

URBAN REPARCELLING - EFFICIENT METHOD FOR URBAN DEVELOPMENT AND LAND MANAGEMENT

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UDC: 711.41-122:528.4

ABSTRACT

One of the ways by which the urban plans can provide their full practical realization, is the application of the procedure of urban reparable (reallocation, readjustment, reallocation etc). It represents an instrument for solving the problems that occur during production and realization of urban plans, which by their nature are documents of technical, legal, and economic significance. Because of the fact that these problems have not been treated in the frames of Macedonian legal regulations, in this article, in general terms, an effort has been made to describe the way in which a procedure of urban reparable can be applied and carried out, using experiences of some other countries where it represents a legal instrument for realization of urban settlements.

Key words: urban reparable, urban planning, spatial planning, local self-government.

INTRODUCTION

The spatial planning has an essential significance in people's lives. Man, by his nature, is a conscious, social being that exists in a social community out of which his needs for living by certain standardized conditions arise, thus from here, the need for organization of homes, houses, neighborhoods and working surroundings, as well as the living environment in general arises.

Today, the spatial organization and urbanization cannot survive as an independent process isolated by itself. Here, we must mention that the spatial organization in a broader sense, not only for the large urban surroundings, but wider regions as well, presents basics for establishing a sustainable development of the planet in global frames.

Implementation of contemporary spatial and urban settlements means engaging human and technical resources which makes this whole process

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complex. In this direction, besides the appliance of the experiences and knowledge of many scientific disciplines, geodesy as a science and technical discipline gives a great contribution to the realization of these objectives. With the development of I.T. the process of acquisition and services of geo special data is significantly faster, which is a basic for production of all the spatial and urban plans.

This without a doubt leads to improvement of legal/technical settlements in quantitative and qualitative sense, where freely the process of urban reparcelling can be involved.

SEMANTICS

In Macedonian, the direct translation of urban reparcelling would be “урбана комасаџија”, as it was named in the text so far. But, of course, the final choice of the right translation should come out from the rules about forming neologisms, considering the basic meaning of the word and its usage in our conditions. As an option, in this direction, we can think about (re) naming this word to “урбана препа̀рџелаџија”, as it is actually used in some countries.

REPARCELLING

Reparcelling presents an action in the spatial planning with a purpose of grouping the parcels in a mass out of which a repartition is made afterwards in a way with which their usage is improved in an economic and agro-technical aspect.

When it comes to reparcelling in general, today, for majority of people in Macedonia it is seen as a non-popular action that draws its roots from the ex-socialistic structure of a society, within which the right of the private property is limited. But, of course, this is not the matter. Reparcelling as an activity is expanded almost in all society structures and is conveyed throughout centuries.

If we approach the reparcelling scientifically, it can justify its aims on a multiple levels. According to the place of implementation, the reparcelling can be conveyed on agricultural or urban area (building grounds). In literature, we can find divisions of reparcelling which are based on the way of action of the one, the ambit etc.

AIMS AND OBJECTIVES

With the process of urban reparcelling, building parcels are being formed with strictly defined shape and area according with the urban plan, and if the participant in the reparcelling participates with relatively big land registry parcels, he/she can get several building parcels which don't have to be grouped.

According to this, urban reparcelling, as a basic aim has to shape the building land in building parcels according to urban plans, throughout which there is a protection in the realization of contemporary urban standards as well as accomplishing thriftiness during their realization. All of this is based on the fact that the building land is consisted of land registry parcels whose shape and size are almost always inadequate for conveying urban settlements. Also, with the appliance of urban reparcelling, besides the solving of the urban/technical details, related to the planning, proprietorial and other legal-property relations are solved as well. With all of this, the basic task of the urban reparcelling is realized and it secures an adequate approach to all the building parcels to public areas-streets, as well as planed schedule of the contents of public character.

Realizing, in this way, the set aims and objectives with the urban parceling it could be reached proper outside and inside ambit throughout which all the building parcels get a proper form and appropriate size foreseen with the detailed plan and because of that the form of the urban block itself is defined.

At the same time, requisites for adequate schedule and realization are created for:

- All kinds of thoroughfares (main, congregated, serviced etc.)
- Public areas (parks, promenades, squares and other)
- Areas for common and public needs (schools, sports object, malls and business centers, kindergartens etc.)

As it was mentioned before, with the process of conveying of the urban parceling, a very important segment is solved, i.e. proprietorial and other legal-property relations. Namely, the empirical experiences gained from everyday work show us that often we have very big differences between the real state of affairs on the field and the condition evidenced in the public books. In this sense, the urban reparcelling can speed up the processes of updating and realization of all sales and purchases, barter, partitions, heritages, reallocation of holdings, and all other kinds of legal circulation and legal changes related to real estate in the region of interest.

BASIC CONCEPTS OF THE PROCESS OF URBAN PARCELLING

Pursuant to community conditions, polity, as well as the surrounding, every country has its own specificities and specialties (Ivković and al., 2010), so the reparcelling appears as a dominant model for development, usual and secondary.

Considering the experiences of some countries in this area, we will point a frame of foreseen procedures for starting and realization of the process of urban reparcelling.

Object and ambit of urban reparcelling

The region where the urban reparcelling can be carried out must be in frames of the urban ambit of the cities or settlements and it is compulsory conveyed on areas defined with detailed urban planning.

As a subject of urban reparcelling appear all areas in the frames of ambit considered with the plan for conveying the urban parceling. As an exception to this it is possible to omit the areas and buildings which are congruent with the detailed urban planning and for which the owners have clean documents, as well as buildings which are with coordinance with the detailed plan, for which there isn't a previous standard procedure for gaining a building permission.

Procedures for starting and conveying urban reparcelling

In realization of these kinds of urban attempts, the main task is given to the units of the local self-government. In this sense, among other, the municipalities have authorities for production, carrying out and realization of urban planning which, on the other hand, are a basic for conveying urban reparcelling.

The local self-government also starts the initiative for conveying the urban reparcelling which is submitted to a special organ which is especially formed for solving these kinds of issues and which will make decisions for the ones. This organ can have municipal, regional or central authorities. There must be a state organ which will decide upon appeals. In some countries it is considered starting the process of urban reparcelling by individuals or group of people who have interest for conveying.

After carrying a decision for reparcelling, we approach towards establishing the market price of the land. This is managed with a special procedure during which a special organ can be specified that will convey the evaluation,

thereto, considering the market conditions and legislations. When the evaluation is finished, all of the ones who own and rule a certain real estate in the frames which is considered for urban reparcelling are called with a purpose to be personally notified about the aim, the rights and the responsibilities. After this, a phase follows where building parcels are allotted and/or are being money recompensated. At the end, it is necessary to carry a settlement which will be conveyed when it becomes effective.

Expenses and participants in the urban reparcelling

The expenses related to urban reparcelling which can arise while conveying the one, are classified in three groups, ones for:

- preparation
- conveying and
- additional expenses.

In expenses for preparation work are expenses which come out from conveying the preparation things necessary for starting the procedure for reparcelling like, for example, the evaluation, collecting of necessary documentation basis etc. Geodetic expenses which are in the phase of preparation works belong in these expenses as well, and these works are done by authorized individuals or companies for geodetic activities. All these expenses are on charge of the units of the local self-government. Money allowances are the only expenses that belong in the expenses for conveying urban reparcelling. Additional expenses are expenses that can appear during the procedure of reparcelling. The expenses for conveying the procedure as well as the additional expenses are on the charge of the unit for self-government and/or the participants of the procedure.

As parties in the procedures during conveying the urban reparcelling are all participants who have a status of an owner or are bearers of other entity rights upon the land, the buildings and the standing plants. With other words, participants in urban reparcelling are people with given building parcel in coordination with the detailed urban planning as well as the units of the local self-government that should be initiators of the procedure of urban reparcelling.

If on the region considered for urban reparcelling there are objects or parcels that match with the considered in the detailed urban planning, the ones overlap so the individuals don't participate in the reparcelling. The same goes for the objects which are built without constructive-technical documentation and completely fit in the detailed urban planning. The other land registry parcels as well the standing plants are expropriated in benefit of the units of local self-government that convey the urban reparcelling, during

which from the total reparcelling mass insulates for public and joint needs and from the rest, building parcels are being formed.

The role of the unit of self-government

In accordance with the above mentioned, in front of the unit of the self-government, which initiates and conveys the procedure for urban reparcelling, sets a responsible and complicated task for whose successful realization clearly defined legal requisite should exit.

These requisites reflect in carrying rules and guarantees of instruments for their conveyance in the segment of space organization and building legal-property relations and the financing.

The interdiction for giving building permission, and with that an interdiction for starting building actions and legalization of illegally built objects, represents a first step with which the unit of local self-government can protect itself in the period while it carries out the acts for detailed organization in the region considered for urban reparcelling, and with that a successful conveying is ensured.

The expropriation of the land in benefit of the unit for self-government is a measure that ensures consistent conveyance of space-planning settlements. Namely, this kind of repurchase can be on voluntary basis or obligatory. In case where upon the land an object has been projected where the current owner cannot realize a property right upon the considered building and s/he cannot own it (school, streets, squares etc.), the one is obliged on market conditions or appropriate interchange to retreat the land in favour of the unit for self-government.

Also, in order to get a building parcel, the participant in the reparcelling must retreat (obligatory) to the unit of self-government a part of his parcel which will be intended for communal infrastructure building that will be in function of the building parcel.

If it is necessary, the participant in reparcelling has an obligation (obligatory) to accept certain kind of officiality or other kind of limitation.

The change of the ownership of the land can have a reverse direction when the unit of self-government can sell a part which serves to put a building parcel into right shape without a public announcement, in coordination with the detailed urban planning.

In this sense, an expropriation can be considered if on a certain building parcel that is in ownership of the unit of self-government there is an illegally built object that totally matches the conditions regulated in the detailed urban planning, during which it is important to note that a requisite for this kind of sale is to get all the proper documents and all communal taxes to be paid for the built object.

The legislator can consider a primal right for the land buying in the favour of the unit for self-government throughout which, the seller must offer the land to the unit of self-government. If the unit doesn't accept the offer the land can be estranged for other interested party under the same conditions or better than were previously offered.

The financing of the expenses for starting and realization of urban reparcelling can be shared with other interested parties like private or legal individuals. In this direction, the model for public-private partnership can successfully be applied. This can be realized with signing a writing contract in which the rights and the responsibilities of the interested parties should be defined, and in which all of the participants will find their own interest. In case of more interested parties an appliance of the regulations from the Law of public suppliances can be considered.

GEODESY PART OF THE PROCEDURE – PROJECT FOR URBAN REPARCELLING

This location is one of the few through leading these kinds and similar procedures where surveyors should have the main role because of the fact that their realization must be practically executed by authorized surveyors, with scientific and practical methods, on field as well in the office.

Here, we talk about a land with big value so the procedure and the way of approach towards realization of this kind of action must be completely professional. In order to get high levels of practical conveyance of the urban settlements, it is extremely important to involve authorized surveyors right from the beginning for production of urban settlements which is quintessence in the procedure of preparation of updated geodetic base which is further on a foundation for application of urban solutions.

During preparation of the project for urban reparcelling it is necessary to establish the current condition of the terrain and in public books, in order to make comparison with the unpredicted settlements. After that, the detailed urban planning is analyzed as a foundation of the reparcelling terrain. In this phase, an evaluation of the value of the real estate which forms the reparcelling mass is made. Stake out of so called building blocks follows, where after the requisition of the considered lands for building objects from public interest, a definite value of new-created parcels is established.

After this, the building parcels are given away by introducing the owners with the adverse possession and finishing up the legal procedures for realization of this action.

The giving away of the parcels can be done in two basis:

- Value or

- Size

During the giveaway of parcels based on their value, it is necessary every participant in the process of reparcelling to be given a new building area that will have at least the same value as the one he owned before the process begun. Here, it should be noted that there can be difference in the market value as a result of possible emerging conditions, and also care should be taken about the deductions which are inevitable while providing a land for public needs. Eventual differences are paid in money.

If the giveaway of the new building parcels is developed by principles area for area, it is necessary the new, given area to be decreased for the part which is necessary for forming areas for public needs. The compensation which should be given in eventual case of differences, should be regulated with money or equalizing the areas.

Another characteristic that follows the urban reparcelling is its gradual realization, so in this direction it is important to ensure univocal defining of the space contents and their application from the planning documents directly on field. This means ensuring a continuity of traffic settlements and other infrastructural objects in all phases of the building process.

BENEFITS FROM THE URBAN REPARCELLING

Urban reparcelling is the most rational and most effective process for implementation of urban settlements. Considering the fact that this is a method that by its nature is more effective than the force requisition (expropriation), the benefits have big socio-economic impact and are very significant. A moderate balance is made with it between the protection of the private properties and the public interest.

Using foreign experiences we can notice some benefits which the procedure that conveys the urban reparcelling has upon the participants and the community itself.

The economic effect counts as a basic leverage. Namely, this procedure is almost always conveyed by the principles of self-financing. This means that the participants in the reparcelling mass assign around 30% from their land, and on that account they get smaller building area that have higher market value. On that account, the unit for self-government gets areas for public usage and can interruptedly realize actions from the communal infrastructure.

Also, it is a great benefit that the procedure conveys with mutual allotment of deficits and gains. This advantage makes it real for all the participants in the reparcelling to get to a building area, unlike the classical way when from certain owners almost all the real estate can be taken because of realization

of buildings for public needs and afterwards they are compensated with money or building area on an inappropriate (unattractive) location.

A great benefit, with also economic sign, is the omission of circulation taxes for the real estates, which is implemented in almost every country where urban reparcelling is conveyed. This brings great deal of benefits because with this procedure property-legal relations are being solved in a regular/institutional way and you won't have to pay taxes which are usual practice for every real estate transfer.

Not less important benefit from the urban reparcelling is the social moment as well, because to all the participants a certain building entirety symmetrically with their investment is guaranteed, of course decreased for previously mentioned areas for public needs.

Active role of all the participants in the urban reparcelling and the given possibility for them to participate actively in the process is another social characteristic of this procedure.

At the end let's mention the advantages of this method which enables the urban planners to shape the space freed from the chains that limit their creativity because of the inappropriate shapes and schedule of the land registry parcels in the frames of one, beautiful wholeness. Here, we must also mention that a lot of detailed urban planning stay locked in the municipality desks because the ones are not conveyable (completely or some of their parts), just because of the fact that solving property-legal relations is a very complicated and expensive procedure.

URBAN REPARCELLING THROUGH NUMBERS

According to sources on United Nations (Department of Economic and Social Affairs/Population Division) , the World urban population from 2.86 billion inhabitants in 2000 will rise to 4.98 billion up to 2030, where it is prognosed that 60% of the World population will live in urban surroundings.

These graphs In figure 1 show an increase of a million per week which for a comparison is similarly big as the cities Hanoi or Pittsburg. This is beneficiary for the cities with over million citizens where in 2003 there were 39 cities with over 5 million citizens and 16 cities with over 10 million citizens.

These are prodigious facts which are subject of analyses for the experts in charge for demographic planning for the Organization of UN as well as others international organizations which come out with recommendations and action planning.

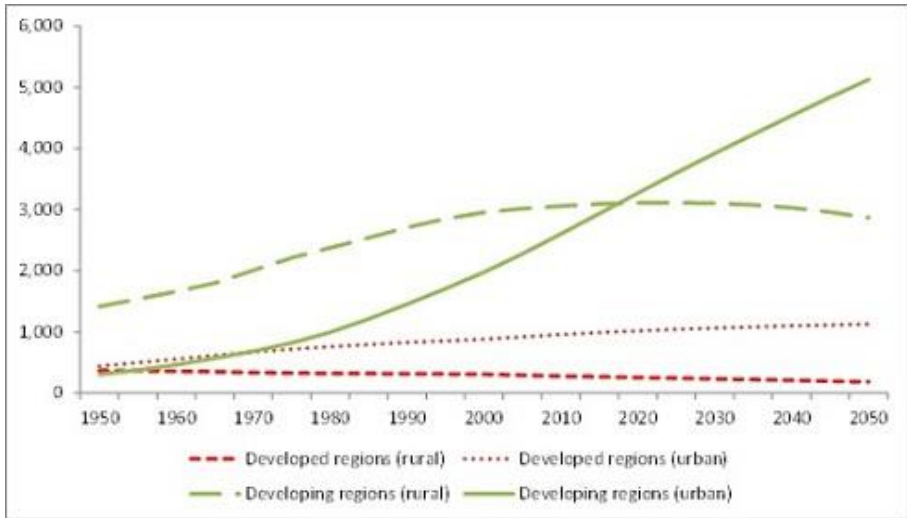


Figure 1: World urban population (based on UN, Department of Economic and Social Affairs/Population Division)

All of this indicates that the spatial planning must be rationally and its usage to be on an optimal level. These requisites should be canalized, of course, through certain and previously determined rules during which the interests of the individuals and the community should be maximally respected with appliance of quality legal/technical settlements.

Urban reparcelling, by its nature is a long-term process, so for analyses of certain experiences a certain period of time is needed.

Germany is one of the leading European countries regarding realized procedures for urban reparcelling. Because of this fact, German experiences are precious when we discuss this matter and it is a reason for some countries from our neighbourhood to use these experiences to a higher extent. A big number of conveyed procedures with which an urban reparcelling was done are a guarantee for the justification and the success of this process.

As an affirmation of these allegations, in table 1, we will present several numerous examples for realized procedures.

Table 1: Data for urban reparcelling in Germany(based on Dieterich,1996)

Urban region/ City	Period	Area (ha)	Number of procedures	Note
<i>Hidelsheim</i>	1962-1987	267	20	
<i>Frankfurt/ Main</i>	до 1987	1260	232	1/3 from all new building areas are treated with urban reparcelling
<i>Göttingen</i>				Almost all detailed planning are treated with urban reparcelling
<i>Main-Taunus-Kreis</i>	до 1982		280	
<i>Kaiserslaute rn</i>		545	58	1932 new building parcel are ensured, almost all detailed planning are treated with urban reparcelling
<i>Köln</i>	до 1983	912	147	
<i>Stuttgart</i>	1926-1944	1391	345	

In Slovenia in the period 2002-2007, 20 agreed reparcelling are conveyed or are in the phase of conveying and one so-called administration reparcelling. Their experiences, mostly, are positive considering the procedure itself and the benefit of it, but there are certain parts from the legislative and under-legislative acts where it should be intervened in order the process to become more productive (Borštinar and Foški, 2008).

Urban reparcelling in our close vicinity (Croatia, Serbia) is a relatively new process, and maybe this is the reason why we can rarely get experiences from there. If we consider that these kinds of processes usually last from 2 to 3 years, a certain period of time will be needed to sublime the results. But in the lack of concrete publicized information, we can use some data from which it can be seen that in Serbia, on the level of local self-government, procedures for preparation and conveying of urban planning based on the rules of urban reparcelling are currently in action with the support of the German government and German Society for International Cooperation (GIZ) GmbH.

These facts are basic indicators which can serve us to conclude that urban reparcelling is starting to revive on the Balkan grounds as well, slowly but certainly.

CONCLUSIONS

Treating urban reparcelling in Macedonia doesn't have a tradition at all and doesn't succumb under none of positive legislative so from that aspect, if it is confirmed that it can be applied in our conditions as well, legal/technical frames should form that will create the necessary requisites for practical appliance of the one. That's why it is important to analyze experiences from other countries and these to be accommodated to our own conditions with a purpose of conveying an activity which will prepare and convey contemporary urban settlements freed from limitations that come out from the inappropriate schedule, the form and the owner's structure of the land registry parcels, not settled legal-property relations etc.

Thus, the procedures, the steps as well as the legal status of the parties which will anyhow participate in realization of this kind of action, should have appropriate legal frame in coordination with our legislatives, especially with the laws for spatial and urban planning, for building, local self-government, administrative procedure, expropriation, privatization, building land etc. Of course, most of these laws should change or be edited in order to make requisites that would revive the urban reparcelling.

All this makes us conclude that the investors at this moment, must make all the necessary transactions by themselves in order to form a building parcel, considered with the detailed urban planning, so they could start the process of getting a building license. Of course, this can be problematic and can stuck the conveyance of the detailed planning, and with difficulties that municipalities have when it comes to realization of actions from the communal sphere, like expropriation and realization of objects for public needs and communal infrastructure (streets, drains, squares, schools, kindergartens etc.).

That's why, I believe, that urban reparcelling, in the near future will become a part of our legislatives, and with that it can revive in our practices, with what it will become applicable on the level of self-government, bringing benefits for the citizens as well as for the community. With this, the authorized surveyors will create requisites for active participation in one completely new activity, so far not practiced on Macedonian grounds.

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