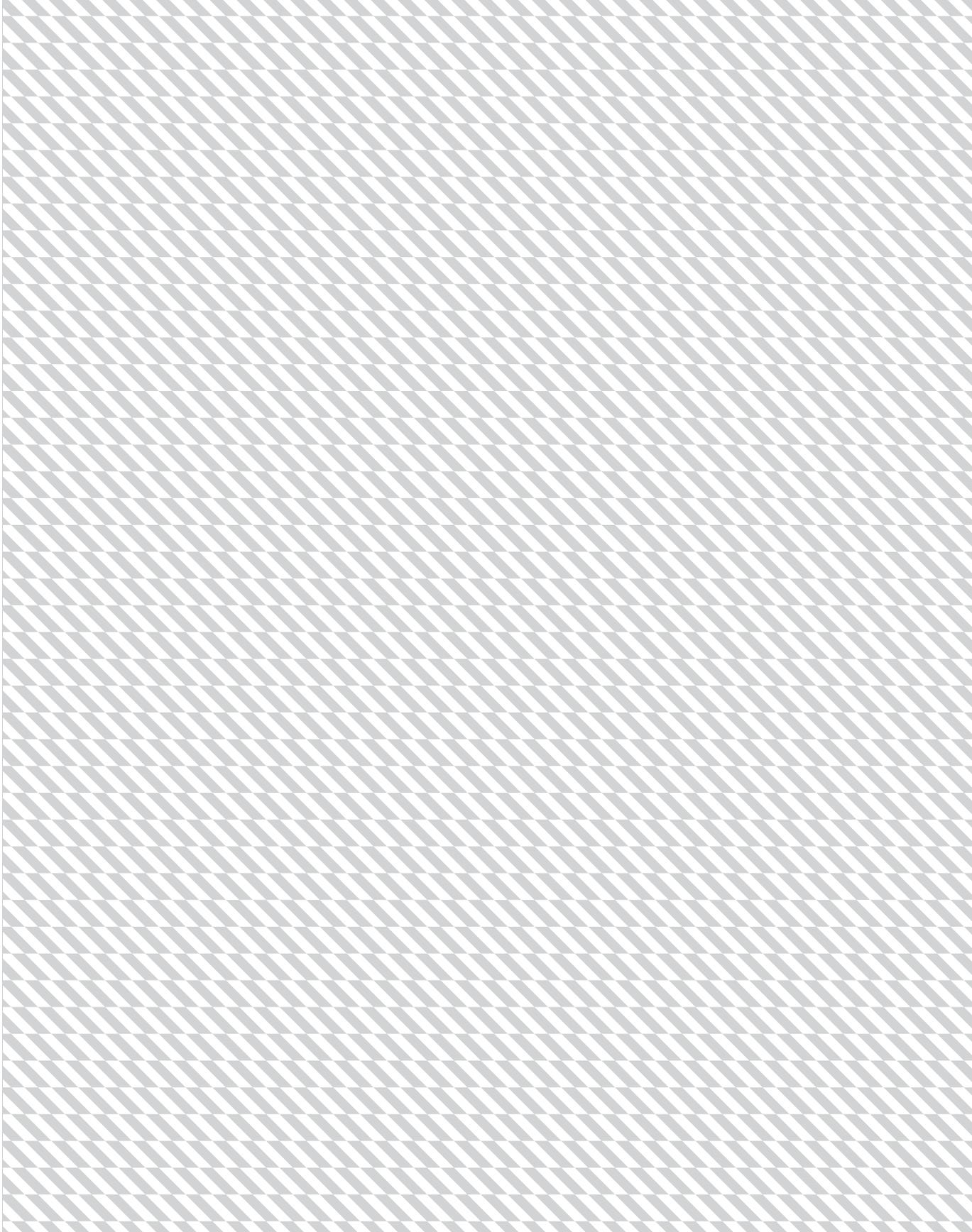


Obstacles/  
to/  
Infrastructure/  
Development/





# Executive Summary

This study, by examining circumstances in 25 local self governments participating in the implementation of the European Partnership with Municipalities Programme - EU PROGRES, aims at drawing attention to impediments in infrastructure development, that in turn influence local economic growth. It looks into relevant legislation and provides comparative analysis for the sake of presenting all essential differences in the process of planning and construction in the past two decades. The study also analyses the process of infrastructure project development, step by step, in order to identify bottlenecks, both institutional and procedural. Finally, it examines the professional capacities among local self-governments to manage projects in accordance with the legislative framework and good governance principles.

The assessment points to a clear need to engage and obtain the full commitment of all relevant actors of local development in order to improve planning for, and implementation of infrastructure projects. There should be synergies of donor support for the activities at local and national levels, particularly in undeveloped and devastated municipalities.

The Government assistance for local infrastructural development should not end with provision of co-funding. The support given for synchronized and efficient functioning of the institutions that are the responsibility of the Government, in line with the principles of good governance, is much more important. This can be guaranteed by insisting on strict adherence to procedures as defined by the laws.

The study has also shown that municipalities should consider introduction of multi-year capital investment plans and mid-term budget projections for major infrastructure projects, in line with the relevant national legislation framework.

Finally, greater attention should be devoted to creating capacities in local governments in terms of planning, programming and financial planning, implementation and monitoring of infrastructure development projects. For this, the Government assistance is essential.



Programme Funded by EU



Implementing Partner



European Partnership with Municipalities Programme



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# Background



Recent studies conducted in Serbia point that further development of the industrial sector, and consequent wide-ranging economic development, is constrained by obsolete and inadequate infrastructure. This in turn influences the country's ability to attract new direct foreign and domestic investments<sup>1</sup>.

According to the Serbian Investment and Export Promotion Agency [SIEPA], foreign investors are mostly interested in financing Greenfield and Brownfield sites, which clearly demonstrates need for industrial land adequately equipped with ancillary infrastructure and, if possible, ready for quick building of new, or the adaptation of the existing facilities<sup>2</sup>.

However, in addition to the existence of infrastructural prerequisites, the decision to invest also depends on access to prompt administrative services, clear legislative framework and fiscal policy.

Ever since the adoption of the Law on Local Self-Government, the Law on Planning and Construction and the Law on the State Survey and Cadastre, it has become increasingly evident that the administrations at the local, regional and national levels are insufficiently prepared to conduct the complex activities in the fields of municipal planning and economic growth, which impacts their ability to attract investments and create conditions for further development.

Analyses of 25 local self governments, participating in the implementation of the European Partnership with Municipalities Programme – EU PROGRES, have shown that only a negligible number of municipalities have prepared all project documentation needed for execution of infrastructure projects, and thus meet one of the preconditions for attracting investments and creating environment amenable to economic development.

<sup>1</sup> "White Book", Council of Foreign Investors in Serbia, Belgrade, 2009

<sup>2</sup> "Investor's Profile in Serbia", SIEPA, Belgrade, 2011

# Terminology Used

Given the multiple perceptions of the definition of a local infrastructure project, for the purposes of this study, this term shall denote every project concerning construction, reconstruction, modernisation, adaptation, rehabilitation or maintenance of communal, social and economic infrastructure requiring the issuance of a construction permit by the competent municipal authority.

A local infrastructure project thus comprises, for example, district heating, solid waste management and waste water treatment projects [communal infrastructure], projects involving construction, reconstruction or rehabilitation of a school, a nursery or a library [social infrastructure] as well as projects involving development of one or more economic activities, e.g. development of a free zone [economic infrastructure].

Furthermore, the concept "investor" shall denote a natural or legal person in terms of the regulations on planning and construction, while the concept "fund provider" shall denote a state authority or municipality, a development or commercial bank, a donor, as well as a direct investment carrier.



# Legal Environment

When discussing degree of readiness of local infrastructure projects to secure funding, one should not only have in mind preparation of technical documentation. This also relates to availability of the planning documents, the existence of urban plans [i.e. spatial and urban plans and urban technical documentation] and, ultimately, the project technical documentation at the level needed for obtaining approval for construction [i.e. a construction permit in accordance with the valid regulations].

This chapter provides an overview and analysis of the relevant legal regulations, the enforcement of which crucially impacts timely acquisition of planning and technical documentation. This does not only relate to regulation that is in force at the moment, but to all rules that have directly or indirectly impacted this field.

## Law on Planning and Construction

The planning and construction in Serbia is regulated by the Law on Planning and Construction [Službeni glasnik RS, Nos. 72/09, 81/09, 64/10 and 24/11]. This regulation was preceded by the 2003 Law in the same name [Službeni glasnik RS, Nos. 47/03, 34/06 and 39/09] and other provisions that controlled this field:

- ▶ The Law on Construction of Facilities [Službeni glasnik RS, Nos. 44/95, 24/96, 16/97 and 43/01]
- ▶ The Law on Spatial and Settlement Planning and Development [Službeni glasnik RS, Nos. 44/95, 23/96, 16/97 and 46/98]
- ▶ The Law on Construction Land [Službeni glasnik RS, Nos. 44/95 and 16/97] and the Law on Specific Conditions for Issuing Construction or Use Permits for Specific Facilities [Službeni glasnik RS No. 16/97].

There are other specific laws adopted pursuant to the systemic Law on Planning and Construction, which are relevant for planning and construction:

- ▶ The Law on Environmental Impact Assessment [Službeni glasnik RS, Nos. 72/09 and 18/10]
- ▶ The Law on the State Survey and Cadastre [Službeni glasnik RS, Nos. 72/09 and 18/10]
- ▶ The Law on Local Self-Government [Službeni glasnik RS, No. 129/2007]
- ▶ The Law on Budget System [Službeni glasnik RS, Nos. 54/2009, 73/2010 i 101/2010]
- ▶ The Law on Assets Owned by the Republic of Serbia [Službeni glasnik RS, Nos. 53/95, 3/96, 54/96, 32/97 and 101/2005]
- ▶ The Law Amending the Law on Local Self-Government

Funding [Službeni glasnik RS, Nos. 62/2006 and 47/2011]

- The Law on Public Debts [Službeni glasnik RS, Nos. 61/05 and 107/09].

In order to be able to draw conclusions on the advantages and disadvantages of different approaches, the current planning and construction regulations have been examined and compared with earlier legislation.

Under the 2003 Law on Planning and Construction [Službeni glasnik RS, Nos. 47/03, 34/06 and 39/09], those submitting local infrastructure project proposals to “fund providers” were required to possess the following documents:

- 1) The zoning requirements enactment [for plans adopted before 2003 or in the absence of a planning document] or an excerpt of the plan [for plans adopted after 2003]
- 2) The main project with a report on the performed technical inspection
- 3) An environmental impact assessment study [if necessary]
- 4) A decision approving construction [issued on condition that there were no outstanding legal property issues, that the building lot was bounded and that the preliminary project was designed].

Under the **new** Law on Planning and Construction, a person submitting a local infrastructure project proposal for funding needs to possess:

- 1) A location permit [issued on condition that there are no outstanding legal ownership issues and for the bounded building lot]
- 2) The main design and a report on the performed technical inspection
- 3) An environmental impact assessment study [if necessary in terms of the Decree Establishing the List of Projects Requiring an Environmental Impact Assessment and List of Projects for which an Environmental Impact Assessment May be Required]
- 4) A construction permit.

The requirements set by the two Laws differ with respect to the first document [location permit vs. zoning requirements enactment or excerpt from the plan] and with respect to the level of technical documentation to be submitted with the application for approval of construction i.e. a construction permit.

The applicant for approval of construction, at the time of the **old Law**, needed to possess the following documents:

- 1) The urban plan excerpt or zoning requirements enactment
- 2) The preliminary project
- 3) An excerpt from the land register/real estate list [photocopies were allowed]
- 4) Other proof specified in the urban plan i.e. zoning requirements enactment.

Whereas, under the **new Law**, the applicant needs to possess:

- 1) A location permit
- 2) A preliminary or main project and a positive assessment of the review commission, i.e. report on the performed technical inspection
- 3) An excerpt from the land register/real estate list as a proof of ownership or right of lease of construction land
- 4) Proof of payment of all fees for construction land development
- 5) Proof of payment of the administrative tax.

The prior **zoning requirements enactment** would be issued to an applicant who had submitted:

- 1) A copy of the lot plan from the real estate cadastre
- 2) Situation plan [drawing of the lot and the facility] of the planned construction with a brief description of the facility and works
- 3) An excerpt from the land register/real estate list
- 4) Certified consent by the co-owner[s] [signatures certified in court or in the municipality, in the event that there was more than one owner or co-owner of the lot or facility].

Under the **new Law**, a person applying for a **location permit** must submit:

- 1) A copy of the building lot plan
- 2) An excerpt from the underground installation cadastre
- 3) Proof of ownership or right of lease/excerpt from the land register.

The **new Law** requires the submission of the following documents and enactments that determine the readiness of local infrastructure projects, not only when applying for funding but for the start of the implementation as well:

- 1) Relevant planning document [municipal spatial plan]
- 2) Urban plan [detailed regulation plan; urban project]
- 3) Construction land [grounds for use]
- 4) Project technical documentation [main project and the report on the performed technical inspection]
- 5) Construction permit
- 6) Notification of the onset of the works
- 7) Selected contractor
- 8) Selected provider of professional inspection services.

The Law on Construction of Facilities, adopted in 1995, that precedes the Laws from 2003 and 2009, [Službeni glasnik RS, Nos. 44/95, 24/96, 16/97 and 43/01], laid down the requirements for beginning of construction works, above all those regarding technical documentation – a set of projects designed for the purpose of: establishing the concept of the facility [general and preliminary projects], elaborating conditions and manner of construction [main project, executive design, and layout of the facility] and for the purpose of maintaining the facility [project of the constructed facility]. A person applying for a construction permit had to submit:

- 1) Three copies of the main design, with a certificate of the relevant authority that it was designed in accordance with the urban permit, and a report on the performed technical inspection

- 2) Proof of ownership i.e. the right to use the construction land for the purpose of building on it or right of use of the facility for the purpose of its reconstruction
- 3) Proof of payment of fees to the organisation developing the construction land
- 4) Consents, opinions and other proof specified in other regulations.

As it can be seen from the above requirements, the new Law on Planning and Construction provides a clear and logical process for commencing construction. Although all these requirements were existent within previous laws that regulated construction, steps within the process, and responsibilities, were not put in a systematic way as they were in the 2009 Law.

This can lead us to believe that problems in construction are not coming from the Law itself.

By analysing each and every step within the process it can be concluded that real issues remain in efficiency and effectiveness of the institutions responsible for the implementation of the Law.

### Planning Documents

The planning documents domain, before adoption of the Law on Planning and Construction, was regulated by the Law on Spatial and Settlement Planning and Development [Službeni glasnik RS, Nos. 44/95, 23/96, 16/97 and 46/98] and the Law on Construction of Facilities [Službeni glasnik RS, Nos. 44/95, 24/96, 16/97 and 43/01]. Therefore, attention should also be devoted to the issue of planning and urban documentation, i.e. the requirements for beginning construction in light of the requisite technical documentation.

As far as planning documents [i.e. urban plans] are concerned, the Law on Spatial and Settlement Planning and Development [Službeni glasnik RS, Nos. 44/95, 23/96, 16/97 and 46/98] departed from the concepts of “spatial planning and development”. This Law laid down the requirements for spatial and settlement development, organisation and use, i.e. the concept of “urban documentation” as a set of documents comprising: a spatial i.e. urban plan; urban project; building lot plan; urban permit; urban approval; analyses, studies and other documents designed during the preparatory work for planning spatial development; documents with IT spatial data.

As opposed to the **old Law** on Planning and Construction [2003], where planning documents envisaged spatial plans, while urban plans were regulated as a separate concept [general urban plans and regulation plans], the new Law envisages planning documents, and within them: spatial and urban plans.



Rather than defining in greater detail spatial plans, breaking down general plans, on the one hand, and regulation plans, on the other, or comparing different concepts regarding both plans and technical documentation that existed in three periods and carrying a similar or nearly identical meaning, two issues with respect to the enforcement of the valid regulations shall be highlighted.

First, municipalities must have a spatial plan of a local self-government unit (some projects will have to include a spatial plan of the special purpose area as well) and the general and detailed regulation plans, which are adopted by municipal assemblies. As far as urban technical documents are concerned, an applicant for a location permit must also submit a project for bounding or rebounding of a building lot if the lot is divisible. The relevant planning urban documentation is necessary in case of need to prepare relevant project technical documentation (municipal authority decision on a future investment). Urban and project technical documentation should be prepared in parallel due to the nature of the design tasks involved in the preparation of the technical documentation i.e. the need to ensure the compatibility of the plan and technical solutions.

#### Other Legal Regulation

In addition to considering regulations directly impacting this field, one needs to review whether regulations with indirect influence also need to be improved. The review of the requirements and elements in the previous and current Laws on Planning and Construction leads to the

conclusion that all entail abidance by procedures for preparation and adoption of planning and urban i.e. technical documentation. There are, of course, differences between them, but each clearly laid down the steps that had to be taken in order to attain a complete project ready for implementation. Apart from significant novel provisions (opportunity to apply for a construction permit on the basis of a preliminary project design; the existence of a location permit instead of the previous plan excerpt and submission of all documents required under the urban plan), another important novelty is the conversion of the right of use to the right of ownership of construction land.

This is at the same time a very important precedent.

The right of ownership on local level, at the moment, instead of being regulated by systemic laws (such is the Law on Public Property), is regulated by a number of different laws and regulations. This does not seem to be a good solution, as it may rise to legal insecurity, i.e. each individual law could govern its issue differently, depending on climate, needs and interests.

Originally, the 2009 Law on Planning and Construction was criticised for setting the main project as a requirement for a construction permit. It was amended in April 2011 to comply with the fact that specific international financial institutions, organisations and other funders would consider for review and approval only projects for which construction permits had already been issued (and the municipality could submit a project proposal only if it

already had a main project]. Under the amendments, the applicant may now be granted a construction permit if s/he submits a preliminary project design [for local infrastructure projects] or the main project design [in the event the construction permit is issued by the competent ministry]. Furthermore, there is no need to submit documentation envisaged by the urban plans, but only the location permit, which replaced the enactment i.e. excerpt from the urban plan, no matter who is submitting the application for the construction permit and no matter who is competent for issuing it.

However, to obtain a location permit, which is a requisite in addition to the preliminary or main project design, the submitter must also present a copy of the lot plan and an excerpt from the real estate cadastre. It should be noted that specific provisions and specific deadlines in the Law on the State Survey and Cadastre also apply to this field. Although the Law defines provisions and deadlines, their implementation is a continuous challenge.

As noted, there are other laws indirectly impacting this field. For instance, the Budget System Law, adopted on 16 July 2009 [Službeni glasnik RS, Nos. 54/2009, 73/2010 and 101/2010], and its basic principles, regulates the budget year as the main category for planning [while the Memorandum on the Budget mentions revenue and outlay projections in the following two budget years only in the most general terms<sup>4</sup>]. Hence, procedure and rules applicable to project budgets could be more clearly established.

On the other hand, not many infrastructure projects can be implemented within one year. Project implementation in the broadest sense of the word usually entails both the process of investment planning and the process of plan adoption, i.e. the design of the technical documentation, and project implementation in the stricter sense of the word [construction, reconstruction, rehabilitation, etc]. It would thus be useful to adopt relevant amendments to regulations on the preparation and execution of the budget and envisage a separate section of the budget to cover the period needed for the implementation of the project, not just the budget year.

Finally, there are relevant provisions of the Law on Public Debts [Službeni glasnik RS, Nos. 61/05 and 107/09], which do not have as much to do with planning and design, but do affect public, and thus, local ownership of land and other movable and immovable assets. Namely, once the municipalities restore their ownership over immovable assets, there will be grounds to provide municipalities with the legal right to issue guarantees for debts of public utility companies they have founded, which will greatly facilitate definition of the mutual relationships between the municipalities, on the one hand, and the banking sector, on the other. This is why amendments to the Law on Public Debts are also welcome.

<sup>4</sup> The issue of budget is analyzed in more detail in the section Financial Planning of this document.

# Analysis Of Planning Documentation

The first step in developing a local infrastructure project is to ensure the project's compliance with the plans. This practically means that the project must be compatible with spatial and urban planning documents. Ensuring its compatibility depends from the presumption that such relevant planning documents already exist.

To facilitate review of the importance and correlation of the urban and spatial planning documentation with the development of an infrastructure project, some basic information about these is given below.

Spatial plans comprise: the Spatial Plan of the Republic of Serbia, regional spatial plans, local self governments' spatial plans, spatial plans for special purpose areas, and spatial plans of the infrastructure networks or the networks of the special purpose areas or facilities.

When discussing urban plans, we have in mind: general city i.e. settlement plans, general survey plans, general plans of the infrastructure networks or the networks of the special purpose areas or facilities and regulation plans.

The 2010-2020 Spatial Plan of the Republic of Serbia and the Law on the 2010-2020 Spatial Plan of the Republic of Serbia were adopted by the National Assembly of the Republic of Serbia on 23 November 2010. They were published in the Official Gazette of the Republic of Serbia No. 88/10 in accordance with the Law on Planning and Construction [Službeni glasnik RS, Nos. 72/09, 81/09, 64/10 and 24/11]. The Spatial Plan covers the entire territory of Serbia and is the main spatial planning and development document in the state. All other planning documents must be in compliance with the Spatial Plan of the Republic of Serbia.

The spatial plan of a local self-government unit is adopted for the territory of a self-government unit and defines the guidelines for development of activities and use of land, as well as the conditions for sustainable and uniform development on the territory of a local self-government unit.

Although all municipalities participating in the EU PROGRES have begun design of spatial plans, at the end of June 2012 only ten have completed design and adopted their spatial plans, in accordance with the Law. This means that these ten are the only municipalities which possess clearly defined guidelines for development and use of land. However, even in case of these municipalities, it is not possible to talk about systematic and well-conceived sustainable development, and, thus, infrastructural development at the local level.

The lack of spatial plan of a local self-government unit, as the main document providing guidelines for further planning, is the first obstacle standing in the way of developing infrastructure projects at the local level.

Another difficulty in this area relates to the quality of the adopted plans, i.e. their applicability in practice. The real development needs of local self-governments are relatively frequently not in accordance with the spatial plan guidelines, which further impedes process of planning and technical documentation development. The reason should be sought in the fact that the design of spatial plans is very often left to a designer, usually without major input from representatives of local self-government. Since the price is, in most cases, the only criterion taken into account in the public procurement process and when contracting the design of the plans, as a result there is neglect of technical, qualitative aspects of plans. Local self-government units thus formally fulfil the legal requirements and have spatial plans, but later, during implementation, serious discrepancies between what had been planned and what is actually needed and feasible occur.

General urban plans are drawn up for a populated settlement that is a seat of a local self-government unit and has a population of over 30,000 inhabitants, or for other settlements on the territory of a municipality, city or

the City of Belgrade, provided that such plans are envisaged by the spatial plan of the local self government unit. The general urban plan inter alia defines: the boundaries of the plan and the catchment area of the construction land; the general use of surfaces which are principally planned on the construction land, by the urban zones; and, the general directions and corridors for traffic, power, water, public utility and other infrastructures.

For local self-government units requiring general urban plans, those must be adopted for the entire construction area of the populated settlement, by parts of the populated settlement. General regulation plans are, therefore, the next obligatory link in the chain of planning the infrastructural development of a local self-government.

All 25 municipalities in the EU PROGRES Area of Responsibility [AoR] have begun designing these plans but only one municipality, at the end of 2011, has adopted a general regulation plan for its local self-government unit headquarters, while three municipalities are in the process of reviewing and harmonisations.

Detailed regulation plans are adopted for the undeveloped parts of the populated settlement, the development of informal settlements, urban renewal zones, infrastructure corridors and facilities, the construction of facilities or settlements in the construction area outside the populated settlements, and the protected area around immovable cultural property.

Lack of investments in new infrastructure projects then comes as no surprise given that seven of 25 municipalities in the EU PROGRES AoR have adopted not even one detailed regulation plan and that only two municipalities have covered 80% of their territories by such plans.

Practice has shown that detailed regulation plans and the entire project technical documentation are most often prepared only once the possibility of an investment in a specific project arises. This approach additionally exacerbates the situation and slows down investing, because development and adoption of such plans take several months. The investment is thus put off for at least a year when one also takes into account the time needed to design the technical documentation. This, of course, has a very discouraging effect on the investors and very often prompts them to abandon investments.

The reasons for such a situation regarding planning and project technical documentation at the local level lie, on the one hand, in the absence of municipal capacities to design planning documentation and, on the other, in the financial constraints preventing them from entrusting these duties to third parties. Larger cities, which do have their own planning and construction directorates, are in a better position than small and undeveloped municipalities who have to entrust preparation of plans to parties outside their territory, which affects both the price and the quality of the planning documentation.



# Real/ Estate/ Cadastrè

Given that the next step in development of an infrastructure project entails the acquisition of a location permit, issued on condition that there are no outstanding legal property issues and that the boundaries of the building lot are defined, the situation in the municipal real estate cadastres should also be analysed.

The situation in this field has continuously deteriorated starting from the cadastre reforms launched by the 1928 and 1930-1931 laws which have not been completed; then during the prohibition of sale of undeveloped construction land in state/social ownership, effective in Serbia from 1968 to 2003 [the period marked by the most extensive development and expansion of cities, which is why it was practically impossible to make cadastral changes regarding this land]; and finally to the launched, albeit not finalised, reforms in the 1980s. The adoption of the Law on the State Survey and Cadastre in 2009 [Službeni glasnik RS, Nos. 61/05 and 107/09] marked an attempt to bring order into this field.

The failure to update the land registers over a number of decades led to huge discrepancies between the land registers and the land cadastre, particularly with respect to houses and apartments, wherefore both of these records are unusable. Furthermore, given that the real estate cadastre is a nationwide register, it should ensure quality links between data on the characteristics and legal status of the real estate. A simplified and faster official procedure will provide the citizens with easier access to all cadastre-related information once the real estate

cadastre is introduced in cities, particularly regarding the sale or lease of real estate, as well as in inheritance proceedings and the field of real estate investments. The speed by which the municipal real estate cadastres are established is the most important in that respect.

In addition, digitalisation of geo-spatial data is expected to create an entirely new market, which will raise the issues of the use of such data and of the fees charged for accessing them. A functional and comprehensive real estate cadastre can play numerous other roles apart from the ones laid down in the Law and can be used by many public and private entities for many purposes. There have been debates across Europe on whether it is justified to charge fees for geo-spatial data, given that such data have traditionally been perceived as a public good and free. There is no doubt that this issue will arise in Serbia as well, once the entire real estate cadastre and the system of geo-spatial information are fully established.

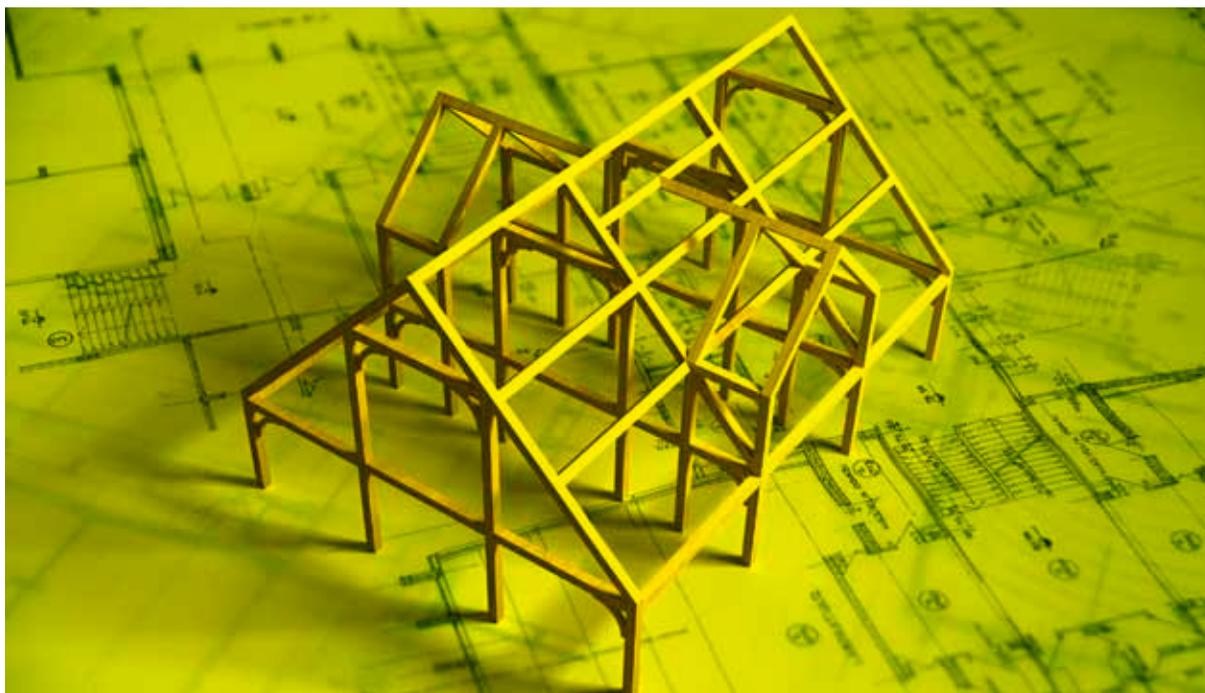
As regards 25 municipalities within the EU PROGRES AoR, the situation is far from desirable.

Analyses show that the territories of 16 municipalities are now fully covered by the real estate cadastre. As for digitalisation of geo-spatial data, there are concerns as the average coverage of municipalities by digital geo-referenced maps stands at 33%, while there are municipalities where this coverage stands at less than 10%. Less than half of municipalities, 12 to be precise, are equipped with ortho-photo maps.

In view of the goals of the Law on the State Survey and Cadastre, this data clearly demonstrates that the real estate cadastre is another bottleneck in the process of infrastructure project planning and development.

Efficiency, notably the speed by which the cases are resolved, poses an additional problem. The Republican Geodetic Authority [RGA] official data on the number of resolved land and real estate cadastre survey cases in the 1 January - 31 December 2010 period, published in the RGA Information Booklet in October 2011, show that the percent of resolved cases among regional centres ranged between 60% and 90%. Attention also needs to be devoted to the fact that between 20 and 25 percent of the cases resolved in 2010 had been carried over from the previous year.

	Centre	1	Belgrade		Kragujevac		Niš		Pančevo		Šabac	TOTAL
			Zaječar		Kruševac				Užice			
	No.		1	2	3	4	5	6	7	8	9	
No of Cases Carried Over	field	3	9493	305	4536	1101	389	2731	24	852	1386	20817
	office	4	22341	1364	10503	2714	2260	30419	4282	4426	2924	81233
	total	5	31834	1669	15039	3815	2649	33150	4306	5278	4310	102050
No of new cases	field	6	20970	3362	15645	9017	6311	21574	907	10255	9859	97900
	office	7	59809	12167	35202	25226	21723	79375	43657	22708	18428	318295
	total	8	80779	15529	50847	34243	28034	100949	44564	32963	28287	416195
No of Solved cases	field	9	22099	2707	14695	8175	5640	16040	837	9565	9125	88883
	office	10	45220	11114	34942	24633	21995	73470	40916	21546	18102	291938
	total	11	67319	13821	49637	32808	27635	89510	41753	31111	27227	380821
No of unsolved	field	12	8364	960	5486	1943	1060	8265	94	1542	2120	29834
	office	13	36930	2417	10763	3307	1988	36324	7023	5588	3250	107590
	total	14	45294	3377	16249	5250	3048	44589	7117	7130	5370	137424
No of issued excerpts	Copies of plans	15	35797	6150	24838	17022	13988	35127	7663	15775	9698	166058
	Certificates /reports	16	98744	52529	127098	134910	119160	222319	146848	88209	60138	1049955
Total No of cases			112613	17198	65886	38058	30683	134099	48870	38241	32597	518245
% of solved cases			60	80	75	86	90	67	85	81	84	73



The information from data collected in the EU PROGRES municipalities shows:

- 1) The municipalities do not spend the same amounts of time to resolve a case
- 2) A municipality, on average, needs between 30 to 60 days to resolve a case but the duration of this period varies, from four days to a fortnight [simpler cases] to several months, even years in more complex cases
- 3) In some municipalities, some cases have been pending since 2001.

When the time needed to prepare planning documentation and the average time needed to settle any outstanding legal property issues and obtain a location permit are also

taken into account, it is clear that an investor cannot expect that the work on project technical documentation will begin in less than six months' time at the best. Needless to say, this situation definitely does not benefit infrastructural development.

In order to address some of the listed problems, the municipalities need to be provided with assistance to fully digitalise and update their geo-spatial data, which will ensure much faster and more effective provision of services, prerequisite for the infrastructure development planning process, particularly with respect to the issuance of the documentation necessary for the construction of industrial capacities.

# Financial Planning

Timely provision of funds needed to take steps listed in previous chapters is crucial for successful planning and implementation of infrastructure projects. Both theory and practice evidence that good results in the implementation of local development activities are achieved if a local self-government contributes 70-75% of its own resources to the implementation of planned projects while the remaining 25-30% come from state, commercial and donor sources.

The review of needs of local self-governments and actual available sources of funding clearly shows that municipalities in Serbia, particularly the undeveloped ones, cannot count on the above ratio as they plan and implement their infrastructural development. The data obtained in the analysis conducted in the 25 EU PROGRES municipalities show that these local self governments lack between four and five million Euros merely for the design of project technical documentation for their top priority infrastructure projects. Furthermore, the analysis of the funds allocated within the budgets of these municipalities indicates that the amounts of funds earmarked annually for these purposes are much lower than the actual needs. This can, above all, be ascribed to the fact that the local self-governments have to satisfy other needs from their modest budgets, especially those of the direct users of the local budgets.

In view of the fact that the Law Amending the Law on Local Self-Government Funding [Službeni glasnik RS, No. 47/11], that has been implemented since 1 October 2011, inter alia lays down that 80% of income tax, which is paid by the place of residence of the worker, shall belong to the municipality in which s/he resides, municipal budgets will have specific amounts of funds they would definitely be able to allocate for development of infrastructure projects. As of 2012 budget year, this will change the traditional relationships between the municipalities, on the one hand, and the state and financial institutions, on the other, as regards the funding and implementation of infrastructure projects. Namely, the implementation of local infrastructure projects will no longer be mostly carried out through the programmes and projects of the state authorities and organisations; rather, project planning, funding and implementation will largely depend on the municipal bodies, their decisions, and in general, their readiness.

In addition to sources and volumes of funding for infrastructure development, municipalities also face a problem regarding planning of both the volume of infrastructure investments and the investment dynamics in the longer term.

Specifically, the Budget System Law of Serbia defines the process of preparing, adopting and executing local self-government unit budgets. The very process of preparing and adopting the budget of a local self-government unit for the next financial year lasts from June to December. The financial year covers a period of 12 months, which begins on 1 January and ends on 31 December of the calendar year. Although the Law envisages that the budget preparation process takes into account the investment needs not only in the financial year the budget is being prepared for, but in the following two years as well, this approach is not reflected in the prioritisation of infrastructure projects at the local level. Given the lack of capital investment plans and infrastructure master plans, which would provide full insight into the investment framework and the need for infrastructure projects, on the one hand, and clearly prioritise infrastructure projects and ensure their correlation on the other, infrastructural development has boiled down to reacting to the problems that have appeared or to prioritising on the basis of subjective assessments.

number	Municipality	Budget expenses for planning documentation (spatial and urban plans)*						Budget expenses for project-technical documentation and feasibility studies					
		2008		2009		2010		2008		2009		2010	
		000 rsd	%	000 rsd	%	000 rsd	%	000 rsd	%	000 rsd	%	000 rsd	%
1	Novi Pazar	NA	NA	756	0.08%	2,256	0.10%	NA	NA	985	0.11%	4,507	0.19%
2	Tutin	1,952	0.49%	2,680	0.76%	NA	NA	8,970	2.26%	1,593	0.45%	NA	NA
3	Sjenica	37	0.01%	463	0.12%	NA	NA	0	0%	0	0%	NA	NA
4	Bosilegrad	309	0.22%	15	0.01%	NA	NA	0	0%	0	0%	NA	NA
5	Leskovac	NA	NA	1,696	0.09%	59,848	2.90%	NA	NA	0	0%	1,511	0.07%
6	Crna Trava	0	0%	0	0%	NA	NA	0	0%	0	0%	NA	NA
7	Nova Varoš	3,116	0.67%	4,257	1.15%	NA	NA	3,154	0.68%	10,274	2.78%	NA	NA
8	Trgovište	NA	NA	66	0.08%	68	0.05%	NA	NA	0	0%	0	0%
9	Zitorađa	0	0%	0	0%	NA	NA	0	0%	0	0%	NA	NA
10	Bujanovac	350	0.06%	123	0.02%	NA	NA	0	0%	509	0.09%	NA	NA
11	Madičin Han	0	0%	226	0.11%	NA	NA	0	0%	0	0%	NA	NA
12	Surdulica	3,195	0.97%	535	0.15%	NA	NA	0	0%	0	0%	NA	NA
13	Prijepolje	182	0.04%	0	0%	NA	NA	2,217	0.44%	5,756	1.14%	NA	NA
14	Blace	NA	NA	496	0.32%	NA	NA	NA	NA	1,000	0.64%	NA	NA
15	Raška	NA	NA	4,858	0.82%	1,806	0.29%	NA	NA	4,613	0.78%	10,025	1.63%
16	Lebane	NA	NA	0	0%	NA	NA	NA	NA	0	0%	NA	NA
17	Medveđa	88	0.04%	191	0.09%	NA	NA	NA	NA	1,534	0.76%	2,086	1.02%
18	Masotinice	NA	NA	0	0%	NA	NA	NA	NA	0	0%	NA	NA
19	Priboj	NA	NA	0	0%	NA	NA	NA	NA	0	0%	NA	NA
20	Preševo	NA	NA	346	0.08%	115	0.02%	NA	NA	0	0%	0	0%
21	Vranje	888	0.07%	7,802	0.55%	NA	NA	7,744	0.64%	15,877	1.12%	NA	NA
22	Bojnik	217	0.18%	172	0.13%	NA	NA	610	0.49%	1,112	0.83%	NA	NA
23	Prokuplje	NA	NA	33,574	5.23%	NA	NA	NA	NA	1,000	0.16%	NA	NA



In view of the above, it is necessary to introduce a systematised approach to investment infrastructure planning at the local level. This can be achieved by clearly defining infrastructure needs in capital investment plans and infrastructure master plans and planning budget funding by taking into account a period of time exceeding one year, i.e. at least three years as envisaged by the Budget System Law.

# Project Management

The experiences of the European Union (EU) funded programmes which had focussed on raising municipal administrative capacities in the South and South West Serbia, [e.g. Municipal Development in the South West Serbia Programmes – PRO 1 and PRO 2, Municipal Improvement and Revival Programmes - MIR 1 and MIR 2], but also the ongoing EU PROGRES, are quite similar and sufficiently relevant to be able to draw conclusion that the local administrations lack capacity to manage projects transparently and with accountability. This was demonstrated during implementation of projects where local self-governments were granted funds on the condition they implement projects in accordance with the laws of the Republic of Serbia.

The identified problems are the consequence of insufficient capacities of the local self-governments in the field of investment development planning and insufficient modern-day project cycle management skills of the municipal teams.

Public procurement procedures are by large applied without paying enough attention to the specific features of the projects. Most public procurement services are independent structures and do not cooperate enough with specialised experts, which has resulted in the poor quality of technical sections of tender packages of infrastructure-related procurements. The practice, under which the precise technical and general sections of a tender package form the basis for the quality performance of activities during project implementation, has not been developed. The reasons lie in the low quality of the project technical documentation, which has paid little attention to detailed specifications and estimates in the last few decades.

The contract models applied in practice are extremely meagre and do not define the rights and obligations of the contracting parties precisely, which has frequently led to disputes. The International Federation of Consulting Engineers (FIDIC) forms of contract, which are increasingly embraced across the world, are hardly ever applied with respect to local infrastructure projects. It has also been noted that there is no practice of evaluating projects apart from the technical compliance inspection marking the completion of works. Project implementation monitoring has not been clearly established either.

The situation can be rectified by improving:

- ▶ The public procurement process – by training the public procurement units in addressing the specificities of infrastructure projects
- ▶ By introducing FIDIC contract models in the procurement of services, design, construction and project monitoring (Red, White and Yellow Books)
- ▶ Project monitoring, completion and evaluation – by training the teams in monitoring and overseeing projects in accordance with good project management principles.

# Conclusion

The analyses has shown that the existing legislation, especially one that regulates planning and construction, is not an impediment for preparation of technical documents needed for raising funds and implementation of local infrastructure projects. However, planning in general, particularly that relating to implementation of infrastructure projects through investment plans, is a field where the municipal management and expert units must further harmonise, both in short and long term.

Local self-governments lack quality planning documentation. For example, failure to design and adopt spatial plans, which are the main documents giving guidelines for further planning, is the first obstacle in development of infrastructure projects at the local level. Furthermore, adopted local plans frequently do not reflect the real development needs. In case of detailed regulation plans, very often those are prepared only when the possibility of an investment in a specific project arises. As the development and adoption of such plans can take several months, this approach can put off the financiers and result in abandonment of investments. Finally, such situation is a result of the absence of municipal capacities to design planning documentation and, on the other, in the financial constraints preventing them from entrusting these duties to third parties.

The inadequacies of the planning process are additionally exacerbated by the annual-based budget system. Absence of long-term investment plans reduces the budget planning process to the distribution of budget funds to the budget users in accordance with their needs, without a clearly defined development component. Municipalities will have to plan funds for preparing projects within their budgets given that it is not common practice (although not unknown) for the international organisations or the state through its sectoral programmes to provide funds for preparation of projects.

There are clear indications that the real estate cadastre is another bottleneck in the process of infrastructure project planning and development. Municipalities need to be provided with assistance to fully digitalise and update their geo-spatial data, which will ensure much faster and more effective provision of services, prerequisite for the infrastructure development planning process.

Public procurement procedures are often applied without paying close attention to specific features of the projects, which results in the poor quality of technical sections of the tender packages regarding infrastructure-related procurements. Once the procurement is finalised, the contracts prepared with the implementers are meagre and do not define the rights and obligations of the contracting parties precisely, leading to frequent disputes.

Finally, assuming that a large number of municipalities at one point manages to start subsequent budget year with ready project technical documentation, within a quality legislative environment, with prepared development and investment plans and earmarked funds for designing project technical documentation, they must have staff trained in implementing project management activities. Such skills are required both of senior staff, heads of municipal departments, and those within municipal bodies, public utility companies, public institutions and other legal entities founded by the municipalities.

If Serbia is to promote investments, address socio-economic problems and ensure positive demographic effects in the longer term, and thus achieve a business environment enabling sustainable economic growth, then it will have to start managing its projects in accordance with the legislative framework, i.e. respecting good governance principles.

# Recommendations

## To the Government of Serbia

- 1** To strengthen monitoring of work of the Republic Geodetic Authority (RGA) and ensure enhanced accountability and transparency. This could be achieved through introduction of new and improvement of existing policies and measures related to overseeing RGA, with establishment of clear accountability lines.
- 2** To facilitate and expand learning programmes for local self-governments in public procurement, project management, FIDIC contract form modality and other regulations and tools relevant for infrastructure development at the local and regional level.
- 3** To consider provision of financial and technical assistance to municipalities for development of planning and technical documentation for infrastructure projects. To channel and facilitate donor community support to the related field.

## To the Republic Geodetic Authority

- 4** To invest additional efforts in improving the quality of cadastre data and to enhance standards and consistency of services provided, especially in terms of time frameworks and requirements towards users.
- 5** To improve internal accountability and increase overall operational transparency in providing services to the customers. This, among others, may include re-defining of some existing internal policies and/or introducing new ones.

### To municipalities

- 6 Each infrastructure project should have organisation that includes relevant stakeholders and/or municipal staff who have necessary expertise and experience to ensure that technical, legal, financial and other key aspects of the intervention are properly addressed. When specific expertise is not available “in house”, the municipalities should consider hiring external consultancies.
- 7 To organise and support, when possible and appropriate with line national authorities, training of relevant municipal staff in public procurement, project management and FIDIC contract modality.
- 8 To consider introduction of multi-year capital investments plans and mid-term budget projections for major infrastructure projects, in line with relevant national framework and legislation.
- 9 To consider development and implementation of more infrastructure projects which contribute to creation of environment conducive for investments and job creation.
- 10 To recognise the importance of preparing and having ready planning and technical documentation for development of infrastructure projects. To actively seek opportunities to support development of the documentation using available municipal, state or donors’ funds.

### To the donor community

- 11 To provide financial and technical support to the Government of Serbia and municipalities in the implementation of the above noted recommendations.

# Obstacles to Infrastructure Development

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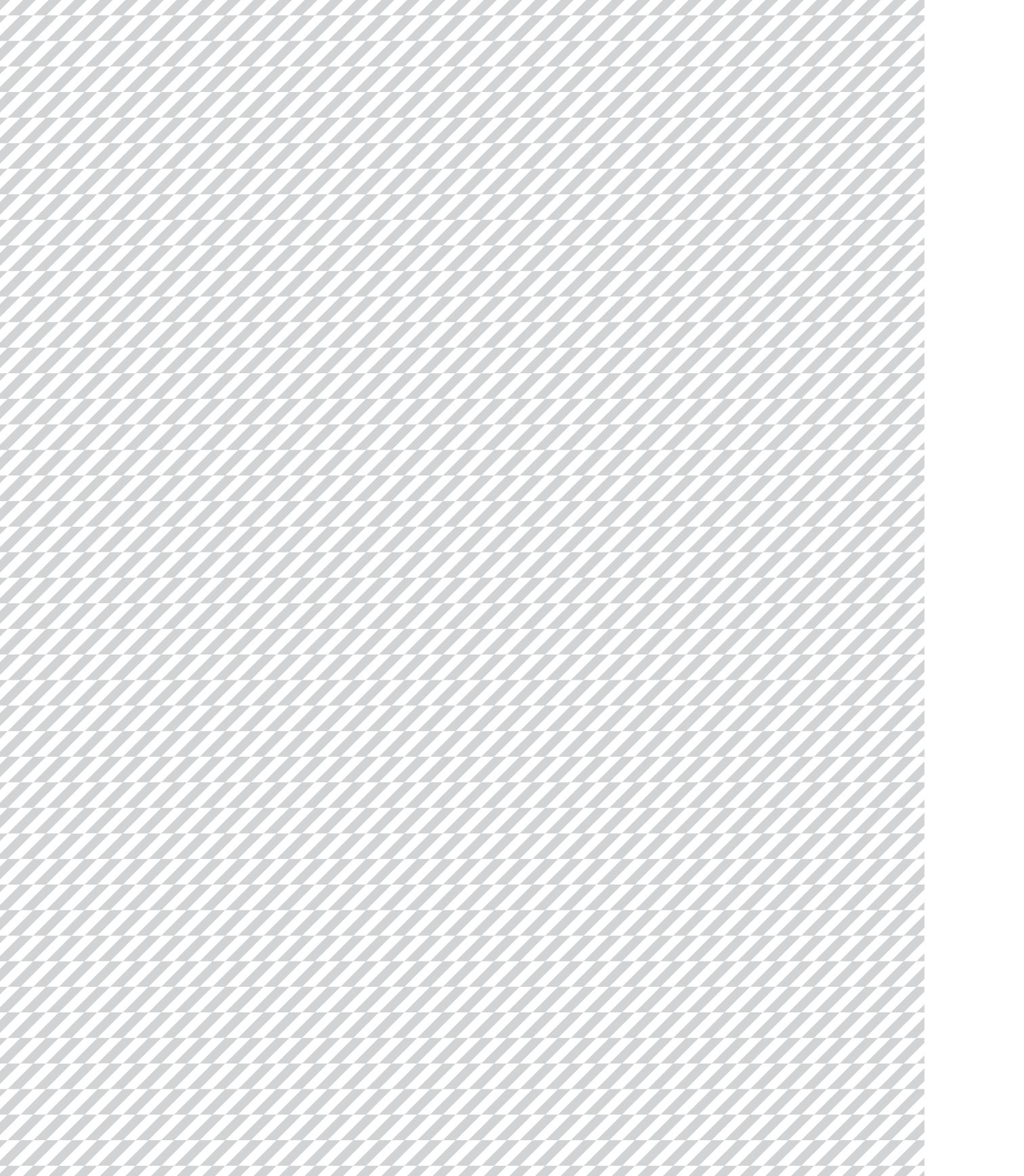
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