

Investing in construction in Serbia - one year after enacting of Law on spatial planning and construction

The new Law on spatial planning and construction (hereinafter: LPC) was adopted in Serbia at the end of August 2009. The LPC decreases the number of approvals necessary for starting of the construction and regulates the conversion of the “usage right” over the construction land to the right of ownership.

Such changes to this part of legal system imply that Serbia is willing to improve the conditions for the foreign investors ready to invest in real estate and construction.

However, since enactment of the LPC, the number of rendered construction permits decreased, partially due to economic crisis, but mainly due to difficulties in implementation of LPC in practice in its part regulation conversion of the “right of use”.

New legal possibilities prescribed by LPC, such as participation in adoption of urban plan, transferability of the construction permit, decreased number of relevant projects represent willingness of Serbian authorities to attract investment in construction.

However all of these new possibilities cannot be applied due to a fact that the conversion of the right of use is not regulated by LPC in details. For majority of potential development locations, the conversion has to be executed prior to applying for the construction documents in order to obtain proper legal title over the location in order to start construction.

“Right of use” is the relict of the period of social regime in Serbia. This type of right was the only possible legal title over the construction land for a long period of time. At the time of enacting of LPC the majority of the construction land in Serbia is owned by Republic of Serbia, while the right of use is registered in favor of various entities. Right of use has been legal reality in Serbia for almost fifty years and through this time period it has changed in different manners. Also, the types of the “right of use” vary, depending on many facts such as if the land is developed or undeveloped, whether it has been nationalized or assigned, whether the owners were compensated or not etc.

Such variations to the “right of use” imply that the variety of situations will arise at the conversion procedures.

In respect to this the conversion needs detailed regulation in both material and procedural manner. By the LPC, the conversion is executed after following a procedure before public real estate registry. However, the public real estate registries in Serbia are not duly prepared for conversion. For the long time period the construction land could be only in state ownership and the Public Real estate registries reject requests for executing conversion in cases that are not absolutely legally clear.

The future of the development of the construction investments in Serbia depends on the detailed legal regulation of the conversion. Therefore, activities of the competent bodies in Republic of Serbia should be aimed at faster and better implementation of conversion of the “right of use”. Only then shall the legislator achieve one of the main motives for adoption of the LPC, which is the increase of the legal security for the investors and improvement of Serbia’s competitiveness in SEE real estate market.

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