



Republic of Serbia
GOVERNMENT OF THE REPUBLIC OF
SERBIA
ANTI-CORRUPTION COUNCIL
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**TRANSPARENCY IN THE WORK OF THE
REPUBLIC GEODETIC AUTHORITY**

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1. INTRODUCTION

The Anti-Corruption Council, in accordance with its competencies, monitors the implementation of the Anti-Corruption Strategy and Action Plan. One of the topics discussed in the Council's reports is the register and disposal of publicly owned real estate, which are included in the National Anti-Corruption Strategy for the period 2013-2018.

In its reports, the Council found that there were no accurate records of public real estate, which creates space for their corrupt and illegal disposal by persons who manage and dispose of it.

Within the mentioned Strategy, one of the important problems that was noticed and which should have been solved as a priority in the mentioned period is the real estate cadastre and the infrastructural utility cadastre, in which the data on real estate are incorrect. This problem dates back decades, so the Council Report will present a brief historical framework for the development of real estate records from the first forms to the present day, because for a good understanding of the problems that occur in maintaining the cadastre, it is necessary to know the conditions in which it arose.

2. HISTORICAL REVIEW OF THE DEVELOPMENT OF THE REAL ESTATE CADASTRE

Three systems of real estate rights records were represented in the Republic of Serbia: the land registry system, the title deed system and the real estate cadastre system. In addition to the above mentioned, there was a cadastre of land that recorded user, but not ownership and other real rights.

The land-book register was introduced into the legal system of real estate records back in 1930, in certain parts of Serbia without provinces. In Vojvodina, the introduction of land books began in 1855 under the influence of the Austro-Hungarian rule, which had a clearly and completely defined land registry. The introduction of land books in Serbia was interrupted by the Second World War. After the Second World War, no new land registry regulations were adopted, but the existing ones were applied as legal rules, based on the Law on the Invalidity of Legal Regulations adopted before April 6, 1941 and during enemy occupation (Official Gazette of the FPRY No. 86/46, 105/46 and 96/47).

At that time, the Law on Registration of Socially Owned Real Estate was passed, which was obligatory, but in practice this obligation was not consistently respected, primarily because the title of socially owned property was not clearly defined, which is why the consequences are evident today, manifested through the process of privatization of social capital.

Also, after the war, private property was not dominant, so in the then state, no attention was paid to the introduction of new records and updating of the existing ones. Private individuals had possession of real estate, which was made possible by the existing court practice, which did not insist on strict registration in the land register.

In the area of validity of the title deed system, the right of ownership is acquired by entry in the title deed books and issuance of title deed. A title deed is a public document, which is a legal record of real estate for which it was not necessary to have a cadastre as a factual record and it was issued at the request of the party by the competent municipality, and confirmed by the municipal court that kept the deed book. No changes were made in the title deeds, and the transfer of rights was done by transferring the title deed. After the Second World War, this system was almost completely suppressed.

Before the establishment of the real estate cadastre, in most parts of the territory of the Republic of Serbia, there were two records in parallel: the land cadastre and the land register.

a) **LAND CADASTRE** is a public book in which records are kept on the position, size, land cultivation, solvency, class, and users and does not have the character of ownership records. In some parts of the territory of the Republic of Serbia, the land cadastre existed as the only record. The land cadastre is

managed by an administrative body - an organizational unit of the Republic Geodetic Authority. An excerpt from the land cadastre, as proof of the data entered in the land cadastre, is the certificate of title.

- b) **LAND REGISTERS (LAND BOOKS)** are public books (Law published in the “Official Gazette of the Kingdom of Yugoslavia” No. 146/30), in which immovable property (land and buildings) and rights related to immovable property are entered. Land registry rights are acquired, transferred, restricted and deleted by entry in the land registry. The land register is the ownership record, which relies on the land cadastre in terms of data on land and real estate on the land. The land cadastre is the basis for the formation of the land register. So, where there is a land register, there is also a land cadastre, but data on rights on immovable property are issued by the land register. An excerpt from the land register, which represents a public document and proof of the rights registered in the land register, is the title deed. Land registers are kept by courts - land registry departments. The land cadastre has the significance of factual records, and the land register has the significance of legal records on immovable property.

The basic principles of the land law are as follows:

- **the principle of registration** (formal principle) according to which actual rights on real property can be acquired only by registering in the Land Register folio, which is a way of acquiring actual rights on real property. The registration of property rights in the Land Register has a constitutive effect, i.e. the registration represents the moment when the buyer acquires the right of ownership, and everything that has been undertaken before the registration is only a preparation. Rights *in rem* on immovables are acquired and deleted by entry in the Land Register;
- **the principle of public nature of work** according to which Land Registry is public books and their content is available to everyone. Anyone can ask to see any land registry folio and request that a written excerpt from the land register be issued to them. The right of viewing refers to the general ledger, the collection of documents and the auxiliary books;
- **the principle of reliance** in land registers implies that the content of the Land Registry is credible, which means accurate and complete;
- **the principle of legality** means that the Land Registry Court examines *ex officio* whether the prescribed conditions for registration are met. The court evaluates the formal conditions for registration in the Land Registry and does not assess the validity of the legal transaction that serves as the legal basis for registration.
- **the principle of priority** - early registration enjoyed priority over the latter.

Bearing in mind that the land register was not introduced in most of the territory of the Republic of Serbia, that a good part of the documentation was destroyed in the Second World War, that there was a discrepancy between land books and land cadastre, that the application of regulations in practice was not uniform, that the land books were not updated, the introduction of a unified registry, i.e. the real estate cadastre, was started. Numerous controversies over whether to reaffirm land books or introduce a real estate cadastre, i.e. a unified registry, have been resolved in favor of the real estate cadastre.

However, there were numerous difficulties on the way to establishing a unified registry, and above all that all previous records on real estate, both factual and legal, had to be merged into the real estate cadastre. That is, there were different principles of record keeping, in the land books according to the principle of constitutivity, while the land cadastre and the title deed system were kept according to the principle of declarativeness.

In 1988, the adoption of the law in the field of real estate cadastre began. This was the Law on Land Survey, Cadastre and Registration of Rights on Real Property (“Official Gazette of the SRS”, No. 17/88, 18/90, and “Official Gazette of the RS”, No. 13/90). Then, the Law on State Survey and Cadastre and Registration of Rights to Real Estate (“Official Gazette of the RS”, No. 83/92, 53/93, 67/93, 48/94, 12/96, 15/96, 15 / 96, 34/01, 25/02 and 101/2005), in September 2009 the Law on State Survey and

Cadastré (“Official Gazette of RS”, No. 72/09) was passed, as well as the Law on State Survey and Cadastre (“Official Gazette of RS” No. 79/2009; 18/2010; 65/2013; 15/2015; 47/2017 - authentic interpretation; 113/2017 - state Law; 27/2018 - state Law and 41 / 2018 - state Law).

According to the valid Law, the real estate cadastre is the basic and public register of immovable property and actual rights on them. Ownership and other actual rights on real property are acquired, transferred and restricted by registration in the real estate cadastre, and cease by deleting the registration. So, the real estate cadastre gathers and unites the data of the land cadastre and the land book, and the excerpt from the real estate cadastre as proof of the data entered in the real estate cadastre is the real estate folio in the land register. Establishment, renewal and maintenance of the real estate cadastre is within the competence of the Republic Geodetic Authority.

The establishment of the real estate cadastre implies the procedure of exposing to public inspection the data on real estate and actual rights to them. In this procedure, legal data (data from the land register or deed book) and factual data (data from the land cadastre) are exposed to public inspection and harmonized with each other. As a result, a real estate cadastre database is formed, which contains both factual and legal data on real estate. From the day of the beginning of the establishment of the real estate cadastre, changes related to real estate and holders of actual rights on real property are not implemented in the land cadastre, land register and deed book, and the competent courts are obliged to submit the land register and deed book to the Republic Geodetic Authority, as well as unresolved requests for registration of changes. The exposition procedure is considered to be completed by the expiration of the deadline for the establishment of the real estate cadastre determined in the public announcement. When the Republic Geodetic Authority determines that the real estate cadastre has been established in accordance with this Law, it shall confirm it with a decision which shall be published on the website of the Republic Geodetic Authority. From the day of passing this decision, the real estate cadastre is applied and the phase of maintaining the real estate cadastre begins. Maintenance of the real estate cadastre implies the collection, determination and implementation of the resulting changes in real estate and actual rights on them. Practically, the maintenance of the real estate cadastre represents the receipt of requests and their processing in accordance with the regulations on office operations, determining the changes made on the real property and rights on them that are learned from the submitted request and their implementation in the real estate cadastre database. Changes that are to be found out in another way are taken into the procedure by the Republic Geodetic Authority *ex officio*. Real estates that are entered in the real estate cadastre are land, over-ground and underground buildings and special parts of buildings that make up the building unit (apartment, office space, garage and others). Actual rights that are registered in the real estate cadastre are the right of ownership, the right of use, the right of lease, the right of servitude, mortgage and other actual rights on real estate prescribed by law. Certain obligatory rights are also entered in the real estate cadastre, with which third parties can be acquainted from the moment of registration.

The Republic Geodetic Authority is responsible for professional affairs (geodetic works) and state administration affairs related to the real estate cadastre. In the administrative affairs of establishing, renewing and maintaining the real estate cadastre, the Republic Geodetic Authority decides in the first instance, and the competent ministry in the second instance. Professional affairs (geodetic works) can also be performed by a geodetic organization, if it has been issued a work license. The license is issued by the Republic Geodetic Authority.

The adoption of the Law on State Survey and Cadastre aims to establish and maintain accurate and complete records of real estate in the interest of legal transactions, which is achieved by updating complete and accurate data on immovable property and rights to them in the real estate cadastre and utility lines cadastre.

Article 3 of the Law regulates that the Cadastre is kept in compliance with the following principles:

- 1) **the principle of registration**, which implies that property and other actual rights on real estate and utility lines are acquired, transferred and restricted by registration in the cadastre, and terminated by deleting that

registration, and that only in cases determined by law, property and other actual rights on real estate and utility lines can be acquired even before the registration in the cadastre, but even then only by registration do they produce legal effect towards conscientious third parties;

- 2) **the principle of formality**, which implies that the procedure of registration in the cadastre is initiated and conducted *ex officio*, and upon delivery of the document by the submitting entity who brought, i.e. compiled, confirmed or certified the document which is the legal basis for registration in the cadastre, as well as if it is prescribed that the entry in the cadastre is done by force of law, provided that this principle does not exclude the possibility of initiating and conducting proceedings on the same legal basis at the request of a party, unless it is excluded by law;
- 3) **the principle of public nature of work**, which implies that the cadastral data are public and that anyone can request to inspect those data, under the conditions determined by this Law, as well as that no one can invoke that the data entered in the cadastre were not or could have not be known, and that this cannot be proved;
- 4) **the principle of reliance**, which implies that the data entered in the cadastre are accurate and complete and that a conscientious person cannot incur adverse consequences due to that reliance;
- 5) **the principle of priority**, which implies that the registration in the cadastre and determining the order of priority of rights in relation to a specific real estate, i.e. utility line, is done according to the chronological order of receipt of documents submitted for *ex officio* registration, i.e. receipt of requests for registration, unless otherwise specified;
- 6) **the principle of legality**, which implies that the Republic Geodetic Authority, deciding on registration in the cadastre, checks whether the conditions for registration prescribed by this law and other regulations are met, unless the change is made on the basis of a court judgment, notary and other public document, in which case it does not check the legality of that change, considering that the legality of the change is taken into account in the procedure of enactment, compilation, i.e. confirmation (solemnization) of that document;
- 7) **the principle of determinateness**, which implies that the content of each registration in the cadastre must be completely determined in terms of real estate, i.e. utility line to which the registration refers, type of registration, rights, or other facts being registered, as well as in terms of the subject of registration, priority order for registration and documents used as a base for registration.

3. THE COUNCIL'S EXPERIENCES IN WORKING WITH THE REPUBLIC GEODETIC AUTHORITY

Having in mind the above mentioned legal provisions, from the establishment of land registers until today, when there is a real estate cadastre, the public nature of data of immovable property had to be guaranteed and available to every legal and natural person, regardless of their legal interest.

Unfortunately, the Council does not have positive experiences in communication with the Republic Geodetic Authority, (hereinafter RGA), bearing in mind that the RGA partially responded to two requests of the Council for submission of documentation from 2013 and 2014, and in 2017 they completely refused the Council's request.

The Council's requests from 2013 and 2014 referred to the documentation on the privatization of agricultural combines in the Republic of Serbia, according to which the ownership status and area of agricultural land were not clear and in accordance with the Law on Public Property and the Constitution of the Republic of Serbia. Namely, mixed property, which is not recognized by the legislation of Serbia, was significantly represented in the records of the RGA.

Due to unresolved problems in the privatization of agricultural enterprises and combines and illegal alienation of agricultural land in cooperative, social and state ownership, which the Council pointed

out in its Report in 2012, and to which neither the Government nor the competent institutions reacted, the Council approached additional research in 2017.

On that occasion, in accordance with the Law on Free Access to Information of Public Importance, the Council requested the following from the RGA:

- data on the total available land fund of the Republic of Serbia, by types of land (construction, agricultural, other), by local self-government units expressed in hectares;
- data on the status of land ownership in the Republic of Serbia, by type of land, and by territory of local self-government units, expressed in hectares;
- ownership status on the land of all privatized agricultural combines and enterprises, and now companies, by their name;
- the name of the agricultural cooperatives in the Republic of Serbia that have registered the cooperative property, as well as their registered area.

The RGA did not provide answers to the above requests of the Council, with the initial explanation that the data were a business secret, as well as that the preparation of a document containing the requested information would require additional multi-hour engagement of RGA employees.

In oral communication, the Director of the RGA, with threats of a lawsuit, asked for the 2017 Report to be removed from the Council's website, which mentions that the RGA did not submit the requested data to the Council.

The director further stated that all data existed on the RGA website for over eighteen million parcels and that the RGA could not provide data on persons who were the owners of privatized agricultural enterprises and combines.

As can be seen from the above request, the Council did not ask for the names of the owners of the privatized companies, but the status of the ownership by the name of each privatized entity.

Also, in eighteen million cadastral parcels that can be accessed on the RGA website, the Council could not find an answer, having in mind that the Council does not have the numbers of cadastral parcels.

Due to the failure to submit the documentation and the allegations of the Director of the RGA that are incorrect, the Council filed a complaint with the Commissioner for Information of Public Importance.

The Commissioner, by Decision no. 071-01-2272/2017-03 from October 5, 2017, ordered the RGA to submit the requested information to the Council within seven days from the day of receipt of the decision, i.e. a copy of the documents from which the requested information could be found out.

In the explanation of the Decision, the Commissioner stated that the reasons for not submitting the information pointed out by the RGA in response to the Commissioner, on the complaint of the Council, were not argued by the RGA.

Namely, according to the Commissioner in the mentioned decision, the RGA acted incorrectly by referring to Art. 2 paragraph 1 of the Law on Free Access to Information of Public Importance, stating that compliance with the submitted request would imply the development of a new document. This is due to the fact that according to the provisions of Article 10 items 3 and 18 of the Law on State Survey and Cadastre ("Official Gazette of RS" No. 79/2009; 18/2010; 65/2013; 15/2015; 47/2017 - authentic interpretation; 113/2017 - state Law, 27/2018 - state Law and 41/2018 - state Law), RGA affairs, among other things, are state administration affairs related to the establishment, renewal and maintenance of the real estate cadastre, as well as the establishment, maintenance and disposal of geodetic -cadastral information system. The provisions of Article 4, paragraphs 1 and 2 of the same Law prescribe that the real estate cadastre is the basic and public register of immovable property and rights to them, as well as that immovable property that is registered in the real estate cadastre in terms of this Law is: land (cadastral parcels of agricultural, forest, construction, water and other land), over-ground and underground construction facilities (facilities) and special parts of facilities that make up the construction unit (apartment, business premises, garage, etc.)

The provision of Article 70, paragraph 1 of the same Law prescribes that the real estate cadastre database is a set of geospatial and all other data on real estate and actual rights to them, and especially contains data on parcels, buildings, special parts of buildings and holders of real estate rights, while the provision of Article 157 of the same Law prescribes that the geodetic-cadastral information system consists of subsystems that contain data and data services, including the real estate cadastre.

Having in mind the stated provisions of the Law on State Survey and Cadastre, the Commissioner considered that all important elements from Article 2 of the Law on Free Access to Information of Public Importance had been fulfilled and that the submission of information from the database, using the possibilities of the geodetic-cadastral information system the RGA had, could not be considered as drafting a new document in terms of the Law on Free Access to Information of Public Importance, the only question was in what form this information would be submitted to the Council.

In response to the allegations of the Republic Geodetic Authority that it would not submit information because it was a business secret, the Commissioner stated in the mentioned decision that the RGA was wrong, referring to Art. 9, item 5 of the Law on Free Access to Information of Public Importance, because the RGA did not prove the fulfillment of the conditions from that article. Namely, the provisions of the Law on Data Secrecy (“Official Gazette of the RS” No. 104/09), which regulates the unique system of determining and protecting secret data in the Republic of Serbia, stipulate that data of interest to the Republic of Serbia may be determined as secret data, which relate in particular to:

- public security, i.e. defense, foreign policy, security and intelligence affairs of public authorities;
- relations of the Republic of Serbia with other states and international organizations and entities;
- systems, devices, projects, plans and structures related to the data referred to in items 1 and 2;
- scientific, research, technological, economic and financial affairs related to the data referred to in items 1 and 2 that classified data is determined by an authorized person under the conditions and in the manner prescribed by this Law, and in classifying data, an authorized person shall assess possible damage to the interest of the Republic of Serbia (Article 9, paragraph 1 and Article 10, paragraphs 1 and 3 of the Law);
- a decision on determining the level of classification shall be brought based on the assessment of an authorized person and possible damage, which shall be brought in writing and shall contain a rationale (Article 11, paragraphs 1 and 4);
- a document containing classified data shall be marked with a classification level in accordance with the Law, and the Government shall prescribe the manner and procedure of marking the level of classification, i.e. the document. (Article 13);
- the levels of classification are “top secret”, “secret”, “confidential” and “restricted”, as well as the level of classification “restricted” is determined in order to prevent damage to the work, i.e. the operation or performance of tasks and activities of the public authority which defined them, and more detailed criteria for determining the level of secrecy “confidential” and “restricted” shall be determined by the Government, at the proposal of the competent ministry, i.e. the head of the public authority (Article 14 of the Law).

The provision of Art. 4 of the Decree on Detailed Criteria for Determining the Level of Classification “Confidential” and “Restricted” in Public Authorities (“Official Gazette of the RS” No. 79/14), stipulates that classified data may be determined and classified “restricted” if its disclosure to an unauthorized person, its destruction or misuse would cause damage to the work of public authorities, which may result in:

- reduction of operational and functional capabilities of public authorities;
- jeopardizing the cooperation of public authorities with the bodies of other states, international organizations and other international entities.

Therefore, in order for some data to be protected as classified, it is necessary to determine it as such in accordance with the provisions of the Law on Data Secrecy and relevant bylaws, which the RGA has not proven.

According to the Commissioner, information on the area and structure of land on the territory of the Republic of Serbia and property rights on it are basic information on land that the public has the right to be informed about, and which the RGA is obliged to provide with regard to the work it performs.

According to the decision of the Commissioner, the RGA was obliged to submit the requested information to the Council within seven days and to inform the Commissioner about the execution of the decision in accordance with Art. 24 of the Law on Free Access to Information of Public Importance. Not only did the RGA not provide the requested information and inform the Commissioner, but, as stated, the Director of the RGA requested, with threats, that the Report of the Council mentioning the RGA be removed from the Council's website.

Through this example of communication between the Council and the RGA, it is clear how much the principle of public nature, which dates back to the establishment of land registers, is not respected. In addition to the principle of public nature which can rightly be said to be compromised by the individuals who run the RGA, the principle of reliance has also been called into question, as can be seen in the following example.

Namely, the Council received data for the Report on Real Estate of the City of Belgrade not only from the RGA, but also from the Republic Property Directorate of the Republic of Serbia, as well as from the City of Belgrade itself. In its Reports on the records and disposal of real estate in the city of Belgrade from 2017, the Council clearly pointed out that the records of the three mentioned institutions differed significantly from each other, and they should be the same and harmonized. These divergences, which were also identified by the State Audit Institution in its report no. 400-1634/2014-08 from 2014, point to the conclusion that records on real estate in the Republic of Serbia are unreliable.

Although significant funds were invested in establishing real estate records in the Republic of Serbia, the Council met with the fact that in 2017 the differences in data were measured in thousands of buildings and thousands of hectares of land on the example of only one local government, i.e. the city of Belgrade, which can be seen in detail in the Report on Real Estate Records of the City of Belgrade published on September 17, 2017 on the Council's website. Namely, according to the records of the Secretariat for Property and Legal Affairs of the City of Belgrade, the City has 2233 hectares at its disposal, while according to the RGA data, 9811 hectares are registered with the City, where the difference in the data of these two institutions is over seven thousand hectares. Which of the three institutions has accurate data on real estate, the Council could not determine in its report, but it came to the fact that more than a third of the construction land on which the facilities were built are still treated in RGA as fields, pastures, meadows, watering places, etc.

In addition to land, the situation with apartments is the same, because according to the data of the City of Belgrade, the City has 2012 apartments, while according to the RGA, 7246 apartments are registered in the City of Belgrade, of which one quarter has zero square footage. The square footage of zero, as explained to the Council by the RGA, means that the RGA has no data on the square footage of these apartments. Records on business premises also differ widely, having in mind that RGZ registered 103,127 square meters of business premises of the City, and the City of Belgrade 1,624,741 square meters, almost sixteen times more than RGA.

Having in mind the huge differences in real estate records at the level of only one local self-government, the Council sent the Report to the Government of the Republic of Serbia and the competent ministry with certain recommendations:

- to instruct the Ministry of Construction, Transport and Infrastructure to supervise the work of the Republic Geodetic Authority, on the circumstance of out-of-date and unorganized records;

- to instruct the Ministry of State Administration and Local Self-Government to review the capacities of the Republic Geodetic Authority in accordance with its competencies, considering the number of vacancies, the average age of employees in the Republic Geodetic Authority and the large number of persons engaged under contract;
- to order the Republic Geodetic Authority, the Republic Property Directorate and the City of Belgrade to jointly propose legal regulations, on the basis of which mutual coordination would be established, in order to harmonize data on public real estate records;

In the period after the Council's Report, which is one year, the Council did not receive any feedback from either the Government or the competent ministry. The most significant innovations that followed the Report of the Council refer to the adoption of the Law on the Registration Procedure with the Cadaster of Real Estate and Utility Lines (“Official Gazette of RS” No. 41/2018).

This Law, among other things, regulates the increase of the efficiency and promptness of the cadastre, by simplifying and speeding up the procedure of registration in the real estate cadastre and utility lines. In addition to the introduction of information technologies, the Law prescribes obligations for courts, notaries, public enforcement officers, public administration bodies and other organizations to submit documents that are compiled and confirmed to the Real Estate Cadastre Service in a short period of time in order to implement changes.

Pursuant to Art. 60 of the Law on the Registration Procedure with the Cadaster of Real Estate and Utility Lines, notaries are obliged to connect to the RGA via e-counters no later than July 1, 2018, courts by January 1, 2020, and other taxpayers by November 1, 2018. The explanation of the proposers for the adoption of this law refers primarily to the claim that electronic business and submission of data by notaries would certainly significantly improve the work of the RGA, and facilitate legal and natural persons registration of real estate through simplified procedures.

However, in a situation when the data in the cadastre are unorganized, which the Council has shown only on the example of the city of Belgrade, it is not clear in what way notaries will make the data in the cadastre more accurate and up-to-date.

In the last ten years, a number of legal solutions have been passed by which construction and agricultural land in state and social ownership has been registered as private without any compensation, by converting the right of use into the right of ownership of construction land, as well as privatization of agricultural enterprises and combines. The Council also wrote about these harmful phenomena for the Republic of Serbia, measured in billions of euros, in its reports and submitted them to the Government of the Republic of Serbia and the competent ministries. As with all others, there was no feedback on these Reports. For the illegal conversion of state and social property into private on agricultural land, only with the confirmation of the Privatization Agency, which is not an appropriate legal document, on the basis of which changes can be made in the real estate cadastre, no court or any other procedure has been initiated. This means that in the further turnover of these real estates, notaries will only verify the existing illegal situation.

In addition to the above, there are numerous other problems, such as facilities built without a building permit, which has led to a multiple increase in the number of administrative cases, both in the first and second instance proceedings.

Whether a lack of material resources, apart from bad legal solutions, is also the cause for such a disorderly situation in the field of real estate in the Republic of Serbia, the Council will try to answer on the basis of available documentation.

Namely, the introduction and improvement of the real estate cadastre in the Republic of Serbia was supported by the World Bank through the Project “Development of the Real Estate Cadastre and Registration of Rights in Serbia”, whose total value was 39.5 million dollars, of which 30 million was a World Bank loan and 9.5 million dollars from the budget of the Republic of Serbia. Project implementation period was 2004-2010.

The main goal of the Project was to form a unique real estate cadastre that would cover the entire Republic of Serbia. In addition to improving the real estate cadastre, this money should have been used to improve the status of the RGA, through managerial support, a better legal framework and improved business processes.

In addition to the funds in the amount of \$ 39.5 million for the aforementioned Project, according to the data from the RGA website, the Institute also presented donor funds through the following donor projects:

- European Union - CARDS, Development of a digital orthophoto plan, period of three years, worth nine million euros;
- Kingdom of Sweden, RGA Capacity Building, three-year period, value 2.8 million euros;
- FR Germany-Land Management-Cadastre in Serbia, period 4 years, value two million euros;
- Kingdom of Norway, Plan and Map Scanning Center, value 1.5 million euros;
- Republic of France, Real Estate Valuation Methodology, period 1 year, value 470 thousand euros;
- Japan, Japanese grant, value 382.4 thousand dollars, period 2003-2004;
- Japan - Capacity Development Project for Digital Basic State Map Development in RS, Project value 1.5 million euros, period 2009-2011.

The total value of the mentioned projects that were supposed to be realized, is around 40 million dollars and 17.3 million euros.

In addition to the mentioned projects, the realization of which should have been completed according to the data of the RGA, the following projects are current: the Impulse Project and the Spatial Project.

The Impulse Project is a project for the improvement of land administration in Serbia, which is financed from a loan from the European Bank for Reconstruction and Development and the Republic of Serbia agreed on April 17, 2015, in the amount of 36, 2 million euros. The aim of the project is to improve the efficiency, transparency, availability and reliability of the real estate management system in the Republic of Serbia.

The SPATIAL Project is intended to strengthen professional access to land information, primarily for the Republic of Serbia and Macedonia, a donation from the Dutch Ministry whose estimated value is over half a million euros.

The Council managed to find the mentioned projects on the RGA website, without claiming that they have been all of the projects in the last fifteen years.

According to the data of the "Information Booklet on the work of the RGA" for 2018, funds in the amount of 3.7 billion dinars or about 31 million euros were planned for the financing of the RGA, as well as 125.2 million dinars of funds from foreign loans. A similar amount of funds was planned for previous years.

Based on the document below in the Report, which the Council has completely taken over from the RGA Information Booklet, it can be seen according to which economic classifications the funds were spent annually.

EXECUTION FROM 1.1.2017-31.12.2017.

the name of the economic classification	amount in dinars
Salaries, allowances and employee rewards	1.960.988.981,00
Social contributions at the expense of the employer	351.038.711,00
Social benefits to employees	17.238.227,00
Reimbursement of costs to employees	75.235.487,00
Employee awards and other special expenses	15.193.459,00
Fixed costs	395.453.097,00
Travel expenses	3.081.514,00
Contractual services	363.934.118,00
Specialized services	3.194.049,00
Ongoing repairs and maintenance	70.825.564,00
Material	153.672.484,00
Taxes, mandatory fees and fines and penalties	3.360.319,00
Fines and penalties by court decision	266.598.450,00
Machinery and equipment	44.871.934,00
Intangible assets	43.065.390,00
TOTAL	3.767.751.784,00

According to the data of the Information Booklet on the work of the RGA, the number of hired executors on July 11, 2017 is 2869, of which 2120 are in permanent employment, 188 for a fixed period of time and 561 on the basis of a contract. The RGA notes that 12 civil servants from the Ministry of Construction, Transport and Infrastructure should be added to the total number of employees, as well as one unassigned employee.

As can be seen from the data published by the RGA in its Information Booklet updated on August 2, 2018, which the Council took over in its report, the taxpayers of the Republic of Serbia allocate huge funds for the work of the RGA. In addition to almost 32 million euros annually, in the last fifteen years, projects in the amount of about one hundred million euros have been approved. The number of employees of nearly three thousand is also impressive, bearing in mind that among other things, the law regulates electronic business.

What are the reasons for the inaccurate and out-of-date real estate cadastre determined by the Council in 2017, the Council has no answer. The material resources that are chosen for the work of the RGA, as well as the number of employees, are certainly not. The other question is what is the qualification structure of employees, their expertise, as well as the expertise and skills of management. It is also very questionable to hire 561 people under contracts, where about three million euros have been allocated annually for years.

4. CONCLUSION

Thirty years have passed since the Law on the Unified Register of Real Estate, i.e. the Real Estate Cadastre in the Republic of Serbia, was passed. During those three decades, amendments to the Law were made, which, unfortunately, did not contribute to Serbia having a modern, up-to-date, reliable and completely public real estate cadastre today.

The Republic Geodetic Authority, which is in charge of: establishing, renewing and maintaining the real estate cadastre and utility lines, has resulted in treating the building constructions in the center of Belgrade in 2017 as pastures, meadows and fields. The result is also that thousands of apartments and units of business premises in the cadastre have a registered square footage of “zero square footage”. The result is also that the data on the land fund of the Republic of Serbia are a business secret, obviously not only for the Anti-Corruption Council, but also for other state institutions. Namely, when the Council addressed the Ministry of Agriculture for information on the total publicly owned agricultural land in the Republic of Serbia, it received the answer that it did not have the requested information and that the RGA had it.

The amendments to the Law on State Survey and Cadastre have obviously not contributed to the efficient work of the RGA, as well as the huge funds that the RGA has received in the last fifteen years, through approved projects financed from loans and donations. As already stated in the Report, the RGA has almost three thousand civil servants, whose qualification structure and expertise obviously cannot meet the requirements of an organized and modern cadastre.

This assumption of the Council is based on the fact that the RGA has reported expenditures in the name of fines and penalties according to the court decision of 266.6 million dinars, or over two million euros annually.

The latest amendment to the Law on State Survey and Cadastre, according to which notaries submit documentation to the RGA in electronic form, is an ideal solution, but for regulated real estate cadastres. In the Republic of Serbia, where illegal privatizations have not been resolved, where the restitution of confiscated property has not been resolved, where there are millions of illegal buildings and numerous other problems that are manifested through an outdated and unreliable cadastre, the possibility of law enforcement is being questioned.

Due to all the above, the Council, in addition to the recommendations already submitted to the Government of the Republic of Serbia, in its three reports in 2017, which relate to the registration and disposal of real estate, gives the following recommendations:

5. *RECOMMENDATIONS*

- the Government of the Republic of Serbia, in accordance with Article 28, paragraph 4 of the Law on Free Access to Information of Public Importance, should order the RGA to submit to the Council the requested information under Decision no. 071-01-2272/2017-03 of the Commissioner for Information of Public Importance;
- the State Audit Institution should audit the financial statements of the RGA, and above all the purposefulness of spending the funds approved under the projects for the improvement of the work of the RGA.

VICE-PRESIDENT

Prof. dr. Miroslav Milicevic