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# INHERITANCE AS A BASIS FOR THE ACQUISITION OF OWNERSHIP RIGHTS OVER REAL ESTATE AND AGRICULTURAL LAND BY FOREIGN CITIZENS

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## ABSTRACT

The subject of research in the paper will be the right of foreign citizens to inherit real estate and agricultural land in the Republic of Serbia. By using the methodological-theoretical framework, the aim of the work will be the analysis of the inheritance institute, which represents the basis of acquisition of property rights on real estate and agricultural land by foreign citizens. The era of globalization favors the movement of people between countries, but each country determines the availability and scope of rights of foreign nationals according to its interests. Therefore, in order to analyze the research subject, we will use historical, descriptive, normative and content analysis methods. The conclusion will summarize the results of research on inheritance as a basis for acquiring property rights on real estate and agricultural land by foreign citizens. rights over real estate and agricultural land by foreign citizens.

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## Introduction

The legal position of foreigners includes the legal regulation by which each country regulates the availability and enjoyment of rights to foreign nationals on its territory. At the current level of legal regulation of the legal position of foreigners, the basic approach is that a foreigner (legal or natural person) has fewer rights than domestic citizens and domestic legal entities. For this reason, each country has a special legal regime for foreigners, which is based on its national regulations, as well as on international treaties. It is the right of every state to sovereignly regulate the legal position of foreigners, and how it will be regulated depends on the state's policy towards foreigners, which, we can say, is subject to change, especially due to the state's need for international cooperation and its opening to the world. The legal regime of a certain state that concerns the rights of foreigners includes the possibility of foreigners to enter and stay on its territory, to settle, to work, to enjoy various political and civil rights, to have the right of access before its courts and other state bodies (Petrović, Prica, 2020). The reason why foreign citizens do not have the same legal treatment as domestic citizens when it comes to acquiring property in real estate and other real rights is of a different nature. Sometimes it is about security reasons in the sense that foreigners cannot acquire real estate in the border area. Also, those reasons can be of an economic nature, all with the aim of preventing foreigners from economic activity in industry, trade, etc. or activities that are directly related to real estate or national reasons formulated in a general way like "benefit for the state", state interest" (Kitić, 1987). Economic and social reasons aim to prevent the rise of real estate prices, given that foreigners have greater purchasing power compared to domestic entities. In the long term, this can lead to the displacement of domestic subjects from key economic branches such as agriculture, animal husbandry and tourism (Stanivuković, 2012). These reasons can be analyzed through the prism of economic theory and social dynamics. On the economic side, increased foreign demand for real estate can result in rising real estate prices, making it harder for local residents to afford real estate. This can cause negative effects on the local economy, such as a reduction in local consumption and investment, as more capital is diverted to the real estate sector. These effects can further affect the availability of resources and increase the cost of doing business in sectors such as agriculture and livestock, which can reduce the competitiveness of domestic producers in the market. From a social aspect, the increase in real estate prices can lead to social tensions and inequality, as the rising cost of living can become unbearable for the local population. Also, there may be demographic changes due to migration of the local population in search of more affordable living conditions, which may further weaken local communities and culture. In addition to the above, we must point out that there are justified reasons for the prohibition of foreigners acquiring property on agricultural land (more in Baturan, 2013). "Agricultural land is the basic factor of agricultural production. And agriculture, as an important branch of economic life and development, represents one of the basic levers of our social development. It is an economic branch that realizes a significant trade surplus in economic relations, i.e. in exchange with other countries. In addition,

agriculture, and therefore agricultural land as its most important resource, has a decisive influence on the general development of our community, especially in the process of harmonizing economic mechanisms for the realization of certain social goals, first of all, on the implementation of reforms and transition. Agriculture is, therefore, financially the largest and most important potential segment of our European integrations, but the condition for it to really become that is to transform from the former planned, socialist, to market” (Vukićević, Stepić, Savović, 2011).

In order for a foreigner to acquire property, it is necessary that his right to property be recognized as a foreigner, and in order to be an heir, he must enjoy the right of inheritance. Inheritance as a phenomenon, temporally, has existed since the time of man. Before the emergence of states and legally regulated relations in society, it existed as a phenomenon that had, above all, biological and social contents. In the biological sense, we recognize inheritance as the transfer of genetic traits from parents to their offspring. Sociologically speaking, inheritance implies the transfer of social goods of the entire community and the generation that lives in it, to the generations that come after them, including the entire social relations in the community. For the aforementioned reasons, inheritance must be tied to natural laws and viewed as the transfer of all spiritual and material values, which result in the evolutionary development of man as well as the progress and development of the entire community and its culture (Počuča, Krstinić, 2022). When it comes to the right of a foreigner to inherit property on real estate, but also on agricultural land located on the territory of Serbia, it has changed over the decades, from a restrictive position, when a foreigner could not acquire real estate through a legal transaction, to a liberal position, when a foreigner can acquire real estate under certain conditions (Krstinić, Vasiljković, Langović Milićević, 2020).

### **The aim of the work**

The main goal of the work is to analyze and indicate how and under what conditions a foreign citizen can acquire ownership rights over real estate and agricultural land in the Republic of Serbia through inheritance. Also, the aim of the work is to study the position of the foreigner in different time periods, as well as a chronological analysis of the regulations concerning the studied area.

### **Methodology**

In order to accurately and systematically study the defined problematic, it is necessary to use a historical method that will enable an overview of the position of foreign citizens throughout history, as well as the historical aspect of the legal basis of acquisition. The descriptive method will be used in order to thoroughly and studiously analyze the institute of inheritance as a basis for acquiring rights to real estate and agricultural land in the Republic of Serbia. The normative method will be a special focus on the analysis of legal regulations that regulate the studied issue, especially the Law on Inheritance, Law on the basics of ownership relations, the Law on Agricultural Land and other relevant legal regulations concerning the studied topic. Through content analysis,

the basic terms that represent the subject of research will be gradually analyzed and analyzed, and the theoretical knowledge will be synthesized into a single unit using relevant bibliographic sources.

### **The concept and position of a foreigner throughout history**

When defining a foreign natural person both in legislation and in theory, it is not determined who is a foreigner, but who is not a citizen. Therefore, the starting point when defining the concept of a foreigner is the concept of a citizen. Thus, in our legislation, in accordance with the Law on the Resolution of Conflicts of Laws with Regulations of Other Countries (Official Gazette of the SFRY, no. 43/82 and 72/82 - corr., Official Gazette of the FR Yugoslavia, no. 46/96 and Official Gazette of the RS, no. 46/06 - a natural person who has foreign and Serbian citizenship is considered a Serbian citizen, and if he has more than one foreign citizenship, he is considered a citizen of the country in which he resides. If a person does not have a residence, he is considered to have the citizenship of the country with which he has the closest relationship (Article 11). According to the Law on Foreigners (Official Gazette of RS, no. 24/18, 31/19), a foreigner is any person who does not have citizenship of the Republic of Serbia. According to the ruling position in the theory and legislation of stateless persons - stateless persons are considered foreigners. We are talking about persons that no country, according to the regulations in force in it, recognizes as its citizens. Such a situation can occur by birth, when a person is born in such circumstances that he does not acquire the citizenship of another country under any law, or if a person loses his citizenship and does not acquire the citizenship of another country. On the other hand, bipatris, dual citizens, who have another citizenship in addition to Serbian, will not be considered as foreign natural persons (Carić, 2006).

Throughout history, the position of foreigners has changed, from their complete denial, non-recognition of any rights, to their equalization with domestic citizens. In the old century, foreigners were considered enemies and had no rights (Krstinić, Vasiljković, 2019). In Greece and Rome, the attitude towards foreigners is softened by the possibility of the foreigner enjoying certain rights based on international treaties or by granting special privileges to some foreigners. In ancient Greece, were there "isopolity" contracts that granted certain civil rights to foreigners of the contracting states, such as the right to acquire ownership of certain things (Panić, 2017). In the Middle Ages, foreigners are unwelcome, but "tolerated". With international trade come foreigners, who are in fact the carriers of this activity. They mostly stay temporarily, but they also settle permanently and enter into various legal relationships on the domestic territory. However, their legal position is not secure and certain, because it happened that they were expelled, their property was confiscated, and they had to pay special taxes and duties. Different forms of discrimination against foreigners were present, and foreigners could not be heirs, and the property of a deceased foreigner belonged to the feudal lord, if it was located on his territory. On the other hand, there were situations when certain rights of foreigners were recognized and guaranteed by international

treaties from the then existing small states, as well as by royal charters. With the bourgeois revolution and its postulates, the attitude towards foreigners also changed significantly. The stranger is no longer an enemy, nor is he unwanted. It is treated as a subject of law, although certain limitations and conditions of certain rights of foreigners are foreseen, including exclusion from their enjoyment. In this period, the phenomenon of favorable treatment of foreigners appears, through so-called capitulations. This was an institute by which citizens of a country enjoyed preferential treatment in a country that accepted capitulations. That special treatment was expressed in the exclusion of those foreigners from domestic jurisdiction, as well as in guaranteeing the enjoyment of certain rights. Capitulations no longer exist today, but the phenomenon of securing a special privileged position for foreigners from a certain country has persisted, and it is achieved through international agreements and comes to the fore in foreign investments, the right to conduct international payments, etc. The appearance of various alliances between states, political, economic, military, as a rule affects the legal position and treatment of citizens and legal entities from states in such an alliance. One of the latest examples is the European Union (Mitrović, Kumpan, 2009).

### **Historical aspect of the legal basis of the acquisition**

Historically, foreigners in Serbia have the right to acquire ownership of immovable property on the basis of legal transactions *mortis causa*, which has never been fully recognized as a general right. Nevertheless, foreigners acquired ownership rights to real estate in Serbia through legal and testamentary inheritance more easily than through legal transactions *inter vivos*. The only exception to this rule in our territory was valid until the amendment of the Serbian Civil Code in 1852, when the right to property for foreigners based on legal transactions *inter vivos* was recognized as a general right. Until 1923, the old system was valid in Yugoslavia from 1852, according to which the right of foreigners to acquire immovable property on the territory of the Kingdom was an absolutely reserved right. According to the Law on budget twelfths for July and August 1923, the right of foreigners to acquire real estate in Yugoslavia becomes a relatively reserved right, because they are given the right to in the so-called in the inner zone they can acquire real estate freely under the condition of factual reciprocity (Bartoš, 1951). On the other hand, the right to property based on legal transactions *mortis causa* was recognized as a relatively reserved right, which was in fact based on some kind of approval. An important feature of this right was related to the distinction between testamentary and legal inheritance regimes. The approval system that was valid between the two world wars, until the entry into force of the Regulation on control of real estate transactions from 1948 (Official Gazette of the FNRJ, No. 24/48) and related only to the acquisition of property rights to real estate through testamentary inheritance. For foreigners, the acquisition of property rights on immovable property has been recognized internationally as a general right. Since the adoption of this regulation, the acquisition of ownership of immovable property through a will has been put on the same level as legal affairs *inter vivos*, which means that foreigners were absolutely prohibited from acquiring ownership of immovable property on this

basis. Until the change, that is, until the recognition of the right of foreigners to inherit immovable property through a will or law was recognized by the adoption of the Law on the Transfer of Land and Buildings (Official Gazette of the FNRJ No. 19/55) and the Law on Inheritance (Official Gazette of the FNRJ No. 20/55) . According to the provisions of Article 159, paragraphs 2 and 3 of the Law on Inheritance, a foreign citizen could not, on the basis of inheritance, have more agricultural land in the SFRY than a Yugoslav citizen could, and a foreign citizen was entitled to monetary compensation for the agricultural land he could not own..

### **Acquisition of property rights - legal regulation**

In accordance with international agreements, the Constitution of the Republic of Serbia (Official Gazette of the RS, no. 98/06 and 115/21) guarantees to foreign persons all the rights guaranteed by the Constitution and the law, with the exception of the rights that, according to the Constitution and the law, only citizens of the Republic of Serbia have (Article 17). . The aforementioned provision actually means that foreigners are guaranteed all the rights that are not specifically reserved for domestic citizens by the Constitution and laws.

The acquisition of property rights by foreigners represents a property legal relationship with an international element and therefore the Law on the Resolution of Conflicts of Laws with the Regulations of Other Countries (“Official Gazette of the SFRY”, no. 43/82 and 72/82 - corrected, “Official Gazette of the FRY” applies “, No. 46/96 and “Official Gazette of RS”, No. 46/2006 - other law) in order to determine the applicable law. The provision of Article 18, paragraph 1 of this Law prescribes that for property legal relations the applicable law is the place where the thing is located, which means that Serbian law is applicable. When it comes to the acquisition of property rights through mortis causa legal affairs, it is regulated by internal and international legal sources. The right of foreign persons (individuals and legal entities) to acquire property rights on real estate in the territory of the Republic of Serbia through legal transactions inter vivos and legal transactions mortis causa is regulated by the Law on the Basics of Property Relations. This Law defines in detail the conditions and procedures under which foreign persons can acquire real estate, taking into account the specificities of the legal system of the Republic of Serbia and the need to protect national interests. According to the provision of Article 82a of the aforementioned Law, our country, in terms of acquisition of real estate and other real rights from foreign natural and legal persons, is included in the list of countries in which these rights are relatively reserved rights, that is, foreigners are allowed to acquire real estate if the general conditions are met, without regardless of whether the method of acquisition is by inheritance or legal transaction inter vivos. Natural and legal persons may have ownership rights to residential buildings, apartments, office buildings, business premises, agricultural land and other immovable properties, except for natural resources that are state property (Article 9 of the Law on the Basics of Property Relations). A foreign natural person who does not perform economic activity on the territory of the Republic of Serbia

may, under the condition of reciprocity, acquire the right of ownership of an apartment and residential building. Pursuant to the provisions of Article 82b of the Law on the Basics of Ownership Legal Relations, a foreign natural person may, on the territory of the Republic of Serbia, acquire the right of ownership of immovable property by inheritance, as well as domestic citizens, under the condition of reciprocity. A similar provision is contained in the Law on Inheritance (Official Gazette of the RS, no. 46/95, 101/03 - decision of the USSR and 6/15). More specifically, the provision of Article 7 of this Law stipulates that foreign citizens in the Republic of Serbia have, under the condition of reciprocity, the same hereditary position as domestic citizens, unless otherwise determined by an international agreement. Reciprocity in inheritance is regulated by bilateral conventions, that is, agreements with several countries (Babić, 2021). These bilateral conventions and international agreements are important for determining the inheritance-legal position of foreigners because they regulate issues of reciprocity, governing law, testamentary capacity, form of will, jurisdiction in probate matters, measures to protect inheritance, cases of inheritance without heirs, etc. (Carić, 2006). On the other hand, when it comes to the acquisition of ownership rights to agricultural land, the legislator, by provision of Article 1, paragraph 4 of the Law on Agricultural Land (Official Gazette of RS, no. 62/2006, 65/2008 - other law, 41/2009, 112/ 2015, 80/2017 and 95/2018 - other laws stipulated that the owner of agricultural land cannot be a foreign natural or legal person, unless this law stipulates otherwise in accordance with the Stabilization and Association Agreement between the European Communities and their member states , on the one hand, and the Republic of Serbia, on the other hand. However, although this prohibition is explicit, there are ways in which foreign persons can acquire ownership rights on agricultural land. One way is to establish a so-called Special Purpose Vehicle. “Special Purpose Vehicle, by definition, is a company that is established in order to fulfill the narrow, specific, temporary goals of another company, that is, the company that founded it. It is usually used to acquire ownership of a particular asset/part of an asset and facilitate the easier transfer of that asset. Bearing in mind what has been said, foreign natural and legal persons can take advantage of the legal opportunity to establish a company in Serbia, which, regardless of the fact that its founder is a foreigner, will be viewed as a domestic legal entity under Serbian law. Therefore, that company will be able to buy land in Serbia under the same conditions under which all domestic persons can, i.e. they will be able to acquire ownership of agricultural land as well” (Žunić, Medić, 2024). Baturan (2017) confirms that foreigners indirectly acquire large areas of arable land precisely by establishing legal entities in the Republic of Serbia. By purchasing a domestic legal entity that already owns agricultural land, a foreign natural or legal entity establishing ownership of the company automatically establishes ownership of all its assets - including agricultural land. We can say that our legislator allows the above because according to the provisions of Article 3 of the Law on Foreign Trade (Official Gazette of the RS, no. 36/09, 36/11 - other laws, 88/11 and 89/15 - other laws) persons or branches of legal persons that have their headquarters, i.e. that are registered in the Republic of Serbia, are considered domestic persons. So, foreigners can indirectly acquire ownership rights

to agricultural land through a domestic legal entity, with the fact that it will be registered to a domestic entity, but essentially it is owned by a foreign entity. That foreigners use this possibility is confirmed by practical data that foreigners in Serbia own about 35,000 ha of agricultural land. And Kuzmanović states that according to the data from 2017 of the Agency for Business Registers, “in Serbia, there are 5,400 foreign legal entities and 7,694 natural persons who have companies here with 100 percent ownership, while on the records of the Republic Institute of Statistics there are 5,302 foreign natural persons and 4,658 legal entities a company with a partial ownership share” (Kuzmanović, 2017). Taking into account that the Republic of Serbia accepted the Stabilization and Association Agreement, it undertook to amend its legislation in accordance with the aforementioned Agreement, and in connection with the acquisition of ownership rights to agricultural land. citizens within four years from the date of entry into force of the Agreement. With the provision of Article 72đ of the Law on Agricultural Land, the legislator specified the conditions under which a citizen of a member state of the European Union can acquire agricultural land. “By adopting the amendments in 2017, our legislator only temporarily prevented the tenants from acquiring ownership rights over agricultural land, which means that nothing has changed in the long term.” We are of the opinion that the Republic of Serbia will have to equalize the rights of foreigners, ie citizens of the European Union, with the rights of domestic citizens when it comes to acquiring property rights on real estate, including agricultural land. The question that arises is whether the legislator will do it under the pressure of the European Union or the judicial authorities.” (Krstinić, Vasiljković, Langović Milićević, 2020).

### **Inheritance-legal matter - legal position of foreigners**

One of the relevant principles on which the inheritance-legal position of foreigners in the law of the Republic of Serbia is based is the principle of equality or equality in relation to domestic citizens, which is not absolute in nature because it is conditioned by the existence of reciprocity with the foreigner’s country. Namely, on the territory of Serbia, a foreign natural person can, under the condition of reciprocity, acquire the right of ownership over immovable property by inheritance, just like a citizen of Serbia (Article 82b of the Law on Establishing Ownership Legal Basis). Formal reciprocity exists when a foreign citizen in our country has the same inheritance rights as domestic citizens, if the country of the foreign citizen recognizes our citizens with the same inheritance rights enjoyed by its citizens (Stanojčić, Vuković, 2021). The disadvantage of this type of reciprocity is that it does not guarantee balance regarding the enjoyment of certain rights. “Material reciprocity exists when there is essential symmetry in the content of the right, its subject and scope, the conditions that are set for the enjoyment of that right” (Stanivuković, Živković, 2013). Reciprocity in inheritance can be contracted if it is established by an international treaty or bilateral government agreement, and in this case it is a question of diplomatic reciprocity. When no contract has been concluded in this sense, Serbia recognizes inheritance rights to foreigners because their country recognizes it to our citizens, then there is *de facto* reciprocity (Babić, 2021). In practice, there is also a legal type of reciprocity that arises when in



a country the availability of certain rights to foreigners is guaranteed in the domestic law and in this way the rights of foreigners in a certain legal area are determined, i.e. the availability of a right to foreigners in the home country (Varadi, Bordoš, Knežević, Pavić, 2007). As an example of the above, we can cite the Law on Inheritance of the Republic of Serbia, which in Article 7 defines that “Foreign citizens in the Republic of Serbia have, under the condition of reciprocity, the same inheritance position as domestic citizens, unless otherwise determined by an international agreement.” Also, the Law on the fundamentals of legal property relations, the provision of Article 82b prescribes: “A foreign natural person can, on the territory of the Federal Republic of Yugoslavia, under conditions of reciprocity, acquire the right of ownership of immovable property by inheritance, just like a citizen of the Federal Republic of Yugoslavia.” The above actually means that if they are in foreign countries also the rights guaranteed by law to persons who are foreigners in those countries to inherit under the condition of reciprocity, there is legal reciprocity between the Republic of Serbia and the respective foreign countries in the field of inheritance.

A court or other state body before which the question of the existence of reciprocity is raised can request an explanation from the Ministry of Justice (Article 82v, paragraph 2, of the Law on the Establishment of Property Rights). However, these rules do not apply to apatrides (persons without citizenship) because they should have the same inheritance rights, as domestic citizens, because the condition of reciprocity cannot be demanded of them. In practice, the competent authority uses the table on the existence of reciprocity, which is highlighted on the website of the Ministry of Justice (Ministry of Justice). However, the question can be raised whether they are using it correctly, that is, whether they are taking into account which category of tenants and which type of real estate is involved, because e.g. if it is a foreign natural person who does not perform an activity, he cannot be the owner of agricultural land, given that the Law on Agricultural Land is applied, not the Law on the Establishment of Property Rights (Stanković, 2016).

What is obvious from the legal regulation of the inheritance-legal position of foreigners in Serbia, in relation to immovable property, is that the recognition of inheritance rights, under the condition of reciprocity, is only discussed when it comes to natural persons. When it comes to the inheritance rights of legal entities, taking into account that this issue is not explicitly regulated in legal provisions, in theory two positions have been formed. According to the first paragraph, foreign legal entities do not have this right, because it is not expressly provided for. As a confirmation of the above-mentioned point of view, the provisions on conflict norms in bilateral agreements are cited, according to which the real estate inheritance of a citizen of one contracting party, which is located in the territory of the other contracting party and which remains without an heir, belongs to the state in whose territory it is located (Pak, 1989). On the other hand, Jezdić (1982) believes that this right is recognized to foreign legal entities, despite the lack of explicit provisions on this, under the condition of formal reciprocity with justification for the necessity of achieving sovereign equality of states

and better international cooperation. However, according to the current legal solution in our country, the first position is represented, which stems from the rule of *lex rei sitae*, which is contained in both internal and international legal sources that regulate this issue. In addition, we believe that it would be contrary to public order to allow a foreign country to acquire property without an owner, which is located in our territory. Also, if the legislator wanted to recognize this right for a foreign legal entity as well, when formulating this issue in the provision of Article 82b of the Law on the Basics of Ownership Relations, next to the wording “foreign natural person” should also be “foreign legal entity”.

For the inheritance-legal position of foreigners in Serbia, in addition to the principle of equality, the principle of uniqueness, freedom of inheritance and the principle of limitation of the basis of reference to inheritance are also relevant. The principle of uniqueness, i.e. the universality of inheritance means that the rules of legal inheritance are the same, i.e. general, unique, universal regardless of the personal characteristics and qualities of either the testator or the heir, which means that it applies to both domestic citizens and foreigners under the condition of reciprocity, as well as regardless of the type, origin and quality of goods that are part of the legacy. The principle of freedom of bequest applies equally to foreigners and domestic citizens and it is limited in the same way for all categories of testators, by the institution of public order, the right to a necessary portion, etc. The principle of limitation of the basis of reference to inheritance means that for foreigners as well as citizens of the Republic of Serbia, the rule applies that they can acquire immovable property exclusively on the basis of legal and testamentary inheritance (Carić, 2006).

In relation to the inheritance-legal position of foreigners, the availability of some inheritance-legal institutions to foreigners is also important. A foreigner can be the executor of a will, if he is designated by the will of the testator. The provisions of Articles 112 and 113 of the Law on Inheritance do not limit the right of foreigners to be testamentary witnesses in respect of bequeathing property located on the territory of the Republic of Serbia. However, for determining the legal position of foreigners in matters of inheritance, the most relevant is the analysis of the following inheritance rights of foreigners: to dispose of their property in case of death and to be heirs. The right of foreigners to dispose of their property in case of death is their general right. In our law, a foreigner can be a testator based on the law and the will. The right of foreigners to make a will derives from the principle of freedom of bequest. Pursuant to Article 30, paragraph 2 of the Law on the Resolution of Conflicts of Laws with the Regulations of Other Countries in Certain Relationships, testamentary capacity, that is, the capacity to make a will, is determined according to the law of the country whose citizenship the testator had at the time of making the will. Also, the rules on drafting a will are evaluated according to domestic law, that is, when it comes to an inheritance consisting of immovable property in Serbia, a foreigner drafts a will according to valid Serbian regulations. Based on the provisions of Article 79 of the Law on Inheritance, the general conditions for making a will are the age of up to 15 years and the ability

to judge, and they apply equally to foreigners and citizens of the Republic of Serbia. We emphasize that Article 92 of the Law on Inheritance expressly specifies that an international bequest, as a special form of will, is valid regardless of the citizenship of the testator. When it comes to legal inheritance, the right of foreigners to be a testator is not limited by anything, except for the regulations that regulate the right of foreigners to acquire immovable property in general.

The right of foreigners to inherit real estate located on the territory of the Republic of Serbia belongs to a group of relatively reserved rights. From the previous analysis, it is evident that it is conditioned by the existence of reciprocity with the foreign country and that it only applies to foreign physical persons.

### **Conclusion**

In our opinion, the current regulations of Serbia that regulate the acquisition of property rights on privately owned immovable property by foreign citizens are insufficiently precise, which indicates the need for more detailed and clearer regulation of this matter. For this reason, we conclude that one of the possible approaches is to retain the principle of reciprocity, with additional specification of the obligation to establish material reciprocity. In this way, domestic citizens would enjoy the same rights in foreign countries as foreign citizens in Serbia. Also, we believe that it is necessary to stipulate that the determination of reciprocity is carried out by the Ministry of Justice, and not by other competent authorities, who would turn to the Ministry of Justice in case of doubt. The form of the act establishing reciprocity should be defined in order to enable the exercise of the right to a legal remedy. Finally, it is necessary to clearly prescribe the basis of acquisition of property rights on all types of immovable property by foreign citizens, in order to eliminate existing doubts and ensure legal certainty in this area.

Of course, there is an alternative solution, which is to omit the determination of reciprocity, but in that case it is necessary to precisely determine through the enumeration system which types of immovable property foreigners cannot acquire ownership of. This would include passing a law that prohibits the acquisition of property rights in certain areas, in order to protect the interests and security of the state, such as border areas or locations near military installations. These restrictions would also apply to foreign countries and international organizations. When it comes to agricultural land, it should be remembered that it is a resource of general interest for the Republic of Serbia. Accordingly, Serbia should maintain a restrictive approach to acquiring ownership rights over agricultural land. However, it is necessary to clearly define the right of acquisition through inheritance and develop mechanisms to prevent abuse of the law through the establishment or purchase of domestic companies by foreign citizens..

### **Conflict of interests**

The authors declare no conflict of interest.

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