estate market and urban land market, as well as a lack of the established approaches, legal and economic principles, criteria, methods, institutions and instruments for the property evaluations in accordance with reliable market and planning data on property values (Zeković & Maričić, 2016)[18].

The urban land regulation in Serbia points to the legal framework and governance that are supported by a more administrative approach, than a market and planning approach (Table 5).

The Belgrade City covers 3,224 km^2, with 1,572,000 inhabitants, 567,826 employees (2015), and 266,655 illegal buildings in 2017. According to the data provided by the Republic Land Cadastre, the size of construction land in Belgrade was 111,260.72 ha or 1,112.6 km^2 in 2013 (Figure 4). In accordance with the City's Decision (2015) in the Belgrade City there is 9 zones (Figure 5).

The key aim of the GUP of Belgrade (2016) is a transformation of urban planning in accordance with market-led, socio-economic, political, institutional and

[18]In the field of construction land value evaluation, the following problems are present, such as: 1) a lack of skilled personnel and institutions, as well as a lack of coordination in institutional collaboration; 2) poor availability of system data regarding public ownership, value evaluation of the public real estates; and 3) absence of publicly available general data on total, public and private construction land, built and non-built at municipal or city level.

Table 5. Principles and indicators of ULP in Serbian cities

	The current state	Necessary changes
1. Level of legitimacy	Low/limited	High legitimisation
2. Representation of individual interests	Restricted and selected	Inclusion of more representative individual interests
3. Representation of general, public interest	Limited	Improving public interests and aims, in parallel to a better balancing of individual (private) and common (public) interests
4. Information base	A lack of land registration; traditional, outdated knowledge; etc.	Innovation and establishment of a cadastre, a register of property rights and real estate, and the coordination with fiscal and financial registers; the introduction of new knowledge and experiences; etc.
5. Key development paradigm	Sustainable development (declarative); non-market administrative system; legal uncertainty for investors	Market approaches, mechanisms and instruments, supplemented with urban planning correctives "planning–cum-market/market – cum-planning"; more rigorous introducing of principles of sustainable developmentin land-use planning; establishing legal certainty; etc.
6. Land evaluation	Limited, partial, fragmentary, and too general evaluation	Introduction of more complex and rigorous land use evaluation
7. Impact of power structure	Significant, backed by speculation, manipulation, corruption, monopolies, "grabbing", etc.	More transparent, open and democratic process of decision-making process
8. Control mechanisms	Ineffective governance, in parallel to ineffective market; planning commissions; massive illegal construction; capitalisation of urban land rent without control; etc.	Introduction and implementation development of instruments of control, local mechanisms and institutions of civil society; coordination of actors in different fields; etc.
9. Development of an open society and the institutions of the civil sector	Underdeveloped and rudimentary	Fully developed institutional framework and practices of civil society, and better education for civil society

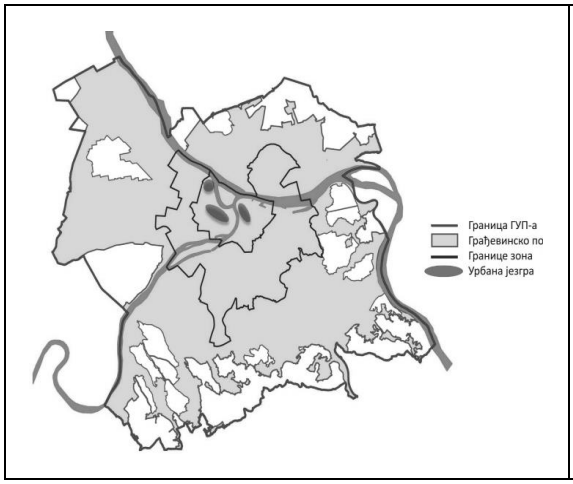


Figure 4. Borders of construction land

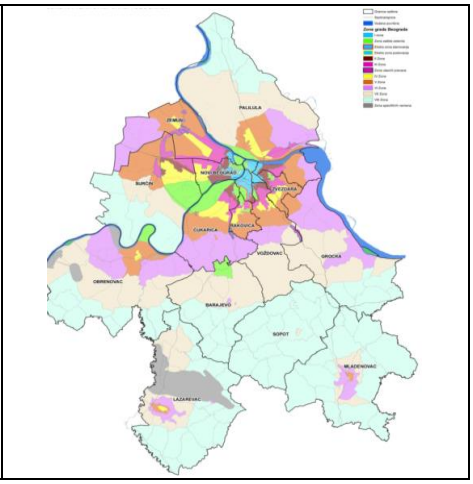


Figure 5.Urban land zones in Belgrade City

Source: GUP Belgrade, 2016

organizational changes[19]. The strategic aim in the sphere of urban land management is establishment of a new governance model, based on market principles and the correction of their imperfections, by adhering to general public interests. The urban renewal was strongly stipulated, in parallel to increase of 50% of built urban land.

5. CONCLUDING REMARKS AND RECOMMENDATIONS REGARDING HARMONISATION AND INNOVATION OF ULP AND URBAN DEVELOPMENT POLICY

The current system and practice of managing urban land in Serbia has not been harmonized with the main courses of transitional reform and change in a post-socialist period. A great number of basic conceptual problems have not been solved yet, considering the fact that their predictable institutionalization would affect the realization of sustainable urban development and ULP. We have concluded that the legal framework stimulates inefficient and ineffective usage of land resources in Serbia and Belgrade.

A brief outlook for the future indicates a need for alternative, adoptive or complimentary approaches to current "command-and-control" urban land regulation (Zeković et al., 2015). In the future, the following can be expected: 1) further development of regulations of spatial and urban planning, and their

[19]Direct impact of market and investor interests is visible in the two planned urban mega-projects: 1) the Port of Belgrade proposed by the MUP of Belgrade (2006), and 2) the Belgrade Waterfront Project (2014).

coordination with the regulation of urban land instruments and construction land management[20]; 2) harmonization of the urban land instruments with the reform of local public utilities and the process of privatizing public utilities; 3) establishment of new fiscal and para-fiscal instruments[21]; 4) innovation of the database on urban construction land; 5) a way of articulating urban land management (re-parcelling/readjustment) with the urban rezoning; 6) financing of infrastructure and utilities; 7) introduction of new principles, approaches and methods of evaluation into the construction land value evaluation, as well as the introduction of exemption instruments for increased value of construction land; 8) legalisation of massive illegal and informal construction in Serbia (2.05 million illegal buildings from 4.7 million of total); and 9) a preferable introduction of *International guidelines on urban and territorial planning* (UN-Habitat, 2015b), supporting increase in the public awareness and the mobilisation of public opinion to prevent illegal and speculative urban developments. There has been a need for readjustments in the current planning policy regarding the control of urban planning instruments, urban land tools and the instruments of other policies. ULP includes the introduction of regulatory mechanisms, restructured institutions, new ways of financing land development, and market-based instruments of land policy.

The ULP based on social solidarity, social justice and spatial justice, as well as on resilient development, should contribute to improving the local capacities for the development and implementation of urban policies (''blind'' and ''place-based''), especially in the conditions of different challenges.

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[20]1) a medium-term construction land program, 2) a medium-term program for the development of municipal utilities according to the public utility companies and with infrastructure projects, 3) projection of medium-term local budgets;

[21]Introduction of land value capture tax, transformation of the land development fee into impact fee.

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