




Property Registration Without a Formal Decision in Serbia: Efficiency Gains and Emerging Legal Uncertainties

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Background

Under Serbian law, acquisition of title to real estate is traditionally based on a valid legal ground (*iustus titulus*) and registration as the decisive act of acquisition (*modus acquirendi*). Registration therefore has constitutional relevance, producing *erga omnes* effects and enabling reliance by third parties.

Over the past decade, the registration framework has undergone extensive reform, primarily aimed at increasing efficiency through digitalization, reduced formalism and an administrative registration process. The most recent phase of this development, introduced through amendments to the Law on State Survey and Cadastre, provides for a fast-track registration mechanism that allows title registration without the issuance of a formal administrative decision.

Registration Without a Formal Decision

The amendments to the Law on State Survey and Cadastre introduced a significant change to the registration process. Unlike the former framework, under which the right to submit a registration request was limited to professional users and public authorities, the new legislation allows any person to file an application for registration.

Following the submission of an application, the cadastral authority issues a notice confirming that the formal requirements for registration have been met and requests the submission of original documents together with payment of the applicable fees. Once these requirements are fulfilled, the cadastral authority proceeds with the registration of title without issuing a formal administrative decision. Such registration creates a legal presumption that the registered person is the lawful owner who acquired title through a valid mode of acquisition.

A registered title may be challenged by a third party, provided that a request for reconsideration is submitted to the cadastral authority within one year from the date of registration. The request must be supported by documents demonstrating that the registered title was not validly constituted or has ceased to exist. Upon receipt of the request, the cadastral authority decides on the reconsideration by issuing a formal decision.

In practice, this reconsideration procedure requires the cadastral authority to assess the evidence submitted by the parties in order to determine whether the conditions for registration were met. This exception to the otherwise highly formalized registration process is intended to accelerate registrations and contribute to the creation of an up-to-date and accurate real estate register.

The decision rendered upon reconsideration cannot be challenged through administrative appeal proceedings. However, the dissatisfied party may initiate judicial review before the administrative court. In addition, where a request for reconsideration is rejected, the decision directs the applicant to pursue a civil claim against the registered person before a court of general jurisdiction. As a result, disputes concerning title may proceed along two parallel tracks—one before the administrative court and another before the court of general jurisdiction—both of which may be required to assess the substantive merits of the competing rights.

Procedural Implications

The newly introduced mechanism of registration without a formal decision is expected to be efficient in straightforward and uncontested cases, contributing to updated cadastral records, faster market transactions and reduced administrative burden. However, the effects of earlier reforms have already reduced the number of such “easy” cases, while increasing the proportion of complex or disputed ownership situations.

In cases where the registered title is not free from doubt or where a dispute concerning ownership is likely to arise, the efficiency of the fast-track procedure may become less evident. Registration in the public records creates a legal presumption as to the existence of title, which may place the registered party in a more favorable position in any subsequent dispute.

From a procedural perspective, certain features of the current framework warrant closer attention. In particular, the cadastral authority is not required to serve a formal administrative decision on affected parties, registration is not subject to review through an ordinary appeal mechanism, and challenges to registration are limited to a one-year period commencing from the date of registration rather than from notification or actual knowledge.

In practice, these elements may result in situations where an existing title holder is adversely affected by a registration without having an effective opportunity to seek redress through the cadastral process.

Open Questions

The absence of a formal administrative decision raises the question of how affected parties may effectively exercise a legal remedy, particularly in cases where registration directly impacts constitutionally protected property rights. From both a constitutional and European Convention on Human Rights perspective, it therefore remains to be assessed whether the current framework provides procedural safeguards equivalent to those traditionally associated with decisions determining property rights.

While the fast-track registration mechanism may function efficiently in clear and uncontested cases, its implications become less certain in borderline situations where the legal basis of title is ambiguous or where competing claims may reasonably arise. In such cases, registration without a formal decision, combined with limited procedural interaction between the cadastral authority and affected parties, may indirectly affect the protection of property rights.

In particular, once a title has remained registered for a period of one year without a successful challenge, the legal framework establishes a presumption in favor of the registered owner. Although intended to promote legal certainty, this presumption may place a significant burden on previously entitled parties who were not aware of the registration or were unable to react within the prescribed time limit, thereby reducing the practical ability to protect an existing property right.

Similar considerations arise with respect to the right to an effective legal remedy. Although a mechanism for reconsideration formally exists, its effectiveness may be limited in practice, as the registration process does not operate as a genuinely two-way procedure involving timely notification and participation of all affected parties.

Moreover, the strict time limit for challenging a registration, calculated from the date of registration rather than from the moment of knowledge, may further restrict the practical availability of an effective remedy in cases where the affected party becomes aware of the registration only at a later stage.

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