



# ICLG

The International Comparative Legal Guide to:

## Real Estate 2013

**8th Edition**

A practical cross-border insight into real estate law

Published by Global Legal Group, with contributions from:

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#### Published by

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URL: www.glgroup.co.uk

#### GLG Cover Design

F&F Studio Design

#### GLG Cover Image Source

iStockphoto

#### Printed by

Ashford Colour Press Ltd.  
February 2013

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ISBN 978-1-908070-47-0

ISSN 1749-4745

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## EDITORIAL

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Welcome to the eighth edition of *The International Comparative Legal Guide to: Real Estate*.

This guide provides the international practitioner and in-house counsel with a comprehensive worldwide legal analysis of the laws and regulations of real estate.

It is divided into two main sections:

One general chapter. This chapter looks at non-performing loans in the CEE/SEE region.

Country question and answer chapters. These provide a broad overview of common issues in real estate laws and regulations in 39 jurisdictions.

All chapters are written by leading real estate lawyers and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor Michael Lagler of Schoenherr, for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at [www.iclg.co.uk](http://www.iclg.co.uk)

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# Serbia

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in cooperation with Schoenherr

## 1 Real Estate Law

- 1.1 Please briefly describe the main laws that govern real estate in Serbia. Laws relating to leases of business premises should be listed in response to question 10.1. Those relating to zoning and environmental should be listed in response to question 11.1.**

The principal governing laws in Serbia are: (i) the Law on Obligations, which defines general rules as to the form and substance of agreements; (ii) the Property Relations Act, which defines property rights, easements and other encumbrances; (iii) the Real Estate Transfer Act, which defines the transfer of property rights on real estate; (iv) the State Land Survey and Land Registry Act, which regulates the organisation and registration of information pertaining to real estate, as well as the organisation of cadastre; (v) the Mortgage Act, which regulates the establishment of the mortgage and foreclosure; and (vi) the Public Property Act, which regulates the use, maintenance and transfer of state-owned real estate and that of autonomous provinces and local self-governments.

- 1.2 What is the impact (if any) on real estate of local common law in Serbia?**

Given that Serbian law has its origins in the Roman law system, court precedent has no significant impact on real estate law. However, case law (i.e. non-binding court precedent) of higher Serbian courts will also be taken into consideration by the judges in deciding new cases.

- 1.3 Are international laws relevant to real estate in Serbia? Please ignore EU legislation enacted locally in EU countries.**

International laws, such as international treaties and conventions regarding real estate, are applicable if ratified by the Serbian Parliament. Adopted international treaties have supremacy over national legislation.

## 2 Ownership

- 2.1 Are there legal restrictions on ownership of real estate by particular classes of persons (e.g. non-resident persons)?**

There are no legal restrictions on the acquisition of ownership for particular classes of persons. However, foreign nationals and

companies carrying on business in Serbia can, under the principle of reciprocity, acquire ownership rights to real estate in Serbia. The principle of reciprocity is presumed to exist, but the presumption is rebuttable. If necessary, an interested party or competent authority can ask the Ministry of Justice to adjudicate whether reciprocity exists in the particular case.

## 3 Real Estate Rights

- 3.1 What are the types of rights over land recognised in Serbia? Are any of them purely contractual between the parties?**

Serbian law recognises the following rights over the land: (i) ownership (individual ownership, co-ownership, and condominium); (ii) easements (real and personal); (iii) mortgage; (iv) pre-emption right; (v) right of use; and (vi) lease.

It is worth mentioning that the Planning and Construction Act provides for the possibility to convert the right of use into the right of ownership and does not provide the disposal with the right of use. The aim of introducing the conversion mechanism is to ensure the removal of the right of use from the real estate legal system in Serbia.

In order to be effective *vis-à-vis* third parties, a right or obligation on the real estate must be properly registered with the land register. Unregistered rights will only have effect between the contracting parties.

- 3.2 Are there any scenarios where the right to a real estate diverges from the right to a building constructed thereon?**

It is possible for someone to have the right of use or long-term lease to state-owned construction land and the ownership of the building erected thereon. Moreover, infrastructure facilities and facilities generating electricity from renewable sources can be constructed on the basis of a lease or easement, in which case ownership to such facilities is derived from ownership to the land.

## 4 System of Registration

- 4.1 Is all land in Serbia required to be registered? What land (or rights) are unregistered?**

A general rule under Serbian law is that all rights *in rem*, e.g. ownership (sole ownership, co-ownership, joint and undivided co-

ownership and condominium), mortgage, right of lease, right of use, easement, etc. must be registered in order to become effective *vis-à-vis* third parties. Furthermore, pursuant to the State Land Survey and Land Registry Act, a person acquiring a right to real estate must register every grant, transfer or limitation of rights pertaining to the real estate.

#### 4.2 Is there a state guarantee of title? What does it guarantee?

Pursuant to the principle of good faith, entries in the Land Registry (i.e. the Land Books, where existing) are considered to be correct and accurate. According to this, any person who relies in good faith on the information in the Land Registry is protected against third party claims, even if the registered information turns out to be inaccurate or incomplete. Also, ownership is guaranteed under Article 58 of the Serbian Constitution.

#### 4.3 What rights in land are compulsory registrable? What (if any) is the consequence of non-registration?

Under the Land Book system of registration (for details on different real estate registries in Serbia, please see question 5.1 below) there is no requirement to register title to the land. However, any grant, transfer or limitation of rights pertaining to the real estate must be registered with the land books in order to become enforceable against third parties. Nevertheless, pursuant to the State Land Survey and Land Registry Act, the registration of title to land, as well as title to other real estate, is mandatory. Namely, every person who acquires a right to real estate must register the transfer of rights in real estate. Such registration must be made with the competent authorities within 30 days from the moment of transfer. A party who fails to comply with the registration requirement may incur a fine.

#### 4.4 What rights in land are not required to be registered?

According to the constitution of rights principle provided under the State Land Survey and Land Registry Act, ownership right and other property rights in land must be registered. Furthermore, certain contractual rights may be registered in order to be effective *vis-à-vis* third parties.

#### 4.5 Where there are both unregistered and registered land or rights is there a probationary period following first registration or are there perhaps different classes or qualities of title on first registration? Please give details. First registration means the occasion upon which unregistered land or rights are first registered in the registries.

Serbian law does not recognise a probationary period following initial registration, or different classes or qualities of title on first registration.

#### 4.6 On a land sale, when is title (or ownership) transferred to the buyer?

Under Serbian law, title to real estate may only be acquired from the registered predecessor through a sale and purchase agreement, which represents a legal title (*iustus titulus*) for the transfer of a title to the real estate, while the registration with the land register is a condition for establishing ownership (*modus acquirendi*).

Ownership is considered to be transferred following registration of the title with the land register.

#### 4.7 Please briefly describe how some rights obtain priority over other rights. Do earlier rights defeat later rights?

The general principle *prior in tempore potior in iure* is applicable to registration of rights in real estate. This means that the time of filing the request for registration with the competent authority (e.g. cadastral land register) shall be decisive for rights in the real estate, provided that all requirements for successful registration have been met. As regards registered rights, the holder of a right (i.e. acquirer) who first registers shall have priority over subsequent parties asserting such rights.

## 5 The Registry / Registries

#### 5.1 How many land registries operate in Serbia? If more than one please specify their differing rules and requirements.

Currently the land register system in Serbia recognises four types of registers:

- (i) Cadastre of Land;
- (ii) Land Registry;
- (iii) Land Books; and
- (iv) Deed System.

While the Cadastre of Land (not to be confused with the Cadastre of Real Estate) reflects the factual records and contains measurements and survey data on land, the Land Books and Land Registry are considered to be a legal record (i.e. only registration with the Land Books or Land Registry, as the case may be, will have effect *vis-à-vis* third parties). In addition, some regions are covered by a deed system which is less secure (compared to the Land Registry and Land Books), since the holder of a deed referring to his/her ownership title merely enjoys the reputable assumption that he/she is the actual owner of the respective real estate. The Land Registry, as a comprehensive register, is gradually replacing the Land Book and Deed System.

#### 5.2 Does the land registry issue a physical title document to the owners of registered real estate?

A physical title document exists only in a Deed System. For other types of land registers, a property sheet from the Land Registry may be issued to the bearer of the registered right, a person with a legal interest, and State authorities.

#### 5.3 Can any transaction relating to registered real estate be completed electronically? What documents need to be provided to the land registry for the registration of ownership right? Can information on ownership of registered real estate be accessed electronically?

The possibility of electronically completing a transaction in relation to registered real estate is not provided for under Serbian law. Furthermore, the State Land Survey and Land Registry Act provides for a new uniform geodetic-cadastral information system and the possibility to access information on the ownership of registered real estate electronically. However, up until now, no such access to the real estate registry by electronic means has been made available. In order to register an ownership right in the land register, an application must be filed, accompanied by the required documents.

Depending on the method of acquisition of the ownership right of the land, the document serving as the legal title, i.e. the registration basis, can be either public (a decision of the official authorities i.e. courts) or private (usually a sale and purchase agreement) according to the State Land Survey and Land Registry Act. To be eligible for registration, both private and public documents must be in a specific format, originals or certified copies, containing all mandatory elements required by law. In case of private documents, they must be in writing and contain authenticated signatures of both parties, accompanied by the *clausula intabulandi*, an explicit unconditional statement of consent to the registration of the predecessor (seller), either as a part of the private document (sale and purchase agreement), or as a separate court-authenticated document. Along with a private document, legal title and some additional documents must be enclosed, such as a tax authority certificate confirming payment of land transfer taxes, and, in case of transfer of ownership title to foreign nationals, confirmation from the competent authority verifying reciprocity between the two states.

#### 5.4 Can compensation be claimed from the registry/registries if it/they makes a mistake?

The law regulating registration of rights in real estate does not expressly provide for the right of an aggrieved party to claim such compensation. However, under general principals of Serbian law, damages may be claimed from any party found liable for such.

#### 5.5 Are there restrictions on public access to the register? Can a buyer obtain all the information he might reasonably need regarding encumbrances and other rights affecting real estate?

Registers are open to the public. Thus, every interested party can obtain all relevant information on the real estate (i.e. ownership title, encumbrances, etc.).

## 6 Real Estate Market

### 6.1 Which parties (in addition to the buyer and seller and the buyer's finance provider) would normally be involved in a real estate transaction in Serbia? Please briefly describe their roles and/or duties.

#### a) Real estate agents

Agents bring the buyer and seller into contact enabling them to enter into a sale and purchase agreement. Real estate agents act as intermediaries for a fee (usually established as a percentage of the purchase price).

#### b) Lawyers

Lawyers prepare sale and purchase agreements and other transaction documents concerning the sale of the real estate.

#### c) Notaries

Due to formal requirements, sale and purchase agreements must be notarised before court officials. To be replaced by notaries public in March 2013.

#### d) Others - Banks

In many cases, banks act as escrow agents.

### 6.2 How and on what basis are these persons remunerated?

Real estate agents charge a commission for their services. Such commission amounts to up to 3% of the purchase price. Lawyers' fees differ from case-to-case; they may be charged at an hourly rate, or a lump sum for the entire transaction may be agreed. Fees payable for court notarisation are set out under the Court Fees Act. When acting as escrow agents, banks charge their established fee standards.

### 6.3 How has the real estate market in Serbia recovered or reacted following the global credit crunch and worldwide recession in 2008/2010? What were the most important real estate transactions in Serbia in the past year? Please include both local and international investors in your answer.

Like in other countries, in Serbia the global credit crunch and worldwide recession in 2008/10 disrupted the real estate market. Both local and foreign investment has collapsed due to the lack of the funds and financial capability to start or continue projects. Moreover, demand on the real estate market has slumped, as has construction. It could be said that, during 2012, the market made a gentle recovery, which, however, was not significant. There were no notable real estate transactions in Serbia in 2012.

### 6.4 Is there a trend in Serbia towards the investment in retirement homes / nursing homes due to the increased ageing of the population?

There has been no significant trend regarding this kind of investment.

## 7 Liabilities of Buyers and Sellers in Real Estate Transactions

### 7.1 What (if any) are the minimum formalities for the sale and purchase of real estate?

A sale and purchase contract is concluded where both parties mutually express their consent to the agreement. The agreement must designate the parties (i.e. seller and purchaser), the real estate, the purchase price and the consent to registration (*clausula intabulandi*). The agreement must be made in writing, and the parties' signatures must be authenticated by the court.

### 7.2 Is the seller under a duty of disclosure? What matters must be disclosed?

There is no express duty of disclosure for the seller under Serbian law. However, the seller is obliged to act in accordance with the principle of good faith, which may indirectly include the obligation to disclose legal and material defects of the real estate.

### 7.3 Can the seller be liable to the buyer for misrepresentation?

The seller is liable to the buyer for misrepresentation. Where the seller makes any misrepresentation for the purpose of misleading the other party to enter into the agreement, the other party may request the annulment of the agreement. Furthermore, the aggrieved party may claim damages as well as lost profit suffered by such conclusion.

**7.4 Do sellers usually give contractual warranties to the buyer? What would be the scope of these? What is the function of warranties (e.g. to apportion risk, to give information)? Are warranties a substitute for the buyer carrying out his own diligence?**

In most cases, a sale and purchase agreement includes the seller's representations and warranties relating to encumbrances and third-party rights, to the real estate's compliance with zoning ordinances and building regulations, environmental issues, administrative and corporate approvals, taxes, etc. The main function of the warranties is to transfer the liability to the seller. Generally, the seller cannot be held responsible for facts that the buyer knew or should have known existed at the time of the agreement's conclusion.

**7.5 Does the seller warrant its ownership in any way? Please give details.**

Generally, the seller warrants sole and encumbered ownership title to the real estate. Furthermore, the seller shall be liable for any existing third party rights to the real estate that exclude, diminish or limit the buyer's own rights, where the buyer was not notified or had not agreed to take the property despite the encumbrance. The contractual parties can limit or totally exclude the seller's liability for defects of title. Nevertheless, the clause excluding the seller's liability shall be null and void if the seller knew or ought to have known about the existence of a defect in his ownership. A buyer must inform the seller about defects in the title within one year after he discovers the existence of a third party's right, otherwise he forfeits his warranty right.

**7.6 What (if any) are the liabilities of the buyer (in addition to paying the sale price)?**

In addition to payment of a purchase price, a buyer is generally obliged to take possession of the real estate. Where a lease exists on purchased real estate, the buyer shall be bound by the terms of the existing lease agreement. For further details please see question 10.3 (e) below.

## 8 Finance and Banking

**8.1 Please briefly describe any regulations concerning the lending of money to finance real estate. Are the rules different as between resident and non-resident persons and/or between individual persons and corporate entities?**

The Foreign Exchange Act imposes restrictions on some cross-border transactions and prescribes mandatory notification of permitted cross-border transactions to the National Bank of Serbia.

**8.2 What are the main methods by which a real estate lender seeks to protect itself from default by the borrower?**

In most cases, the lender can protect itself by: (i) establishing a mortgage on the building under construction; and (ii) establishing a pledge on company shares.

**8.3 What are the common proceedings for realisation of mortgaged properties? Are there any options for a mortgagee to realise a mortgaged property without involving court proceedings or the contribution of the mortgagor?**

Pursuant to the Mortgage Act, if a mortgagor fails to repay its debt on maturity, the mortgagee may satisfy its claim from the value of the mortgaged property. This is carried out through a general court proceeding in conformity with the law governing enforcement procedure. Furthermore, if a mortgage agreement and/or mortgage bond is deemed to be an enforceable document pursuant to the Mortgage Act, the mortgagee can satisfy its claim without a court proceeding by way of an extra-judicial settlement, in a proceeding involving only the Real Estate Registry in accordance with aforementioned law.

**8.4 What minimum formalities are required for real estate lending?**

Aside from the general requirements relating to the loan agreement, there are no duties or peculiarities in terms of loan agreements used as a finance instrument. However, general practice is that loan agreements must be in writing. Furthermore, the loan amount, its purpose, interest rate, and its redemption need to be determined as well.

**8.5 How is a real estate lender protected from claims against the borrower or the real estate asset by other creditors?**

The best way for the lender to protect itself from claims against the borrower is to establish a first rank mortgage.

## 9 Tax

**9.1 Are transfers of real estate subject to a transfer tax? How much? Who is liable?**

Real estate transfers are subject to a transfer tax (i.e. tax on transfer of absolute rights) of 2.5% (buildings that are covered by VAT are not subject to the 2.5% transfer tax). Pursuant to the statutory provisions, the transfer tax should be paid by the seller, unless otherwise agreed between the seller and the buyer. The seller and the buyer are jointly and severally liable to the tax authority for payment of the transfer tax.

**9.2 When is the transfer tax paid?**

The tax authorities must be notified of a sale and purchase agreement within ten days of its execution and notarisation, whereas the tax will usually be paid within 15 days from the date of the tax authorities' decision.

**9.3 Are transfers of real estate by individuals subject to income tax?**

Individuals who are Serbian residents pay tax on capital gains, where the tax base is the difference between the contracted purchase price of the real estate and the price for which the seller originally acquired it for. The tax rate is 15%.

#### 9.4 Are transfers of real estate subject to VAT? How much? Who is liable? Are there any exemptions?

The first-time transfer of a business premises is subject to VAT of 20%, while the first-time transfer of a residential unit triggers VAT at a rate of 8% (in both cases, the base for VAT is the purchase price), provided that the seller is VAT registered. Both the buyer and the seller are liable for VAT. Furthermore, Serbian citizens (residing in the Republic of Serbia) are entitled to a first-time buyers VAT refund.

#### 9.5 What other tax or taxes (if any) are payable by the seller on the disposal of a property?

Sale of a property can trigger a capital gain tax.

#### 9.6 Is taxation different if ownership of a company (or other entity) owning real estate is transferred?

Following amendments to the Property Tax Act from January 2009, the transfer of a share in a company is no longer subject to transfer tax. However, capital gains generated from the share transfer are taxable (please see question 9.4 above).

## 10 Leases of Business Premises

#### 10.1 Please briefly describe the main laws that regulate leases of business premises.

In the absence of specific regulations for leasing business premises, general provisions on leases prescribed under the Law on Obligations will apply. The Law on Obligations defines lease (and sub-lease) and the parties' obligations.

#### 10.2 What types of business lease exist?

No different types of business lease exist.

#### 10.3 What are the typical provisions for leases of business premises in Serbia regarding: (a) length of term; (b) rent increases; (c) tenant's right to sell or sub-lease; (d) insurance; (e) (i) change of control of the tenant; and (ii) transfer of lease as a result of a corporate restructuring (e.g. merger); and (f) repairs?

##### a) Length of term

A lease may be concluded either as a fixed-term lease or as an open-ended lease.

##### b) Rent increase

In the absence of rules or legislative guidelines for rent, the amount to be paid depends entirely on the agreement between the parties. Commonly, rent increases are based on increases in the consumer price index.

##### c) Tenant's right to sell or sub-let

Unless strictly prohibited under the lease, the tenant may sublet the premises. However, the right to sublet can be excluded under the lease or if it would cause damage to the landlord.

##### d) Insurance

There are no mandatory insurance rules for leased property. The said issue is at the sole discretion of the parties. However, it is

common practice for the provisions of a lease to stipulate that the landlord must insure the leased property.

- e) i) **Change of control of the tenant**
- e) ii) **Transfer of lease as a result of a corporate restructuring (e.g. merger)**

If the leased property is sold/transferred during the lease term, the lease remains effective and the new acquirer of the leased property assumes the rights and obligations of the landlord, unless otherwise stipulated. The new acquirer is prohibited from terminating the lease of the property before the fixed-term lease expires. In the case of a sale/transfer of the real estate, the tenant may terminate the lease due to the change of landlord.

##### f) Repairs

Unless otherwise agreed, the landlord must keep the leased premises in good condition, while the costs of minor repairs caused by ordinary wear and tear shall be borne by the tenant. The landlord's approval is required before any substantial changes are made to the leased property.

#### 10.4 What taxes are payable on rent either by the landlord or tenant of a business lease?

VAT at 20% shall be payable for a business lease between companies/entrepreneurs, provided that the landlord is registered for VAT. Where the landlord is an individual, the leasing of real estate shall be subject to a real estate income tax at a rate of 20%.

#### 10.5 In what circumstances are business leases usually terminated (e.g. at expiry, on default, by either party etc.)? Are there any special provisions allowing a tenant to extend or renew the lease or for either party to be compensated by the other for any reason on termination?

A fixed-term lease expires at the end of the specified term. Unless otherwise provided in the contract, a fixed-term lease can be terminated only where one party defaults and such default cannot be remedied. The parties can also terminate the agreement under the provisions laid down in the lease or by the operation of law. Unilateral termination is allowed if the lease term is not defined or cannot be determined from local customs. However, due notice must be given for such termination.

Regardless of its duration, the lease can also be terminated for the following reasons: non-payment of rent for a period of 15 days following a warning by the landlord; use of the property in violation of its stated purpose or the lease; or due to assignment or subletting without prior approval, where such consent was necessary.

#### 10.6 Does the landlord and/or the tenant of a business lease cease to be liable for their respective obligations under the lease once they have sold their interest? Can they be responsible after the sale in respect of pre-sale non-compliance?

The transferor (i.e. the former landlord) remains jointly and severally liable to the tenant for the obligations of the acquirer arising out of the lease. The acquirer is entitled to receive the rent after it has acquired the property, and the transferor must handover all advance rent payments, if any were received.

**10.7 Green leases seek to impose obligations on landlords and tenants designed to promote greater sustainable use of buildings and in the reduction of the “environmental footprint” of a building. Please briefly describe any “green obligations” commonly found in leases stating whether these are clearly defined, enforceable legal obligations or something not amounting to enforceable legal obligations (for example aspirational objectives).**

Green construction is still undervalued in Serbia and leases rarely stipulate any “green obligations”.

## 11 Public Law Permits and Obligations

**11.1 What are the main laws which govern zoning and related matters concerning the use and occupation of land? Please briefly describe them and include environmental laws.**

The main law governing zoning and related matters is the Planning and Construction Act. In addition, other relevant laws are: (i) the Environmental Protection Act, which regulates environmental issues; (ii) the Environmental Impact (Strategic Assessment) Act, which regulates conditions, methods and procedure for assessing the impact of different plans and programmes on the environment; (iii) the Environmental Impact Assessment Act, which regulates the procedure for assessing the impact that various projects may have on the environment; and (iv) the Environmental Pollution (Integrated Prevention and Control) Act, which regulates the requirements and procedure for issuing integrated permits for facilities and activities which could have a negative effect on human health and the environment. In addition, local land use is subject to local zoning plans (e.g. municipality regulations).

**11.2 Can the state force land owners to sell land to it? If so please briefly describe including price mechanism.**

The Expropriation Act regulates the conditions under which the State can deprive owners of real estate in their ownership. Namely, where the public interest is determined (by a specific provision of the law or a decision of the Government of the Republic of Serbia), the owners of such land, buildings and other constructed facilities will be obliged to sell their property. Ownership of expropriated real estate can be transferred to the State, an autonomous province, a city, a municipality, a state fund, or a public company. The owner of the real estate in question will receive appropriate monetary compensation. The compensation will equal the market value of the real estate. However, compensation for agricultural land, residential buildings, apartments or business premises can be in the form of another piece of real estate of equivalent value.

**11.3 Which bodies control land/building use and/or occupation and environmental regulation? How do buyers obtain reliable information on these matters?**

Land and building use is controlled on two levels: (i) regional (Ministry of Construction and Urban Planning); and (ii) local (city, municipality or autonomous province). The Ministry of Construction and Urban Planning controls the building of complex or large structures, or if special concern for such structures exists due to their importance or the possibility of accidents connected to their construction or use (e.g. bridges, motorways hydro-electric and thermo-electric power stations, etc.). However, if these facilities are to be built on the territory of an autonomous province,

the construction permit is issued by the competent provincial administrative authority. In all other cases, land and building use is controlled by a city or municipal authority. The authority competent for issuing construction permits is also competent for issuing operational permits.

**11.4 What main permits or licences are required for building works and/or the use of real estate?**

Generally, Serbian law requires the following permits/licences in connection with the building and/or the use of real estate:

- Location permit.
- Construction permit.
- Consent of public utility companies (e.g. electric, water supply and telecommunication companies).
- Confirmation of receipt of the commencement of works notice.
- Technical acceptance of the building.
- Operational permit.

**11.5 Are building/use permits and licences commonly obtained in Serbia? Can implied permission be obtained in any way (e.g. by long use)?**

Location, construction and operational permits are obtained only through proceedings before the competent authority. In order to obtain the said permits, the investor must file all statutory documentation. There are no implied permissions.

**11.6 What is the appropriate cost of building/use permits and the time involved in obtaining them?**

The costs include administrative fees to be paid to the competent body issuing a permit. The fees are regulated by law and amended from time-to-time. The statutory term for the issuance of a location permit is 15 working days and 8 working days for the issuance of construction permits from the submission of complete documentation, while the operational permit shall be issued within 7 days of receipt of the commission (i.e. technical acceptance) that the building is suitable for use.

**11.7 Are there any regulations on the protection of historic monuments in Serbia? If any, when and how are they likely to affect the transfer of rights in real estate?**

The Cultural Property Act governs the protection and use of immovable cultural property (including historic monuments) and their protected surroundings, and contains regulations concerning spatial planning and development, construction of buildings and environmental protection. Pursuant to the Cultural Property Act, immovable cultural property may be expropriated, or the ownership right attached to it limited, solely for the purpose of affording it greater protection, provided that this is in the public interest and in accordance with the law.

**11.8 How can e.g. a potential buyer obtain reliable information on contamination and pollution of real estate? Is there a public register of contaminated land in Serbia?**

There is no such register publicly available. However, pursuant to the Environment Act, there should be a general national register of pollution sources kept by the Environmental Protection Agency, as

well as local registers of pollution sources kept by local authorities, based on the duty of legal entities (companies) considered as polluters to provide the authorities annually with pollution data. Therefore, a potential buyer can only obtain reliable information regarding all types of pollution from the competent authorities, such as the Environmental Protection Agency and local authorities, or engage a third party, such as an independent expert, to determine the presence of pollution; the latter is the usual practice.

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**11.9 In what circumstances (if any) is environmental clean up ever mandatory?**

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Pursuant to the Environment Act, a polluter causing environmental pollution by its action or inaction must, without any delay, take measures to mitigate damage to the environment or eliminate further risks, hazards or rehabilitation of the damage in the environment.

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**11.10 Please briefly outline any regulatory requirements for the assessment and management of the energy performance of buildings in Serbia.**

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Pursuant to Rulebook on the Conditions, Content and Manner for Issuing a Building Energy Rating Certificate, an energy passport, classifying the energy rating (quantity of energy required for heating) must be obtained for all newly constructed or reconstructed buildings, save for those categories exempted under the rulebook. Energy passports are issued by licensed companies in accordance with criteria detailed in the rulebook.

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**12 Climate Change**

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**12.1 Please briefly explain the nature and extent of any regulatory measures for reducing carbon dioxide emissions (including any mandatory emissions trading scheme).**

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In Serbia, the legal basis for establishing regulatory measures for reducing pollutant emissions and, *inter alia*, carbon dioxide emissions, is provided by the Clean Air Act. Based on this law, the Government of Serbia will enact a national programme aimed at gradually reducing the maximum annual national pollutant emissions (the “National Programme”) for a period of four (4) years. A part of the National Programme is the national plan to reduce emissions from the existing combustion plants. Pursuant to the authorities granted to it by the Clean Air Act, the Government of the Republic of Serbia passed the Decree on Threshold Values for Air Pollutant Emissions.

Serbia also qualifies for participation in the Clean Development Mechanism under the Kyoto Protocol (the “CDM”), as it fulfils both conditions for participation: (A) ratification of the Kyoto Protocol; and (B) establishment of the Designated National Authority for verification and approval of CDM projects under the Kyoto Protocol at national level (the “DNA”).

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**12.2 Are there any national greenhouse gas emissions reduction targets?**

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According to the Clean Air Act, prevention and reduction of air pollution affecting climate change is being implemented through:

- 1) measures for reducing greenhouse gas emissions (also implemented through the CDM); and
- 2) the monitoring of greenhouse gas emissions by sources and removals by sinks.

No greenhouse gas emissions reduction targets have been set by national legislation.

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**12.3 Are there any other regulatory measures (not already mentioned) which aim to improve the sustainability of both newly constructed and existing buildings?**

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There are no regulatory requirements aimed at improving the sustainability of newly constructed and existing buildings.



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