



# PUBLIC RESOURCES BELOW PRICE – LAND

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# INTRODUCTION

Although the sale of public property below its assumed value, especially through privatization procedures, was one of the main points of criticism of the government in the period 2000-2012, it is precisely this that characterizes the practice of the current government during the last decade. In both of these periods of Serbia's recent history, in most cases, the question remains open as to what is the real value of state property that has changed hands. Due to the way sales are carried out, it is not always possible to determine it with certainty. Namely, in many notable cases, there was no competition, because it was excluded by the very modality of the transfer of ownership. In other situations, although a bidding process was formally carried out, the conditions were tailored to favor the buyer in advance. No less important is the question of the information available to some potential participants in the competition. Depending on this information (for example, whether it will be possible to change the intended use of land and urban plans), the value of public property put up for sale could skyrocket.

In addition to the question of the price at which a public property was sold, there was no less discussion in the public about whether some forms of that property should be sold at all. Positions on this in the public in this regard were sharply contrasted, with a predominant number of citizens being opposed. This was probably the reason why the pretenders to power did not emphasize their intentions to sell in their election campaigns, or "camouflaged" them with announcements of investments and other benefits.

As in the period 2000-2012, during which the reports known as the group name "24 Privatizations" were produced (although these are not only cases of the sale of assets of former socially-owned and state-owned enterprises), the Anti-Corruption Council has played a significant role in monitoring these phenomena in the last twelve years. This is a body that was established in 2001 by the Government of the Republic of Serbia, as it has been shown all this time, without an actual intention of seriously considering the Council's warnings and suggestions.

## AGRICULTURAL LAND

Before other forms of public property became the target of sales or long-term lease, agricultural land was targeted.

Why exactly was explained by former member of the Anti-Corruption Council Jelisaveta Vasilić in 2020<sup>1</sup>: "When this government came to power, it immediately showed that it would privatize state agricultural land, because it mostly remained unprivatized during the previous government. Since the corruption of democratic government has destroyed our economy with predatory privatizations, now this government is beginning to privatize natural resources, goods of public interest and goods in general use, which together represent the public property of citizens. If the privatization of public property is not prevented, it will have incalculable consequences for our lives."<sup>2</sup>

Prior to privatization, there were 108 agricultural properties and 91 combine farms in Serbia, half of which were in Vojvodina, which was an excellent starting point for the enrichment of the new political elite. Not the state, since during the decade in which the privatization of agricultural combines was carried out, agricultural production fell by at least a third, and at least 100,000 people lost their jobs.<sup>3</sup> According to the laws in force at the time, agricultural enterprises and combines could be privatized, but it had to be delineated beforehand what constitutes social capital in them, since land in state property and cooperative land could not be sold. That is why the Anti-Corruption Council demanded in 2012 that the data on land ownership before and after privatization be made public, but they have not received such a response to date. The 2022 report states: "The most recent letter of the Council in 2017 and 2021 to the Republic Geodetic Authority, the Ministry of Agriculture – Agricultural Land Administration and the Ministry of Economy, did not result in determining the true state of ownership of land after privatization, because the institutions claimed that they did not own data or declared it confidential. Failure to submit data on the surface area and ownership of agricultural land, with the explanation that such data is secret and that the institutions do not possess it, is not acceptable, but point to the conclusion that their lack of transparency creates suspicion of corruption and misconduct."<sup>4</sup>

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1 Jelisaveta Vasilić passed away on 15 June 2021.

2 <https://n1info.rs/biznis/a621628-vasilic-gradjani-treba-da-sprece-privatizaciju-javne-svojine/>

3 <https://voice.org.rs/prodaja-pkb-a-zavrsetak-sramne-privatizacije-poljoprivrednih-dobara-i-kombinata/>

4 <http://www.antikorupcija-savet.gov.rs/Storage/Global/Documents/izvestaji/Netransp.%20svojine%20poj.%20zemlj..docx>

In addition to the indications that state land has illegally ended up in private hands, an additional problem is the fact that in the privatization process, the value of socially owned land was not assessed by the market, which significantly reduced the price at which agricultural companies and combines were sold. However, despite the confirmation sent by the Agricultural Land Administration of the Ministry of Agriculture to the Anti-Corruption Council at the end of 2012, that privatization only transfers the right of use on socially owned agricultural land and that buyers cannot acquire greater rights by purchase than their predecessors had in practice this is exactly what happened. That is, the buyers – without additional payment – changed the form of ownership of agricultural land in the Cadaster from public to private, only on the basis of the confirmation of the Privatization Agency that they had executed the privatization contract.

Therefore, the Administration informed the Council that it will send a request to the Privatization Agency to submit to the Republic Geodetic Authority all necessary data in order to review the basis for the change of the cadastral situation on agricultural land after privatization. However, a decade later, the Council did not receive any feedback from the Ministry as to whether it has really written to the Privatization Agency and the Republic Geodetic Authority and what response it has received from these institutions.

The only data that the Council managed to obtain from the Geodetic Authority is from 2014, on the total area of agricultural land for 148 agricultural combines and agricultural property that were in the process of privatization, whose surface area after privatization amounted to 132,347 hectares, with precisely specified areas in each form of ownership (75,674 hectares in private ownership). By comparing these areas, the Council found that after the privatization of agricultural enterprises, over 65% of agricultural land illegally changed the status of ownership, bearing in mind that there was previously no private ownership of the land in the privatization entities, but solely y state and social ownership.

"What are the real effects of the privatization of over 100 agricultural companies and combines, with the exception of those for which the privatization contract has been terminated, is clearly shown by the fact that the sale of 70% of the social capital has achieved a price of about 160 million euros for it. According to the data of the Republic Geodetic Authority, this price also includes the appropriation of 75,000 hectares of fertile land in social and other forms of ownership, which the buyers did not pay for, but registered it as private property with the confirmation of the Agency. Conditionally accepting that the data on the surface area of 75,000 hectares of land that has been transferred to private ownership is correct and that the market value of the land is over ten thousand euros per hectare, it is clear that on this basis only the state has donated over a billion euros to private entities", concludes the Council report, noting that they are not able to determine the exact amount, But that they have a reasonable suspicion that the illegal appropriation of social and state land is far greater.

Although the controversial privatization of agricultural land began earlier, with the arrival of the SNS to power, the omissions were not corrected. A number of new investments by international companies have been announced. In 2013, a decision was made to sell several agricultural combines to UAE's Al Dahra. The government of Vojvodina (which at that time consisted of parties that were not in power at the national level) opposed this and reminded that the sale of land to foreigners was prohibited, and that it could only be leased through tenders, pointing out that the price of rent in competitions reached three times the amount of 250 euros per hectare. This is precisely the price offered to the Arab partner provoking justified anger of Vojvodina's farmers<sup>5</sup>. However, the wrath of the ruling party due to interference in their dealings was even stronger and criticism was dubbed as pre-planned resistance "with the aim of chasing the investor away." "This resistance aims to put Vojvodina at the back end of economic development in Serbia. It is unacceptable and unbelievable that a company that wants to invest 100 million euros from the Government of Vojvodina is faced with organized political resistance," the then VP of the SNS Igor Mirović said.<sup>6</sup>

When the Government of Serbia refused to disclose how much the company Al Rawafed (also from the Emirates), with which Serbia founded the joint venture Al Rawafed Serbia in 2014, paid into the budget for the lease of 3,534 hectares of agricultural land owned by the Military Institution "Morović" - plant in Karadorđevo, it became clear that they intend to please Arab investors in the future. According to information obtained by the investigative portal VOICE, the Arab company paid only 60 euros per hectare for the lease of these fields in 2015, although the average price at which arable land is auctioned in the municipality of Bačka Palanka, where the plant " Karadorđevo" is located, is about 350 euros. The justification for this "math" came from Aleksandar Vučić himself: "The Arabs will have four to five and a half times higher yields per hectare than we had, believe it or not. I think that speaks volumes".<sup>7</sup> It turned out that it did not speak volumes – the yields were actually three times lower than when the

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5 <https://www.rts.rs/lat/vesti/Ekonomija/1250088.html>

6 <https://www.politika.rs/sr/clanak/247078/Kalanovic-Mnogo-politike-u-kritici-predugovora-sa-Al-Dahrom>

7 <https://voice.org.rs/obecali-vece-prinose-i-profit-a-upropastili-karadordevo/>

land was managed by the MoD.<sup>8</sup> Over the next two years, Al Rawafed did not pay a single penny on the lease account.<sup>9</sup> According to research done by "Insider", when the debts were settled after three years, it turned out that the total income from that land for the state budget was six times less than the state would have earned if it has leased the land at the market price.

Leasing land is not the same as selling it, but this aspect has also been worked on. Pursuant to the Intergovernmental Agreement on Cooperation between the Government of the Republic of Serbia and the Government of the United Arab Emirates, which was ratified in March 2013, according to which "Serbia is ready to offer property in state-owned agricultural companies, long-term lease of agricultural land and/or business cooperation to the leading agricultural company from the United Arab Emirates, proposed by the UAE Party", a contract was immediately concluded with Al Dahra, according to which the company was to become the owner of seven agricultural combines and part of PKB's land. The contract was terminated in 2014, but Al Rawafed became the owner of four combines in restructuring.

However, Al Dahra returned to the big stage in October 2018, with the purchase of PKB's most valuable asset – 17,000 hectares of agricultural land near Belgrade. This time, the state did hold a tendering procedure, but it was tailored to favor the Arab company, as it is stipulated that the new owner must have a turnover of 400 million euros in the previous year. The two biggest domestic contenders, Petar Matijevic and Miodrag Kostic, did not meet such a condition and withdrew from the competition.<sup>10</sup>

Remaining the sole bidder, Al Dahra's bid of 105 million euros won (the final price was later increased to 121 million euros, after the price of the herd was factored in). A group of councilors of the opposition political council in the Belgrade parliament stated that "it was rigged, and that the property of the combine will be sold at a price that is four times less than the real price."<sup>11</sup> If we consider the land only, it seems that this estimate of possible damage is perhaps even moderate. Insider has learned that Al Dahra paid EUR 4.700 per hectare of PKB land as part of this deal. But when after the tender, the sale of part of the combine's land that was not included in the tender was announced, the initial price was more than eight times higher – 38.700 euros.<sup>12</sup>

The price achieved in the tender seems even more devastating when taking into account how much the state paid during the expropriation of agricultural land in a similar location (also a lowland area in the area of the city of Belgrade) for the construction of the section of Corridor 11, from Surcin to Obrenovac. In 2016, the public company Roads of Serbia had to pay the amount of between 25,000 to 50,000 euros per hectare to the owners of land in Jakovo and Boljevac, while as much as 130,000 euros per hectare were paid for a hectare of agricultural land in Surcin<sup>13</sup>.

Also, with the contract with Al Dahra, the state of Serbia has in no way protected itself from being able to buy back the land at a more favorable price if it turns out to be required for the projects it has announced and the expected expansion of the city to the left bank of the Danube. It had already stumbled upon this fact after announcing the expansion of the Belgrade-Zrenjanin Road and when it realized that for this project it needed the land it had just sold, but that it would be able to buy it back only at the market value. After Insajder dedicated a series of programs entitled "Sale" to this topic, the authorities decided to change their plans, and the former Minister of Transport, Zorana Mihajlovic, said that although the route of the future road is not yet known, it will certainly not go through the land of the former PKB combine<sup>14</sup>. However, the concern for the budget was short-lived, as it became certain that the land of Al Dahra would be impossible to circumvent and the successor of Zorana Mihajlović, Tomislav Momirović, revealed two years ago: "We cannot focus on a few plots of land when building such important infrastructure projects. It is going to cost USD 1 billion and if it turns out to be a couple of dollars more, it does not matter."<sup>15</sup>

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8 <https://insajder.net/arhiva/vesti/jedna-arapska-firma-preuzela-drugu-umesto-al-rawafeda-medu-vodece-zemljoposednike-u-srbiji-se-upisala-elite-agro-lcc>

9 <https://insajder.net/arhiva/price/firma-iz-uae-dve-godine-ne-placa-zakup-zemljista-video>

10 <https://insajder.net/emisije/serijali/prodaja/prodaja-transkript-prve-epizode>

11 <https://n1info.rs/vesti/a420612-szs-trazi-ponistavanje-tendera-za-pkb/>

12 <https://insajder.net/arhiva/tema/povoljnom-kupovinom-pkb-a-al-dahra-zaradila-106-miliona-evra>

13 <https://insajder.net/emisije/serijali/prodaja/prodaja-transkript-trece-epizode>

14 <https://insajder.net/arhiva/tema/mihajlovic-na-pitanja-insajdera-odustali-smo-od-izgradnje-puta-na-zemljistu-prodatom-al-dahri-ne-znam-novu-trasu-nisam-genije-kao-vi>

15 <https://insajder.net/teme/vesic-o-auto-putu-bg-zr-ns-koji-bi-trebalo-da-prolazi-kroz-zemljiste-prodato-al-dahri-jos-nemamo-obezbedeno-finansiranje-video>

# CONVERSION

The issue of the "conversion" of the right of using land into the right of ownership of land in Serbia has a long and complex legal history. In the era of socialist Yugoslavia, the possibility of ownership of construction land was abolished, that is, the land became "social property". "Social" was later replaced by "state" property. Moreover, the Constitution of the Republic of Serbia from 1990, which was replaced by a new one only in 2006, provided for a monopoly of the state when it comes to this type of land.<sup>16</sup>

Such a legal regime was not of particular importance at a time when the buildings erected on that land were also socially / state-owned. Since the 1990s, however, there have been major changes. First, a large number of residential buildings became privately owned, and this happened, much more slowly, with business entities, and therefore with the facilities that these business entities used for their activities. In practice, many of the owners of houses and apartments (and users of building land) have enjoyed benefits very similar to those they would have had if they had been formal owners of the land, for example, in determining the compensation in kind or money they would receive from an investor who aimed at building a much larger building on their land. Subsequently, regulations were passed that enabled the conversion of the right of use into the right of ownership, whereby in some cases conversion was envisaged without compensation, and in others in consideration of a fee.

When it comes to apartments, as well as building land underneath residential buildings, the state has given up a significant part of the property with no or symbolic compensation. Regarding the space occupied by privatized companies, the method of sale itself was not organized in such a way as to generate the greatest profit. In addition to the price paid by the buyers, other factors also played a significant role in the sale – for example, the amount of contracted investments, employment policy, etc. It was not clearly recognized that many companies that have no significant value carry with them a valuable investment, because of the land on which they are located. However, in such cases, potential buyers did not have the same level of information at their disposal, and they certainly did not have complete information. Therefore, the price they were willing to pay depended partly on the degree of conviction that at some point it would be possible to alter the purpose of the land (to construction land), that urban plans would be changed, that it would be possible to convert the right of use into the right of ownership, and the like. Due to these factors, there was no doubt that there was less competition in sales, and therefore less money from the sales that flowed into the budget. Due to the existence of a strong commercial interest in achieving the potential benefit of the investor, there was certainly a motive for corrupt influences on state and local authorities that would enable such a thing, both through the adoption and amendment to regulations, as well as through individual decisions regarding plans for the use of certain land plots.

The Law on Planning and Construction introduced the possibility of converting the right of use into the right of ownership for a fee, when such a right previously belonged to legal entities to which the provisions of the regulations on privatization, bankruptcy or enforcement applied, and their legal successors (Article 103 of the Law on Planning and Construction from 2009, also substantially amended in 2011 and 2012).<sup>17</sup> The fee was the difference between the market value of obtaining the right of use. With the amendments from 2011, the first paragraph of Article 103 added a sentence stipulating that the costs of acquisition should be considered the total revalued price paid in the privatization procedure (the price of acquiring capital, i.e., property) or in bankruptcy or enforcement proceedings (the price of acquiring property), but this sentence was repealed by the Constitutional Court of Serbia in November 2013.<sup>18</sup>

In public, the announcements of the conversion were often interpreted as pandering to the interests of the "tycoons". Such suspicions also reached the members of the Government, so the former Minister of Construction, Velimir Ilić, lashed out, asking: "What kind of concession to tycoons? Let's find out who is the tycoon in Serbia. Is there a list of tycoons?"<sup>19</sup> He then explained that the conversion will definitely not be abolished and that the only thing that remains open is how exactly it will take place, which is a political issue and depends on the agreement of "all ruling parties and the most responsible people in the government."<sup>20</sup>

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16 More on this in Miloš Živković, "Analysis of Legislation and Practice – Conversion of the Right to Use of Construction Land into the Right of Ownership for Compensation", NALED; September 2021, [https://naled.rs/htdocs/Files/08846/Analiza\\_zakonodavstva\\_i\\_prakse\\_o\\_konverziji\\_prava\\_korisjenja\\_gradjeviskog\\_zemljista\\_u\\_pravo\\_svojine\\_uz\\_naknadu.pdf](https://naled.rs/htdocs/Files/08846/Analiza_zakonodavstva_i_prakse_o_konverziji_prava_korisjenja_gradjeviskog_zemljista_u_pravo_svojine_uz_naknadu.pdf)

17 Ibid., p. 13.

18 Ibid.

19 [https://rtv.rs/sr\\_lat/ekonomija/ilic-dve-milijarde-evra-ceka-da-se-resi-konverzija\\_355490.html](https://rtv.rs/sr_lat/ekonomija/ilic-dve-milijarde-evra-ceka-da-se-resi-konverzija_355490.html)

20 [https://rtv.rs/rsn/drustvo/ilic-konverzija-zemljista-leglo-korupcije\\_353526.html](https://rtv.rs/rsn/drustvo/ilic-konverzija-zemljista-leglo-korupcije_353526.html)



However, the disputed provisions were abolished by the decision of the Constitutional Court luz-68/2013, which states that "privatization does not imply the sale of land by the subjects of privatization, regardless of the scope, type and title of the right to land, but only the change of ownership of social, i.e. state capital in these entities."<sup>21</sup> The Constitutional Court concluded not only that this was an unconstitutional provision, but also that "there is no satisfactory explanation of the legislator regarding the existence of public interest."<sup>22</sup>

Ten years later, it turned out that Ilić was right and that it only took a little longer time to realize the announcements. True, Ilić's proposal was in some ways significantly different from the realized one – he advocated for free conversion only in cases where the buyer continues the same activity (and builds new facilities in order to expand production), and that in the case in which, for example, industrial land is converted into residential land, the new owner should pay tax on the windfall profit thus achieved.<sup>23</sup>

Following this decision of the Constitutional Court, a special Law on the Conversion of the Right of Use into the Right of Ownership of Construction Land for a Fee (2015) was adopted. The legislator, starting from the position of the Constitutional Court that conversion for a fee is possible only if the market price of the construction land is paid, invested great effort to, firstly, link the market value to the amounts calculated when calculating the tax base for the payment of property tax (in order to avoid expert assessment of the market value in any case); secondly, that everything that is within the paradigm of conversion for a fee and that allows the application of the conversion regime without compensation (i.e., whenever there is evidence that the market value for the land has been paid at the time of acquisition), switch to the free conversion regime; and thirdly, to reduce in every possible way the amount of the conversion fee, whenever such a thing can be justified.<sup>24</sup>

The second – ultimately successful – attempt to cancel the conversion started in January 2023, when an invitation to participate in a public debate on amendments to the Law on Planning and Construction was posted on the website of the Ministry of Construction, Transport and Infrastructure<sup>25</sup>. The amendments contained a number of new concepts, but did not hide the provisions regarding conversion, and during the discussions there was even an objection from the city administration of Čačak (also under SNS control) with an exclamatory conclusion: "The persistence of the proposer is futile to rewrite the provisions that said decision of the CC of Serbia removed from the system as unconstitutional and to reinstate them in the system, as if there is no court of law and no rule of law in this country!" The Ministry's response only confirmed the complete and utter lack of interest in these abstract concepts: "The suggestion was not accepted, bearing in mind that a comprehensive analysis of the existing legal solutions was carried out before the proposed provisions, and it was determined that the institute of conversion for a fee for a certain category of persons did not bring about the expected results."<sup>26</sup>

Perhaps because of such critical tones, after the public debate, the decision was made by the Government at a time when the attention of the public occupied by different events - only a day after the massacre in the elementary school "Vladislav Ribnikar". At that session, after a minute of silence, a proposal for amendments to the law was adopted, with the explanation that it "speeds up the procedures for issuing building permits, abolishes obstacles, such as conversion for a fee, and enables the process of issuing permits to be more transparent and in order to better protect citizens and those who build."<sup>27</sup>

Undoubtedly, the conversion did not work as intended, and there were various reasons for this, including the belief of some users that they had already paid the market value. However, the failure of beneficiaries to agree to a conversion for a fee cannot be seen in isolation from the fact that they had very good reasons to believe in the inconsistency of state policy and that it was worth waiting to find a modality for a fee-free conversion.

According to data from 2015, when a special law on conversion was passed, it applied to construction land with an area of about 5,310 hectares, worth 1.43 billion euros. The Anti-Corruption Council now estimates that the introduction of free conversion leads to a potential loss of as much as tens of billions of euros.<sup>28</sup>

As the Council pointed out, a free conversion would be even more problematic in some cases: "The issue of 24 disputed privatizations on which the Council has adopted its reports, which have been forwarded to the competent

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21 A critical review of this decision can be read in: M. Živković, p. 16-18.

22 <https://ustavni.sud.rs/sudska-praksa/baza-sudske-prakse/pregled-dokumenta?PredmetId=9450>

23 <https://www.blic.rs/biznis/velja-ili-ukidamo-konverziju-uvodimo-ekstraporez/03nxgcr>

24 M. Živković, p. 20.

25 <https://www.mgsi.gov.rs/cir/aktuelnosti/javni-poziv-za-ucheshtshe-u-javnoj-raspravi-o-nacrtu-zakona-o-izmenama-i-dopunama-2>

26 <https://www.mgsi.gov.rs/sites/default/files/lzve%C5%A1taj%20sa%20javne%20rasprave%20finalni.docx>

27 [https://www.rtv.rs/sr\\_lat/ekonomija/aktuelno/brze-do-gradjevinskih-dozvola\\_1441872.html](https://www.rtv.rs/sr_lat/ekonomija/aktuelno/brze-do-gradjevinskih-dozvola_1441872.html)

28 <https://n1info.rs/biznis/ministarka-koja-je-uvela-konverziju-nismo-toliko-bogati-da-zemljiste-poklanjamo/>



prosecutor's office with evidence of corrupt activities, as well as many other cases of disputed privatizations in the Republic of Serbia, where instead of prosecuting persons who have acquired capital through illegal privatization, these persons are de facto pardoned under the proposed Draft Law. Namely, instead of confiscating the illegally acquired property, the Draft Law rewarded the state by enabling them to become the owners of even more capital in the form of urban construction land free of charge."<sup>29</sup>

Criticism has also been heard from other quarters. For example, RERI estimated that "the national and local budgets, as well as the Restitution Fund, will be directly damaged for literally billions of euros, and privileged investors will keep the same amount in their pockets, with valuable building land that will be donated to them."<sup>30</sup>

The government's calculation was as follows: there are 5,000 sites (unless it is meant 5,000 hectares, which is a dilemma raised by the Network for Restitution<sup>31</sup>), 15 million new square meters of space will be built and about 300.000 construction workers will be employed on construction sites that will be opened as a result of the repeal of the Law on Conversion, which is in line with the wishes of the state to "build more." In relation to this argument, the Council points out that "no construction industry or a growth trend thereof" that could justify this: "Contrary to the opinion expressed by the Ministry according to which the public interest is achieved by abolishing the conversion fee, the Council is of the opinion that the public interest is achieved by the fact that the conversion fee achieves goals based on the public interest, which consists of funds obtained by conversion, i.e., earmarked funds determined by law."<sup>32</sup>

The Minister of Construction, Goran Vesić, disagrees, stating: "Currently, investments in the amount of EUR 88 million are planned in locations where it is possible to carry out the conversion free of charge, after only eight months from the beginning of the implementation of the law. This is almost three times more than the 30 million that Serbia has earned in the 12 years of implementing the institute of conversion for a fee. The latest NALED survey showed that as many as 66 percent of those who applied for conversion plan to invest in the expansion of production capacities.<sup>33</sup> In fact, NALED's data says the following: "Almost half of the companies that have submitted or are about to submit a request for the conversion of the right to use the construction land into the right of ownership are planning investments in these locations, a third have entered the procedure to become the owners of the construction land, while 11 percent are planning to sell the plots."<sup>34</sup>

The list of "lucky winners" is not known, although it was requested during the parliamentary debate when the Law was passed. It would be logical to assume that such a list is in the possession of the Ministry, even if it is not complete, bearing in mind that data on the number of "captured" plots is presented. Also, in connection with this draft law, an opinion on corruption risks was not sought from the Agency for the Prevention of Corruption.<sup>35</sup>

Nonetheless, some of the winners are known. It seems that one of the biggest is Davor Macura, who in 2021 became the owner of IMT factories, and thanks to last year's legal concept, the owner of 33 hectares of land in an attractive location located on the territory of the municipality of New Belgrade. If we compare the value of these plots with the prices of similar locations published in the Official Gazette of the City of Belgrade, the value of these plots exceeds 260 million euros, while the price paid in the bankruptcy procedure was about 70 million euros.<sup>36</sup> A more than generous gift by the state to someone who acquired IMT for the company ABL Solvent, which, according to the Business Registers' Agency, does not have any employees and is headquartered in a flat at the address Ugrinovačka 212.<sup>37</sup>

The Director of the Center for Local Self-Government, Nikola Jovanović, warned last year, immediately after the Amendments to the Law on Planning and Construction, that the main motive for the current government to abolish the obligation of conversion is the land of the former IMT factory. He called on all competent authorities and all public actors to investigate who is really behind the company "ABL Solvent", which bought real estate from the bankruptcy estate of IMT and which, according to the new law, will be able to build on several tens of hectares of the most

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29 <http://www.antikorupcija-savet.gov.rs/saopstenja/cid1011-3349/misljenje-o-odredbi-predloga-zakona-o-izmenama-i-dopunama-zakona-o-planiranju-i-izgradnji>

30 <https://reri.org.rs/vlada-srbije-u-nezakonitoj-proceduri-usvojila-predložene-izmene-zakona-o-planiranju-i-izgradnji/>

31 <https://n1info.rs/biznis/mreza-za-restituciju-besplatna-konverzija-poklon-ekstremno-bogatima/>

32 <http://www.antikorupcija-savet.gov.rs/saopstenja/cid1011-3349/misljenje-o-odredbi-predloga-zakona-o-izmenama-i-dopunama-zakona-o-planiranju-i-izgradnji>

33 <https://www.politika.rs/sr/clanak/607617/Vesic-Konverzija-bez-naknade-donosi-odmah-88-miliona-evra-novih-investicija>

34 <https://naled.rs/vest-podneto-2200-zahteva-za-konverziju-8968>

35 <https://www.transparentnost.org.rs/sr/aktivnosti-2/saopstenja/12506-koruptivni-rizici-besplatne-konverzije-nisu-uzeti-u-obzir>

36 <https://www.danas.rs/vesti/ekonomija/voice-gubitas-kupio-imovinu-imt-a-za-70-miliona-evra-novac-pozajmio-od-aik-banke/>

37 <https://n1info.rs/biznis/vrtoglavi-uspeh-naprednjackog-biznismena-kako-je-davor-macura-novi-vlasnik-parcela-imt-dosao-do-bogatstva/>

valuable city land without hindrance and without having paid a market fee.<sup>38</sup> The competent authorities were not interested in that call and in the meantime the public learned that a luxury residential and business complex with three towers, one of which more than 160 meters high, will be built on that land.<sup>39</sup> “Bearing in mind that a hectare of construction land in New Belgrade is worth at least 10 million euros, it is clear that this is a windfall profit for the buyer and a loss for the budget of the City of Belgrade, which was supposed to benefit from the conversion fee of at least 260 million euros,” Jovanović says.<sup>40</sup>

In this example, we see something else – not only did the state donate the land, but it will continue to pay for it from the budget, because it will have to compensate the old owners from the budget, not Macura's own funds. According to Nova's information, ten requests for restitution have been submitted to the Agency for Restitution related to the land on which the IMT factory in New Belgrade was located. Two applications have been rejected, four are still in the process, and a final decision on compensation has been issued for the remaining ones.<sup>41</sup>

In the "robbery of the century" or "revival of investments", depending on who is talking about the conversion, the state lost 200 hectares of exclusive land in the Port of Belgrade because the Greek company Metico Investment became the absolute owner of the land. This happened after the forced purchase of shares of small shareholders at a price of 60 dinars per share, while at that moment they were worth 800 dinars on the stock exchange.<sup>42</sup>

Another example is the expected sale of Belgrade Beer Industry BIP, which Autočačak bought in August 2021 for just under 18 million euros, which seemed like a high price for the failed company.<sup>43</sup> However, at that moment it was not implied (or at least the public was not aware of it) that an additional gift would soon arrive in the form of ownership of land in the very downtown of Belgrade (26.7 thousand square meters near the Mostar Interchange) and 1.8 thousand square meters on Zrenjanin Road. Bearing in mind that the heirs of the brewery asked for the sale to be suspended and demanded compensation in court, it is expected that this payment will also fall on the taxpayers and not on the new owner of BIP.<sup>44</sup>

The public attention was also drawn to the fact that, unlike Miroslav Mišković, Filip Zepter and Petar Matijević, who bought companies before the adoption of the law, and are now claiming land (Matijević in Belgrade, Zrenjanin, Novi Sad, Požarevac, Smederevo, Kragujevac, Kraljevo...), the company owned by the family of one of the ministers (Momirović), one week after the amendments to the Law were adopted, bought the graphic design and publishing company Nova Jugoslavija in Vranje and 14 buildings of the parent company in an area of 2,300 square meters, as well as movable property, at an initial price of about 43.7 million dinars (about 372,000 euros).<sup>45</sup>

With all of the above in mind, the question remains whether the Constitutional Court will give its opinion on the conversion this time as well. An attempt to request such an opinion before the amendment to the law came into force was thwarted by obstruction in the National Assembly<sup>46</sup> and the swift promulgation of the Law by the President.<sup>47</sup> After the start of the application of the amended Law, since the CC did not temporarily suspend the application until the final decision is passed, it is much more difficult to expect that the decision could be favorable to the applicants.

According to the released information, the Anti-Corruption Council has prepared a new Initiative to the Constitutional Court for the assessment of the constitutionality of this provision of the Law, referring to the fact that a provision of the same content, which has already been established to be unconstitutional, cannot be contained in the new Law. Although it is difficult to expect that the CC will intervene again without a significant change in the political situation in the country, the Council nevertheless warned all legal entities that plan to carry out the free conversion procedure that their acquisition of ownership on construction land without compensation will be illegal and that as such it will not be able to survive, and that they will have to pay the fee sooner or later.<sup>48</sup> Furthermore, the submission of the initiative was announced by some MPs (Danijela Nestorović, Ecological Uprising). So far, the CC has not commented if it will consider these initiatives.

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38 <https://www.danas.rs/vesti/politika/cls-stetno-ukidanje-konverzije/>

39 <https://n1info.rs/biznis/plan-imt-novi-beograd-stambeno-poslovni-kompleks/>

40 <https://n1info.rs/biznis/nikola-jovanovic-imt-konverzija-ostecen-budzet/>

41 <https://nova.rs/vesti/biznis/drzava-poklonila-sns-tajkunu-vise-od-30-hektara-zemljista-imt-a-a-sad-mi-moramo-da-isplatimo-bivse-vlasnike/>

42 <https://n1info.rs/biznis/prinudni-otkup-luka-beograd-sve-vrednija-akcije-sve-bednije/>

43 <https://www.danas.rs/vesti/ekonomija/auto-cacak-kupio-beogradsku-industriju-piva/>

44 <https://www.danas.rs/vesti/ekonomija/od-giganta-do-fabrike-na-dobos/>

45 <https://nova.rs/vesti/politika/i-firma-porodice-ministra-momirovica-profitirace-od-vesicevog-zakona-kupila-propalo-preduzece-besplatno-dobija-zemljiste/>

46 <https://nova.rs/vesti/politika/saznajemo-zbog-vesicevog-zakona-opozicija-podnosi-zahtev-ustavnom-sudu-pocele-opstrukcije-u-skupstini/>

47 <https://www.021.rs/story/Info/Biznis-i-ekonomija/348281/Vucic-sebe-opet-stavio-ispred-Skupstine-ukazom-o-spornom-zakonu-o-izgradnji.html>

48 <http://www.antikorupcija-savet.gov.rs/saopstenja/cid1011-3349/misljenje-o-odredbi-predloga-zakona-o-izmenama-i-dopunama-zakona-o-planiranju-i-izgradnji>

# EXPANSION OF "BELGRADE WATERFRONT"

The example chosen by the Anti-Corruption Council in May 2023, as an illustration of the consequences of the adoption of the Amendments to the Law on Planning and Construction, is the then announced privatization of the Belgrade Fair: "If the conversion fee were abolished, the future owner of the Belgrade Fair would become the owner of the city building land on which the Belgrade Fair is located, the value of which would be several dozen times higher than the value of the purchased capital of the privatized entity, bearing in mind the value of the city building land in Belgrade."

However, it turned out that it crucial to the decision-makers in the state to "tear off" that site from the Fair and that they could not wait for the adoption of laws and risk it became too expensive for the Belgrade Waterfront company to privatize the Belgrade Fair, whether free of charge or not. After all, although the scope of the Belgrade Waterfront Spatial Plan adopted in 2015 includes 142 hectares of land, it was not until 2021 that the Belgrade Waterfront company actually bought the first hectare (more precisely the first 5.5 hectares), instead of receiving them as a gift. They paid about 27 million euros for plot in Radnička Street, outside the scope of the plan, and almost leaning against the Fair, as the only bidder at the auction.<sup>49</sup> They are probably still wondering if they needed that in the first place.

The completion of long-standing property-related proceedings before the Commercial Court, after which the Belgrade Fair was transformed from a social enterprise into a limited liability company owned by the Government of the Republic of Serbia, was the basis for transferring the land in the cadaster to the Republic of Serbia<sup>50</sup> The Belgrade Fair appealed against this decision, but the whole story was cut short by the Government's conclusion from April 2023, which ordered the Fair to adjust its asset balance sheets with such a change. The Fair did it in June 2023. Through the prism of the final statements of accounts, such "adjustment" looks like the registered value of the land and construction facilities of the Belgrade Fair in 2022 amounted to 37,173,165 euros (obviously significantly less than the market value, but that is no longer important) and ZERO dinars at the end of 2023, while according to the cadaster the Belgrade Fair no longer owns the right of use.

However, judging by the very brief information presented by Aleksandar Vučić in August 2023, the company "Belgrade Waterfront" concluded a contract with the state on the purchase of real estate at the location of the Fair (with the exception of Hall 1, which remains state-owned) on March 16, 2023. The price is unknown, but the deal is hidden from the public. In fact, the only source of information that exists is what was written on the blackboard during Vučić's presentation. Under the subheading "Legal steps and subject matter of the contract", it is stated "Establishment of a company in which a non-monetary investment is made in the form of real estate at the location of the existing fair", after which Belgrade Waterfront buys a share from the state and thus becomes the owner of the real estate at the location of the "Old Fair", with the explanation that the funds from the sale are used for the development of the location of the new fairgrounds in Surčin.<sup>51</sup> Whether such a temporary company has yet to be formed or perhaps the entire transaction has already been completed, only the cadaster for some reason has not yet recorded the change of ownership remains unknown.

It is possible to imagine, however, that something got complicated with that idea, since the state started to prepare a plan B. Namely, on April 11, 2024, the Government adopted a Decision on the Drafting of Amendments to the Spatial Plan of the Special Purpose Area (SPSPA) of Belgrade Waterfront within nine months.<sup>52</sup> The changes include the location of the Fair, the aforementioned plot in Radnička Street, which the Belgrade Waterfront has already bought, as well as many other locations in the municipalities of Savski Venac, Stari Grad, Novi Beograd and Čukarica, with a total area of about 327 hectares. For comparison, the entire municipality of Vračar covers 287 hectares.

By the fact that the Fair is included in the SPSPA (any SPSPA), the location is urbanistically torn out of the planning system of the city of Belgrade and can be arranged in any way the Government imagines, even in such a way that the fair halls are replaced with residential buildings (except for Hall 1, whose protected status, unlike that of the General Staff, is still recognized by the Government), which was also presented by Vučić, although at that moment no urban plan of a higher order envisaged the residential purpose of that location. By including Belgrade Waterfront in this particular SPSPA, the rules of the Law on the Determining of Public Interest and Special Procedures for Expropriation and Issuance of Building Permits for the Implementation of the Belgrade Waterfront Project begin to

49 <https://www.ekapija.com/real-estate/3519224/KZIN/beograd-na-vodi-kupio-gradjevinsko-zemljiste-kod-ade-ciganlije>

50 <https://novaekonomija.rs/vesti-iz-zemlje/drzava-beogradskom-sajmu-oduzela-i-zemljiste-i-hale>

51 <https://n1info.rs/biznis/jos-u-martu-potpisana-prodaja-imovine-sajma-beogradu-na-vodi-stanovi-na-12-ha/>

52 <https://pravno-informacioni-sistem.rs/eli/rep/sgrs/vlada/odluka/2024/31/2/reg>

apply. That means the possibility of transferring ownership of the real estate of the Fair to "Belgrade Waterfront", without bothering with creating new companies and burdening the company with any expenses. For the sake of truth, it should be recalled that such a gift would be made by the state in part to itself, because it participates in the joint venture with 33% of ownership.<sup>53</sup> Based on the original and only released contract, that share was 32% and it remains unknown what additional benefits were recognized as being worth 1% in this company.

In the Declaration on the fate of the Belgrade Fair and the General Staff, in which the profession took a firm stance against the demolition of these complexes (the Declaration was drafted by a working group primarily of architects, and supported by a long series of architectural, engineering, conservation and urban planning associations, organizations and faculties), it is stated that the amendments to the Spatial Plan of Belgrade Waterfront, which fundamentally change the existing spatial plan, by expanding its scope many times over – is illegal: "The meaning and essence of amendments to the existing spatial plan is precisely in the changes that are made within the existing scope of that spatial plan, which is also reflected in the Rulebook on the Content, Manner and Procedure of Drafting Spatial and Urban Planning Documents."<sup>54</sup>

In addition to the fact that such an illegal approach significantly disrupts the planning system and urban development of the city, analyzing the available data and contracts, the working group that drafted the Declaration came to an unequivocal conclusion that the Belgrade Waterfront project is "harmful to the public budget and citizens, and that the only economic rationale is to generate profit for a private investor."

Thus, the 2015 Joint Investment Agreement for the Belgrade Waterfront project in Article 6.3 provided for the possibility of free conversion (eight years before it was introduced for everyone by amendments to the law), after which the acquired right of ownership was allowed to be transferred to a third party. Also, with Article 7.1, the Belgrade Waterfront Ltd. company acquires the right to use public land and its management in the project, which de facto ceases to be public and which implies that all fees for the installation of kiosks and other facilities, advertising and the like will become profit of the company, and not the City of Belgrade.

Although the state has invested huge funds in Belgrade Waterfront (according to the Working Group, it is at least 1.2 billion euros, which includes the value of the land, the costs of activating the land, the facilities that have been put into use, the preparation of planning documentation, etc.), even in the unlikely event that 50% of the project is not realized by 2035, the state will put the undeveloped land up for sale at market value. The private partner will also make money from it, even if it did not invest land in the project at all!

Based on this contractual provision<sup>55</sup> the Belgrade Waterfront company, namely its majority private owners, could have an interest in building a tad below 50% of the planned square meters. Namely, the stakes of the state of Serbia and the Belgrade Waterfront company in the revenues from land sale are calculated depending on the percentage of realization up to 50%. Hence, if 49.5% were to be built, Belgrade Waterfront company would get 99% of the sales price, which means that the private partner would cash in on 66% of the price of the land, without having invested a single dinar.

Of particular concern is the possibility that said contractual provisions will be applied to the planned tripling of the surface area of the Belgrade Waterfront through amendments to the PPPPN. Not only would the city lose revenues from the use of public areas in the territory equivalent to one city municipality (larger than Vračar, slightly smaller than Stari Grad), but they would also find it even more profitable for the private partner not to implement the project on time and to profit from the sale of the rest of the land.

According to the data of the Republic Geodetic Authority, the apartments completed so far in Belgrade Waterfront are sold in the range of 3,500 to 11,500 euros per square meter. According to data presented by the director of sales of Belgrade Waterfront, less than seven percent of buyers have resorted to a housing loan.<sup>56</sup>

The public interest in the implementation of this project, which was doubted from the beginning, has not been confirmed in any way so far. According to an analysis by the weekly Radar, although revenues from the sale of apartments in Belgrade Waterfront have reached 836 million euros in the last four years, the state – with its 32% ownership stake in the company (i.e. 33% as of September 2023) – has so far earned a total of only 9.9 million euros from dividends.<sup>57</sup> This means that at the current pace of 3.3 million euros annually (the dividend was paid

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53 <https://radar.nova.rs/ekonomija/beograd-na-vodi-projekat-ili-prevara-veka/>

54 <https://www.u-a-s.rs/item/591-d-l-r-ci-sudbini-b-gr-ds-g-s-i-g-n-r-lsh-b.html>

55 [https://www.media.srbija.gov.rs/medsrp/dokument/bw\\_agreement\\_srb.pdf](https://www.media.srbija.gov.rs/medsrp/dokument/bw_agreement_srb.pdf)

56 <https://www.politika.rs/sr/clanak/605481/U-Beogradu-na-vodi-prodato-7-000-stanova-ima-ih-i-po-3-300-evra-po-kvadratu>

57 <https://radar.nova.rs/ekonomija/beograd-na-vodi-drzavi-samo-mrvice/>

for the first time in 2021), it would take a total of five years to reimburse the state only for the cost of expropriating Eurosalon (16.25 million euros), the property of which next to the Gazela Bridge spans over half a hectare.<sup>58</sup> It would take several centuries to recover the estimated value of the land initially ceded.<sup>59</sup>

It can be expected that with the implementation of the initiated procedure on the expansion of the PPPPN Belgrade Waterfront, after which the project area would cover as much as 469 hectares, this lost profit could exceed the value of one billion euros.

## RECOMMENDATIONS

- The Government of the Republic of Serbia should consider all the reports of its Council for the fight against corruption and inform the Council and the public about the measures taken per each of the Council's recommendations or about the reasons why the Government considers that there is no basis / need to act on any of the recommendations.
- The Constitutional Court should consider as soon as possible the initiatives that were submitted in connection with the cancellation of the conversion of the right of use in-to the right of ownership over land with a fee.
- The Ministry of Construction, Transport and Infrastructure should release information on the conversion, individually by plots/owners, as well as collect data on the further use of that land, after which the National Assembly should consider at a public debate on the extent to which the goals that incited the adoption of these amendments to the Law on Planning and Construction have been achieved.
- Before making a decision on the disposal of a specific plot of land, the authorities should implement / amend all planning documents, so that all potential buyers have at their disposal complete information about the future value of that land.
- The Republic Directorate of Property and other authorities, when selling land, other immovable and movable assets, or rights, should present to potential buyers the same level of information as shown by private sector sellers (e.g. photos, precise location information, not just plot numbers and the like), in order to increase competition.
- All information about property in public ownership and the disposal of that property (sale, lease) should be published in the form of a searchable database.
- All information about contracts and contract amendments concluded by the Government, which relate to the disposal of public property, should be published under the heading "Economic contracts and agreements".
- In particular, when it comes to doing business with the joint venture "Beograd na vodi d.o.o.", the Government of Serbia should release information about its reasons for concluding new or amending the existing contract, i.e., about the value that the Republic of Serbia has invested in order to increase the share in the joint venture from 32% to 33%. The government should also publish information on regular basis on the degree of completion of the project by "Belgrade na vodi d.o.o.", as well as information on the fulfillment of other contractual obligations by that company, including the degree of completion of public purpose facilities and the way in which the value of the performed public works has been determined.

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<sup>58</sup> <https://n1info.rs/biznis/a452686-nin-iz-budzeta-izdvojeno-33-miliona-evra-za-otkup-zemljista-za-beograd-na-vodi/>

<sup>59</sup> <https://www.transparentnost.org.rs/sr/aktivnosti-2/pod-lupom/10737-koliko-vredi-zemljiste-beograda-na-vodi>



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