

## THE INFLUENCE OF URBAN PLANNING CHALLENGES ON BUCHAREST'S REAL ESTATE DYNAMICS AND ON SPECIFIC MANAGERIAL DECISIONS

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### ABSTRACT

*The current paper aims to analyze the normative and administrative difficulties characterizing the real estate sector in Bucharest in recent years, with the purpose of identifying general principles to which real estate business managers in Bucharest could adhere in order to minimize the consequences of these difficulties. In order to identify these general managerial principles, we will examine the causes and effects on the market of what we will refer to as the urban planning crisis in Bucharest. The paper intends to go beyond theoretical analysis, with our focus being on assessing the market's current reactions and on identifying concrete remedies for the challenges faced by the stakeholders in this local market. Therefore, both the perspectives of the public system and the opinions of the representatives of the entrepreneurial sector will be analyzed.*

**KEYWORDS:** *Bucharest, crisis, ownership, real estate, urban planning.*

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### 1. INTRODUCTION

Real estate investments represent one of the primary manners in which private property rights over land are economically leveraged. In Romania, as in any other market economy, the realities that characterize the real estate market at a given time are determined by a multitude of distinct factors, but with complex interdependencies among them.

Highly relevant factors for the functioning of this particular market and for the establishment of its conditions are the predictability of the legislative framework and the functioning of the administrative apparatus. Therefore, it is worth noting from the outset that, in Romania, the authorization of real estate projects falls under the jurisdiction of local public authorities.

In this regard, under the specific legislation in the field of urban planning, local public authorities, or as they are commonly known, city halls, prepare urban planning documentation (i.e., general, zoning, and detailed urban plans, urban planning certificates), issue building permits or, as the case may be, demolition permits, conclude acceptance reports for construction works, and issue construction certification documents. All of these documents are necessary for a construction to enter the civil circuit, meaning it can be sold, rented, or otherwise put to use.

As a consequence, administrative issues such as the illegality of such kind of documents, their annulment by a court of law, their issuance with errors or delays, or, as the case may be, the inefficient functioning of the city hall's administrative apparatus can lead to the slowdown, complication, or, in extreme cases, even to the failure of real estate projects. For this reason, when such administrative

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problems become recurrent at the level of a specific administrative unit, the real estate market within that unit is adversely affected, and market representatives must adapt their business strategies based on such negative local characteristics of the market. In other words, in situations where, due to issues related to the local public sector, a so-called *local urban planning crisis* emerges, real estate business management must be adjusted according to the specific elements of that crisis. This is done in order to minimize as much as possible the risks that could lead to the failure of the business.

Bucharest, the primary economic and financial center of the country and also the most populous city in Romania, has been facing legal and administrative challenges in recent years when it comes to authorizing and implementing construction works. These difficulties inevitably have economic repercussions and affect the way real estate development businesses are organized and managed. We thus consider it highly valuable to identify certain generally applicable principles for organizing a real estate business in the context of the recurring urban planning issues in Bucharest. This, essentially, is the practical focus of our current work.

For this purpose, it is necessary to investigate the main causes of the issues characterizing this local market, their primary consequences, the risks they pose to real estate businesses, and, obviously, what could be the general principles and rules that any such business operating in Bucharest could adhere to in order to minimize these risks. Therefore, from a methodological standpoint, we consider it essential not only to outline the existing issues based on information made publicly available by local authorities but, preferably, it is also useful to monitor the reactions of market agents to such recurrent problems - in order to study the reactions of the *immune system* of these businesses.

Furthermore, the author's professional experience in the real estate field and his practical knowledge of the specific market in Bucharest is leveraged within this paper, which is not purely theoretical and which represents the result of an applied research.

Beyond this optimistic statement, it is important, however, to emphasize that the management of any real estate business in Bucharest, as in any other place, must take into account the specific dimensions of the concrete issues that a certain business faces at a given moment, along with the particular challenges that affect each piece of land where construction is planned. In other words, the problems encountered by real estate developers can vary not only from district to district but even from land plot to land plot. That is why we recommend that, in addition to adhering to general managerial principles which could be beneficial to any business, the prevention of entrepreneurial failure in times of urban planning crisis to be achieved through a specific risk mitigation process that should be in its turn tailored to the unique and specific risks of each real estate project and to each real estate company. Thus, in essence, we are not claiming and cannot claim to have discovered a *panacea*.

Equally, we mention and even underline that this paper stands out for the originality of the topic addressed, being, according to the author's research, the first paper to approach the economic dimension of recent dysfunctions in local urbanism in Bucharest in a scientific manner. Therefore, as it is challenging to identify a useful academic bibliography for the treatment of the particular topic addressed, we will present the conclusions drawn from sources intended for the general public's information, as well as from sources aimed at informing the business environment (e.g., articles from the general press, articles from the specialized economic press, studies of various real estate business clubs and organizations).

Practically, a specific and original feature of this paper is that it addresses a highly applied problem, with an exceptionally concrete and well-defined scope in terms of time and space (i.e., a particular situation specific to the evolution in recent years of a particular market in Bucharest), employing a paradigm and methodological elements that are distinctly academic.

## **2. THE MAJOR CAUSES OF THE *URBAN PLANNING CRISIS* IN BUCHAREST**

In our opinion and in synthesis, the *urban planning crisis* in Bucharest can be attributed to two major causes: the first one is represented by uncertainties regarding the regulatory acts that govern urban development in Bucharest, and the second cause is related to certain recurring difficulties encountered in the day by day operation of urban planning public services under the jurisdiction of local public administration.

### **2.1. The uncertainties regarding the regulatory acts that govern urban development in Bucharest**

Regarding the first cause, two main aspects need to be mentioned:

- Firstly, the general urban plan of Bucharest dates back to the year 2000, and it has failed to keep up with the city's evolution and expansion. This plan expired as early as 2010 but was subsequently extended by local authorities, as also specified recently in business press (Economedia, 2023). A new general urban plan is currently under development, but its associated procedures have been administratively blocked between 2014 and 2023. An optimistic estimate places the completion of the new general urban plan in the year 2024. It is worth noting that the current general urban plan has faced legal challenges, it being annulled in the first instance in 2022. Mr. Toni Greblă, the former Prefect of our capital city, has expressed in December 2022 official concerns that if the new general urban plan is not approved in due time, this failure could lead to significant urban disarray, potentially causing a stagnation of development in Bucharest. Mr. Toni Greblă also mentioned in a press statement (Vasiliu, 2022) the risk of the same situation driving away major investors, which might take several years (i.e., 5-6 years) to regain their interest in the city;
- Secondly, there have been and there continue to be issues related to the zonal urban plans of the districts of Bucharest, which have been suspended or even annulled by courts of justice over time. It is important to note that carrying out a real estate project of a certain scale is impossible in an area where a zonal urban plan does not produce its legal effects. Furthermore, there are zonal urban plan projects that have been under review by local authorities for several years, and their introduction into the legal circuit has been severely delayed for various technical reasons.

The synergistic effect of these two dimensions of this primary cause is a *paralysis* of local urban development.

### **2.2. The recurring difficulties encountered in everyday operation of local urban planning public services**

As regards the second cause, we consider the opinion expressed by a representative of a reputable architecture firm in Bucharest in an interview given to the specialized press in August 2022 (Arena Construcțiilor, 2022) to remain valid. According to that professional opinion, certain factors prevent the public urban planning services in Bucharest from reaching the highest standards: the low speed at which the public administration operates, the shortage of personnel in the administration (i.e., the high workload of public servants), an ambiguous, unclear communication with the beneficiaries of public urban planning services (i.e., lack of transparency) and the complexity of local bureaucratic procedures.

Furthermore, it is well-known that the inter-institutional cooperation between the public authorities and institutions with responsibilities in the field of urban planning does not reach an optimal level in Bucharest, several mutual accusations being made over time by the representatives of these authorities and institutions in this regard. For example, in a recent press statement (Mihai, 2023), the General Mayor of Bucharest, Dr. Nicușor Dan, directly accused the State Inspectorate in Construction and the Bucharest Prefecture of not properly fulfilling their duties in the field of construction, as well as he indirectly accused unspecified district city halls for issuing building permits without adhering to legal provisions. It should be mentioned that, in the same context, the General Mayor stated that 50% of the building permits issued at the level of the public administration in Bucharest are affected by legality issues.

All these aspects, presented succinctly, lead to significant deficiencies in urban planning and have negative effects on the local economy.

### **3. A LOCAL CRISIS WITH AN EXTENT THAT IS CHALLENGING TO QUANTIFY**

#### **General remarks**

The fact that the real estate sector faces certain difficulties in Bucharest is visible to anyone involved in this sector, from architects and real estate developers to clients looking to buy or rent a property. The practical reality is widely known and has its effects in hindering the local economic environment, even independently of any theoretical considerations.

Even though the everyday reality in this regard is far from ideal, measuring the extent of the crisis of Bucharest's urbanism remains a challenging theoretical endeavor. From our perspective, the difficulty of translating this specific economic reality into numbers and theorizing the phenomenon remains complex and rather unfeasible for at least the following three reasons:

- The slowdown in the dynamics of the real estate market is, as a principle, the result of a cumulative set of factors that remain distinct, even in the presence of interdependencies. In practice, it would be absurd to assert that aspects such as real estate demand and supply, real estate development costs, prices and rents on the market, or the number of real estate transactions within a given timeframe depend solely on the efficiency with which local public authorities manage public services in the field of urban planning in a specific locality. There are numerous micro and macroeconomic and social aspects that have no connection to the efficiency of local public administration, but greatly influence the local real estate market. Therefore, a narrow focus solely on the administrative dimension of the issue cannot be sufficient for understanding the outcome of a combination of factors, and stating otherwise would simply indicate a mistaken and very superficial understanding of the analyzed problem;
- Secondly, the image of the issue under study is one that has the potential to be in a constant state of evolution (i.e., a kind of *work in progress*). More specifically, urban planning documents such as the general, zoning, and detailed urban plans represent normative administrative acts, so administrative litigation legislation allows for the filing of an action to annul them without a time limit. Therefore, such a plan can be successfully challenged in court even after the issuance of an urban planning certificate or of a building permit based on it. While in theory the urban planning certificate and the building permit should survive the annulment of such a plan, there have been numerous situations in Bucharest where they were considered by local courts to be administrative acts subsequent to the annulled plan and, thus,

they have been consequently invalidated in court. In conclusion, as regards urban planning, it is very difficult to assert that there is a point at which the legal status of a construction is infallible, allowing it to be transacted within the civil (economic) circuit without the presence of any hidden risks that could sooner or later lead to the suspension of the construction's circulation in the market (in the legal and commercial meanings of the term);

- Last but not least, the true extent of the phenomenon is difficult to be evaluated within the unfortunate context where certain administrative practices create a perpetual state of uncertainty regarding the status of a construction and in the context in which the competent authorities in Bucharest often display a certain reluctance in releasing relevant official statistical data regarding urban expansion.

These two last aspects require additional clarifications, as follows:

### **Local administrative practices that create a perpetual state of uncertainty regarding the status of a construction**

The quantification of urban expansion should be pragmatically approached by considering the number of new buildings that have entered the economic circuit, meaning those buildings that can be legally bought or, as the case may be, rented. As long as a building cannot be traded or even legally put to use, it cannot be fully exploited in terms of its economic and social potential. For a building to enter the economic circuit, it is necessary, according to Romanian legislation, for it to be firstly registered with a land book. The registration process requires the certification of the building's construction, a procedure that follows the review and acceptance of the construction works by the local authority, which, in turn, follows the actual construction of the building. The construction can only take place after obtaining the building permit and for the issuance of a building permit, an urban planning certificate is necessary. In turn, the urban planning certificate is issued in accordance with the provisions of an existing urban development plan (general, zonal or detailed).

Analyzing the previous statements in the context of the described sequence of stages, the conclusion is that the truly relevant indicator for understanding the dynamics of urban expansion in a locality is represented by the number of new buildings registered with the land book, rather than by the number of building permits issued, as one might be tempted to assume at first glance. It is important to note both the fact that a single real estate project may require a succession of building permits, especially if deviations from the initially approved technical specifications occur, and that the mere issuance of a building permit does not guarantee the project's completion and registration in the cadastral registry. As a consequence, although not entirely irrelevant to the studied theme, we consider that the number of building permits issued in a certain locality over a specific period of time does not, at least in Romania in general and in Bucharest in particular, provide the correct perspective through which urban development should be perceived.

Moreover, what can be summarized in simple words is that as we approach the final administrative operation, namely the registration of the construction with the land book, the numerical data related to the analyzed administrative operation become more conclusive for understanding the evolution of urban planning. Therefore, it is more relevant to know how many constructions have been registered with the land book within a period of time than how many have received a certification, it is more relevant to know how many constructions have been reviewed and accepted by the local authority than how many building permits have been issued during the analyzed period, etc. Theoretically, the review and acceptance by the local authority of the new building attest to the fact that it was constructed in compliance with the provisions of the building permit. Once this stage is successfully

completed, theoretically, there should be no further obstacles to the integration of the newly built building into the economic circuit. The subsequent steps, such as certifying the construction of the building and registering it with the land book, are generally more formal and less susceptible to major difficulties.

The practical situation in Bucharest is, however, often different. In a press statement in February 2023 (Digi24, 2023), the General Mayor of Bucharest stated that there have been situations within the General City Hall of Bucharest where the issuance of the building certification for buildings that have already been reviewed and accepted by the same local authority was refused due to the identification of alleged legal defects in the building permit. Considering that the building permit and the final construction acceptance report are administrative documents that enjoy the presumption of legality, we considered to be inappropriate from a legal perspective to re-examine their legality of the building permit during the building certification stage. In this stage, the local authority's legal competence is limited to confirming that the building permit was followed by the issuance of the acceptance report. In other words, the legality of the building permit cannot be re-evaluated at this late stage. Beyond these legal technicalities, what we want to emphasize is that there are administrative practices of the local administration in Bucharest that create uncertainties regarding the possibility of utilizing a building even beyond the point in time when this utilization should become certain. Therefore, to rephrase, a crisis situation can arise even beyond the most legally and technically tense moments of a real estate project. This is a serious argument supporting the statement that problematic situations in our capital city can have a nonlinear and unpredictable evolution, which means that in the presence of such administrative practices (which we can euphemistically describe as *original*), what we referred to as the *urban planning crisis* can evolve in directions that are difficult to anticipate even for an objective and well-informed analyst.

### **The difficulty of obtaining conclusive data from the relevant authorities at local level**

Regarding the assessment of relevant data and the possibility of compiling statistics, it must be mentioned that, unfortunately, the on-ground reality proves that relevant data is difficult or impossible to be obtained in the year when we are writing this work (i.e., 2023):

- Naturally, in light of the aforementioned aspects, our main concern has been to obtain the number of new buildings registered with the land book in each district of Bucharest and for each year in the period 2012-2022. To this end, we formally approached the Bucharest Office of Cadastre and Land Registry, which is under the jurisdiction of the National Agency of Cadastre and Land Registration. The reason of this approach was the fact that the registration with the land book of any new building in Bucharest can be carried out only through this Office. Through Letter no. 10460/21.09.2023, the Office responded that it does not have the capability to fulfill our data request because it does not maintain a centralized record of newly registered properties;
- We made a similar inquiry to the Bucharest Construction Inspectorate, which is part of the State Inspectorate in Construction. The Inspectorate, in turn, informed us through Letter no. DO-271022/12.07.2023 that it does not possess statistical data regarding, among other items, the number of building certification certificates or of construction acceptance reports issued or concluded at Bucharest level during the same reference period of 2012-2022. Given its inability to provide us with the requested information, the Inspectorate finally recommended that we address the local public authorities, namely the General City Hall and the district city halls;

- Considering that, distinctly from the six district city halls, the General City Hall of Bucharest authorizes, reviews and accepts, and certifies constructions in certain specific areas and in particular circumstances, we requested from this authority official data regarding the number of final construction acceptance reports and of building certification certificates issued for the period 2012-2022. Through Letter no. 107125/107553-663L/1/28.06.2023, the General City Hall of Bucharest informed us that, in its view, these requested data do not represent information of public interest, which is why the requested data cannot be provided to us.

Our research regarding the years 2012-2022 and the number of final construction acceptance reports and of building certification certificates issued by these local authorities led us to each district's city hall. However, the level of conclusiveness in the responses we received is one that we consider to be lacking. Therefore, please take note of our following findings:

- From District 1 City Hall, we were provided with data only for the years 2021 and 2022, as stated in Letter no. E/L.544 - 341/03.06.2023. These data indicate both an increase in the number of final construction acceptance reports concluded in 2022 compared to 2021 (250 compared to 153) and an increase in the number of building certification certificates issued for the same years (343 compared to 182). It is interesting to note that District 1 City Hall informed us that it simply does not possess information regarding the cancellation of urban plans at its district level during the period 2012-2022 (the judicial cancellation of such urban plans being one of the major causes of urban planning difficulties in Bucharest, as mentioned earlier);
- District 2 City Hall has been the most responsive and cooperative local public authority we have petitioned. Through Letter no. 114361/268/04.07.2023, they provided us with the number of final construction acceptance reports concluded each year, as follows: 2012-628, 2013-631, 2014-566, 2015-417, 2016-303, 2017-385, 2018-332, 2019-511, 2020-574, 2021-385, and 2022-381. Thus, the decrease in the number of reviewed and accepted constructions between 2012 and 2022 is noticeable. The data provided for building certification certificates are as follows: 2012-0 (as the legislation did not require these certificates), 2013-0 (as the legislation did not require these certificates), 2014-0 (as the legislation did not require these certificates), 2015-no official data available, 2016-no official data available, 2017-302, 2018-333, 2019-330, 2020-288, 2021-430, and 2022-443. It is noteworthy that there has been a significant improvement in this regard in the last two years of the analyzed period (2021 and 2022) under a numerical dimension;
- Through Letter no. 165880/27.07.2023, District 3 City Hall provided us with the situation of the number of final construction acceptance reports for each year, as follows: 2012-411, 2013-427, 2014-355, 2015-430, 2016-333, 2017-255, 2018-311, 2019-352, 2020-297, 2021-335, and 2022-333. There is a relative decrease in the number of reports when comparing the two endpoints of the relevant period, with an absolute minimum recorded in 2017. Even though there has been some increase in the number of reports after 2017, the level that characterized the period of the years 2012-2015 has not been reached again. However, District 3 City Hall did not provide official data regarding the evolution of the situation of building certification certificates;
- District 4 and District 5 City Halls did not respond to our requests;

- The data provided by District 6 City Hall, through Letter no. A24218/11.07.2023, regarding the number of final construction acceptance reports are as follows: 2012-480, 2013-418, 2014-389, 2015-468, 2016-389, 2017-400, 2018-358, 2019-366, 2020-349, 2021-365, and 2022-416. These data also indicate a general trend of decreasing numbers of reports concluded, although characterized by slight fluctuations (i.e., numerical returns – e.g., see the situations of the years 2017 and 2022). Data regarding building certification certificates were also provided: 2012-0 (as the legislation did not require these certificates), 2013-0 (as the legislation did not require these certificates), 2014-0 (as the legislation did not require these certificates), 2015-57, 2016-228, 2017-248, 2018-231, 2019-250, 2020-334, 2021-492, and 2022-491. It is interesting to note that this last set of data indicates an intensification of urban planning dynamics in District 6, highlighting the importance of a detailed analysis for each district, meaning that a district-specific analysis is much preferable from a methodological perspective to a global analysis covering the entire City of Bucharest.

Last but not least, we considered to be relevant for assessing the depth of the *urban planning crisis* to know the number of real estate transactions during the aforementioned reference period. In this regard, we have formally written to both the National Union of Romanian Public Notaries and to the Regional Directorate of Public Finance Bucharest, which is part of the National Agency for Fiscal Administration. According to the current legislation, these entities should maintain records of real estate transactions within a given geographic area (e.g., Bucharest). However, both the National Union of Romanian Public Notaries and the Regional Directorate of Public Finance Bucharest responded to us through Letter no. 4862/29.06.2023 and Letter no. 22/544/2403 LMU/13.09.2023, mentioning that they do not have records of real estate transactions in Bucharest, without providing further explanations.

In this context, it is impossible for us to offer a precise overview of the real estate market in Bucharest, as certain vital official data in this regard cannot be legally obtained.

What should raise concerns, in addition to the unavailability of such essential data, is the absence of any publicly available official studies on the efficiency of urban planning services in Bucharest (a situation that may extend to most localities in the country). Consequently, we have not identified official studies that establish the average duration of obtaining an urban planning certificate or of a building permit, the annual output of administrative acts issued by urban planning departments that are challenged in administrative litigation or, as the case may be, permanently canceled in courts of justice, the number of situations where a building certification certificate, which should represent a formal stage of the administrative procedure, is issued with unjustified delays, the number of corruption cases in local urban planning services proven in justice, and so on. The *hesitation* of local authorities and of local departments in Bucharest of central authorities to provide official data, as well as a large absence of statistics, all of these create significant difficulties in understanding the causes, effects, and ultimately the magnitude of urban planning issues in Bucharest. Without a clear understanding of these matters, it is nearly impossible to identify efficient technical solutions on a *macro scale* and to move beyond general topics and abstract discussions. Lastly, the entire situation described above raises serious questions about the capacity and the genuine intention of public sector representatives to find broadly applicable, efficient, and long-lasting solutions to the issues consistently reported by the business community in the city.

Without generating unfounded theories, we are left with a rhetorical question: why would an entity want to conceal or not to collect and process statistical data characterizing a particular situation if that particular situation were positive and would portray that entity and its activity in a favorable light?

### **The Romanian Real Estate Investors Association's attempt to quantify the economic effects of this local crisis**

The author of this paper was not the only researcher interested in quantifying the effects of the particular situation under analysis. Thus, on 11 October 2023, the Romanian Real Estate Investors Association (RREIA), a business association similar to BREC, published a study concluding that due to the unfavorable dynamics of real estate transactions, "*Bucharest significantly reduced its contribution to Romania's GDP, from 37% in 2019 to 29.8% in 2022*". Thus:

- according to data provided by RREIA, Bucharest's contribution to the national GDP in 2022 is similar to that of 2010. The same study highlights that one of the primary causes of this decline is the administrative deadlock in the domain of urbanism, which is leading to significant operational deficiencies in the real estate market, resulting in fiscal losses;
- similarly, the study highlights that "*the revenues of companies from construction and real estate transactions in Bucharest slowed to another historical low, by only 5% during 2022*", and that "*the net profit of these same companies follows the negative trend, with an advance of only 6% in Bucharest, compared to the average growth of the country's major counties, which is 22%*";
- lastly, the study indicates that 8 out of 10 companies operating in the Bucharest real estate sector are exposed to the risk of insolvency, and that the scale of long-term real estate investments in Bucharest has reached a historic low point.

Given the high reputation of RREIA in the local real estate domain, the conclusions of the cited study should each represent a significant exclamation mark for the representatives of the local public administration in Bucharest.

### **The possibility of fitting the local crisis in Bucharest into certain specific patterns identified by the Organisation for Economic Co-operation and Development**

What is interesting to note is that the phenomenon studied at the level of this municipality confirms certain general findings expressed by the Organisation for Economic Co-operation and Development (OECD) through a study published in early 2017. Thus, according to the OECD:

- the duration of implementing changes in the field of urban planning may exceed that of their elaboration;
- once construction takes place on a plot of land, subsequent modification of its situation is difficult, thus urban planning policies should be coordinated prior to construction;
- urban planning is governed by both formal and informal institutions;
- wealth inequality is fueled, in part, by real estate price increases;
- derogatory urban planning remains an exception that cannot become the rule;
- restrictive urban planning policies increase housing costs, hindering people from moving to economically developed areas and leading, sociologically, to the phenomenon of *enclave* formation;
- ideally, the number of new housing units in a municipality should be equal to the number of households supplementing the number of existing households in the analyzed timeframe.

#### **4. THE REACTIONS OF THE BUSINESS COMMUNITY IN THE REAL ESTATE SECTOR IN BUCHAREST TO THE URBAN PLANNING CRISIS**

Beyond the situation of the existence and of the availability of statistical data, the real estate market naturally responds to the dysfunctions in the urban development sector in Bucharest. Periodically, articles that illustrate the practical consequences of these dysfunctions, also presenting the managerial decisions of major economic agents involved in real estate development in this city, are published in business press.

Thus, by a business press article published in September 2022 (Ungureanu, 2022) presenting the conclusions of a debate organized at the level of the Bucharest Real Estate Club (BREC), an association of the most important players in the real estate market in Bucharest, it was emphasized that, in accordance with the data held by this association, the contribution of the construction sector to the local gross domestic product (GDP) is declining due to administrative bottlenecks and to legal uncertainty. This contribution decreased from 14.2% in 2019 to 14% in 2020 and to 13.3% in 2021. Additionally, according to the same press article, BREC drew attention to the fact that the dysfunctional operation of urban planning in Bucharest significantly increases the risk of insolvency for local real estate developers, especially small-scale developers. It was also highlighted that the current state of urban planning in Bucharest has led major international real estate developers to hesitate in initiating new projects in the city. According to data held by BREC, the urban crisis has blocked public investments worth 5.5 billion euros in the period 2020-2022 in Bucharest alone. Last but not least, as explained in the article, a study presented at the BRCE conference estimated the fiscal losses that will be caused by urban planning uncertainty and by the administrative bottlenecks in Bucharest in the time period 2022-2026 to 17.2 billion lei.

A portion of a subsequent debate organized by BREC in November 2022 was briefly presented in another press article published in December 2022 (Vasiliu, 2022). According to this article, significant real estate developers have reported major issues caused by regulatory uncertainty at local level. Among the problems reported in the previously mentioned context, the following issues are noteworthy: the impossibility of initiating new real estate projects on lands acquired at very high costs, along with the difficulty in finding buyers for those lands whose utility is greatly reduced by the existing urban planning problems, the inability to exploit reviewed and approved new buildings for which local authorities unjustifiably refuse to issue construction certificates, and the refusal of local authorities to authorize construction work on extensive portions of lands already acquired by real estate developers.

Periodically, the leading real estate developers in Bucharest publicly express their dissatisfaction with the current situation. For example, in September 2022 (Bumbeneci, 2022), the real estate industry press mentioned the decision of Spanish investor Gran Via to no longer initiate new projects in the city. Furthermore, the representative of this investor expressed a fully justified opinion that the reduction in the supply of properties will lead to an increase in real estate prices, given the constant demand for properties. The same representative specified, in respect of the General City Hall, that in the year 2000, approximately 2,800 construction permits were issued, whereas in 2021, this number dropped to just 218. Moreover, in an interview published in July 2022 (Marinescu, 2022), AFI Romania highlighted that all of its real estate projects in Bucharest are administratively blocked. In the same interview, the urban developer Speedwell reported losses of 75 million euros due to the local administration's refusal to issue a construction permit on the grounds of *lack of opportunity*. Representatives of Eden Capital provided an example of an utility connection permit being unreasonably delayed for two years. Each of these real estate market actors has voiced their dissatisfaction with the existing situation during the press interview. In a similar context in October

2022, the highly reputed developer One United Properties drew public attention to the risk that major real estate investors which were once interested in investing in Bucharest may abandon the Romanian real estate market in favor of real estate markets in other countries (Coman, 2022).

Equally relevant is a press release of RREIA, from June 2022, which exposed the risk that real estate developers may choose to invest in the neighboring localities of Ilfov County, which are surrounding Bucharest. This, in the end, is expected by RREIA to lead to traffic congestion problems due to daily commuting to and from Bucharest for work purposes.

Thus, in short words, it should be noted that the reactions of the free market to the dysfunctional operation of the local public sector in Bucharest are significant and characterized by a growing lack of confidence in the local real estate market and also, from a practical perspective, by managerial decisions to postpone, abandon, or relocate important projects. In summary, the analyzed situation leads to a hesitant management style, to extreme caution, and to the reliance of the management of real estate developers on rather pessimistic assumptions.

## **5. GENERAL RULES AND PRINCIPLES CONSIDERED RELEVANT FOR THE MANAGERIAL DECISIONS OF THE REAL ESTATE DEVELOPERS IN BUCHAREST**

In the previously outlined context, our recommendation is that managerial decisions regarding real estate businesses that are currently operating or planned in Bucharest should be built upon a foundation of high caution:

### **5.1. In-depth due diligence**

As a rule, any managerial decision regarding the initiation of a real estate project is typically based on a due diligence report that analyzes the desired project from various perspectives, including financing, economic viability, and legal issues. Regarding the legal dimension of the analysis, we recommend that it to be conducted in-depth. Therefore, we recommend researching the documentation that underpins each relevant administrative act (such as urban planning documents and certificates) in order to identify any potential legal risks that could lead to successful legal challenges of those acts by individuals, authorities or entities opposing the project. Beyond the elements examined in any real estate legal audit, such as the land's history, special building restrictions or its land registry status, we recommend a thorough examination of the particular legal status of any administrative act which should be relevant to the project. This ensures that the managerial decision regarding the project is not solely based on a general presumption of legality in respect of these acts, but rather on very specific and detailed analyses. Naturally, such research can only be conducted with the support of legal advisors highly specialized in real estate matters.

Furthermore, even though local authorities may still need to improve their own transparency practices, we recommend that the initiation of any real estate project to be preceded by a formal, legal dialogue with the representatives of these authorities. This dialogue is essential to understand from the outset what the authorities consider to be a viable real estate project in the area of interest to the developer and how they interpret the existing factual and legal realities within their areas of jurisdiction. For this purpose, managers could seek the assistance of companies that provide local-level consultancy services. These companies have local knowledge and can facilitate institutional dialogue with the local public administration while understanding the local context. Additionally, it is advisable to have a thorough understanding of all economic, social, and even political interests at a local level that could be linked to the project. In this regard, conducting further detailed preliminary

investigations within the boundaries of existing legal framework and business ethics is also highly recommended.

In other words, it is essential to establish, right from the beginning, through comprehensive due diligence and genuine dialogue with the competent local authorities and with any other potentially interested parties (for example: neighbors, NGOs), what, how and where can be built, and within what timeframe construction works can take place.

Furthermore, managers should understand that urban planning situations can vary from district to district and even within the same district. Therefore, the legal status of the proposed project development area should be one of the main criteria for validating or invalidating that option, alongside purely economic criteria (land prices, economic potential, area reputation, existing infrastructure, etc.).

Similarly, we recommend that managers continuously update their information regarding the evolution of the legislative framework in the field of territorial planning and construction. For example, we suggest closely monitoring the draft law on the Code of Territorial Planning, Urbanism and Construction, which is under debate in the Chamber of Deputies during the early autumn of 2023 (i.e., the time when the current work is being written). This draft law was registered with the Chamber of Deputies under registration number PL-x 418/2023 and has the potential to significantly amend and supplement the legal framework of real estate development in Romania, also potentially leading to the resolution of various administrative constraints that currently impede the expansion of this economic sector in our country.

### **5.2.A realistic estimation of the timeline of each project**

In a similar vein, we consider that managers should be aware that due to the existing administrative and regulatory dysfunctions at the local level, initiating, executing, and completing a real estate project can take longer than initially anticipated. Therefore, it is recommended that managers estimate the realistic project timeline from the early stages, and it is advisable to consult with local experts in this sensitive and technical regard. Such estimations, even if somewhat pessimistic, can help prevent the creation of unrealistic expectations for project financiers, contractual partners and prospective buyers. Managers should treat this aspect with utmost seriousness because if unrealistic expectations are created for these interested parties and are incorporated into contractual clauses, the consequences of unmet expectations (i.e., contractual breaches) can have serious legal ramifications, ultimately leading to negative economic effects on the developers, potentially even jeopardizing their solvency.

### **5.3.A common *lobby* regarding common legitimate interests**

Beyond the necessary competition that should exist in the Bucharest real estate market, we recommend that industry managers encourage the formation of common points of view among this category of entrepreneurs in their formal dialogue with local authorities. Associations such as BREC or RREIA could be empowered by their members to present arguments in favor of the common interests of the business community and to engage in a consistent and transparent dialogue with local authorities. This recommendation is based on the fact that many issues are recurring at district level or even at the entire Bucharest level, not affecting just one real estate developer or only a specific land plot. Therefore, considering the existence of common interests, there is no reason why common points of view and requests should not also be present.

#### 5.4. An increased caution and the avoidance of deviating from pre-existing rules

In the strictly personal opinion of the author of this paper, who in no way intends to discourage investments in Bucharest, it would be advisable for major real estate projects planned for this city to be postponed until the legal status of zonal urban plans and of the new general urban plan are clarified. Furthermore, the same author recommends that any administrative operations and correspondence with local authorities, even in the absence of a litigious context, should be conducted, even in the case of smaller-scale projects, only with the assistance of qualified and local professionals in civil engineering, architecture and design and / or, as appropriate, real estate legislation.

Last but not least, we assert that real estate developers should no longer rely on what is commonly known as *derogatory urban planning*. *Derogatory urban planning* involves situations where construction works are carried out with deviations from the typical boundaries of the area or of the building permit, and these deviations are subsequently rectified through specific procedures in order to bring the building into a legal status. However, a clear observation in all informed professional circles (architects, design engineers, legal experts, etc.) is that *derogatory urban planning* is viewed with increasing caution by the local public administration in Bucharest. This caution makes the procedures for bringing buildings into compliance with the relevant norms increasingly difficult to access in practice. Therefore, we assert that we are moving further away from the times when *derogatory urban planning* could be considered the norm in the analyzed city.

All these recommendations addressed to the management of real estate development businesses in Bucharest are based on professional experience accumulated in recent years and on the observation of numerous practical situations. However, it is respectfully emphasized that these recommendations cannot become a substitute for the specific and detailed analyses required for each individual project of each company.

#### 6. CONCLUSIONS

There are recurring issues in the urban planning in Bucharest, stemming from both regulatory unpredictability and deficiencies in the functioning of local public administration services. Due to the lack of consistent statistical data, the extent of the analyzed situation is challenging to quantify. Nevertheless, this situation is strongly felt by the business community, whose reactions have become notably cautious regarding the possibility of making real estate investments in Bucharest. Taking into account all these unique aspects of the local market, it is advisable for managerial decisions of real estate developers to consider certain principles characterized by heightened diligence.

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