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**THE NEED FOR HARMONIZATION OF THE MACEDONIAN PROPERTY LAW**

Abstract

Subject of analysis in this paper is the development of contemporary property law in the legal system of the Republic of North Macedonia and the need for its harmonization.

 As the paper will demonstrate, the development of contemporary property law in the Macedonian legal system began with the Law on Ownership and Other Real Rights in 2001. The basic Law on Ownership and Other Real Rights has paved the way for creating a property law system that can meet the challenges associated with the rising of free enterprise economy. The development of property law in the Republic of North Macedonia continued with passing a great number of special laws that were intended to regulate particular segments of property law relations. As a result of special regulation nowadays there are: special laws that regulate legal regime of things of public interest (Law on Agricultural Land, Law on Construction Land, Law on Waters, Law on Forests, Law on Minerals and etc.), special laws that regulate the transfer of ownership on real estate form the State onto private owners (Law on Denationalization, Law on Privatization and Lease of Construction Land Owned by the State), special laws that regulate other real rights (Law on Contract Pledge, Law on Construction Land), special law that regulate State and municipal ownership (Law on Use and Disposition with Things Ownership of the State and Things Ownership of Municipalities, Law on Local Government), special law that regulate construction as a manner of acquiring ownership (Law on Construction Land, Law on Construction, Law on Urban Planning) and many other special laws that concern segments of the property law system. Unfortunately, the in-depth analysis of the many special laws demonstrates a high level of disharmony between the special laws and the basic Law on Ownership and Other Real Rights. The analysis also demonstrates disharmony between special laws that regulate a particular area of property law relations, and disharmony in the provision within the same law resulting from amendments made to it.

 The paper finds the disharmony between laws to be so extensive that compromises the principle of legal security and erodes and destabilizes the entire property law system. In order to overcome the crisis in the property law system, the paper urges for the process of harmonization of Macedonian property law to be set in motion as soon as possible and gives directions on how this process should be conducted.

Key words: harmonization, property law, ownership, real rights.

 The harmonization of laws entails a process in which the laws regulating particular legal area are composed so that they could produce a uniform system of laws. Main goal of the harmonization process is to eliminate difficulties and obstacles in the applications of laws, and also to provide cohesion of the legal system by removing any contradictions between the laws regulating a particular legal area. When harmonization is achieved the functionality of the entire legal system gets improved and the level of legal security within that legal system rises.

 Nowadays much attention is given to the harmonization of laws on EU level by analyzing the possibilities and methods for harmonization of national laws with EU legislation. The harmonization process on EU level mainly focuses on particular areas of law such as contract law, consumer law, tax law, insolvency law and other. The Republic of North Macedonia as a country aspiring to become a member state of the EU closely follows the harmonization process on EU level and makes effort to inline national laws with the EU legislation. However, the Republic of North Macedonia also faces the challenge of constructing a coherent legal system on national level where harmonization between basic and special laws needs to be achieved. This means that in the Macedonian legal system two parallel harmonization processes need to take place. One is the process of inner harmonization where national laws regulating certain legal area will be harmonized with one another. The other is the process of external harmonization where Macedonian laws will be harmonized with EU legislation. Both processes of harmonization are equally relevant for the Macedonian legal system because they will lead to creating a fully functional legal system on national level that will include regulation and standards accepted on EU level.

 Harmonization as inner process can potentially extend into any area of the Macedonian legal system however this paper will direct focus on the need for harmonization of the Macedonian property law that has become ever so pressing in light of the efforts for codification of the Macedonian civil law.

**1. Structure of the Macedonian property law system**

 The Macedonian property law system consist of the basic Law on Ownership and Other Real Rights (further: Law on Ownership)[[3]](#footnote-3) and many special laws regulating particular areas of property law. There are many areas of property law that are regulated with special laws such as: legal regime of things of public interest, State and municipal ownership, real estate registration, infrastructure, urban planning and construction, agriculture, property rights and the transformation of state ownership into private ownership. It needs to be pointed out that all of the mentioned areas of property law are regulated not with one, but with several special laws.

 The legal regime on things of public interest is subject to special regulation due to the nature and the relevance of such things for society and for the economic development. According to the Constitution of the Republic of North Macedonia[[4]](#footnote-4) and the basic Law of Ownership things of public interest are the natural resources, plant and animal life, lands, water, cultural heritage and thing in public use[[5]](#footnote-5). Among the most important special laws regulating this area of property law are the Law on Mineral Resources[[6]](#footnote-6), the Law on Energy[[7]](#footnote-7), the Law on Waters[[8]](#footnote-8), the Law on Environment[[9]](#footnote-9), Law on Environment Protection[[10]](#footnote-10), Law on Agricultural Land[[11]](#footnote-11), Law on Construction Land[[12]](#footnote-12), Law on Pastures[[13]](#footnote-13), Law on Forests[[14]](#footnote-14), Law on Hunting Grounds[[15]](#footnote-15), Law on Protection of Cultural Heritage[[16]](#footnote-16), Law on Public Roads[[17]](#footnote-17), Law on Electronic Communications[[18]](#footnote-18) and other laws. Due to the variety and specific characteristic of different types of things of public interest it is unavoidable for their legal regime to be regulated by special laws. However, it is equally important for the special laws regulating things of public interest to follow the provisions of the basic Law of Ownership that refer to things of public interest. These provisions should serve as guidelines on how legal regime of things of public interest should be regulated by the special laws so there are no inconsistencies. The Law on Ownership contains one article referring to things of public interest and gives general guidelines about how the legal regime of such things should be further regulated (Art. 16). The first guideline is that things of public interest could be State-owned or privately owned, with exception of things in public use, which can only be State-owned. Second guideline is that the exercise of rights over things of public interest should be regulated by special laws. Third guideline is that things of public interest should enjoy higher degree of legal protection that justifies the existence of more legal limitation regarding the exercise of rights over such things. Fourth guideline is that the State by way of concession, under conditions prescribed by special laws, may seed onto natural persons or legal entities the use of the things of public interest owned by the State. Fifth guideline is that things in public use are the things intended for public use of all persons (natural persons or legal entities). The sixth guideline is that the care and protection of things in public use is primarily obligation of the State, unless otherwise stipulated by special laws. Considering the current regulation on things of public interest we can notice that these general guidelines from the basic Law on Ownership are not strictly followed by the special laws. For example, although the basic Law stipulates that tings of public interest could be state owned or privately owned, there are special laws that stipulate otherwise, like the Law on Construction Land where it is stated that construction land as a thing of public interest could be in ownership of the State, municipalities or natural persons and legal entities (Art. 7). The same goes for the Law on Cultural Heritage where it is also stated that cultural heritage as a thing of public interest could be owned by the State, municipalities or natural persons and legal entities (Art. 10). Another example on how special laws don’t follow the guidelines of the basic Law on Ownership regarding things of public interest is the issue with the coastline. The special Law on Waters initially neglected to regulate the coastline as thing in public use owned by the State and to guarantee the public use of the coastline as the basic Law on Ownership requires. As a result of this during the process of denationalization the government authorities have restituted private ownership over the lands along the lakes with the coastline included. The Law on Waters eventually included regulation of the coastline as thing in public use and guaranteed the public use of it. However, reinstating State ownership over the coastline could only be achieved by conducting expropriation proceedings against the private owners that in denationalization proceeding came to own the coastline. These and other inconsistencies and contradiction in regulation of things of public interest need to be addressed in the process of harmonization of the property law in the Macedonian legal system. The basic Law of Ownership needs to contain clear and comprehensive provisions that will put up the base for further regulation of things of public interest by special laws. The points of disharmony between the basic law and the special laws regulating this area of property law relations need to be looked into. The legislator must take a clear position on the content of the provisions that will serve as base for further regulation. Such basic provisions must be followed without exception by special laws so that no conflict between the basic law and the special laws can occur.

 State and municipal ownership is another area of the Macedonian property law system that is subject to regulation by special laws. The most relevant special law regulating this matter is the Law on Use and Disposition with Things Ownership of the State and Things Ownership of Municipalities [[19]](#footnote-19). This special law regulates the acquisition, use and disposition of movable or immovable things owned by the State, the rights and duties of government bodies or public entities that use things owned by the State as material resources for their work, and the conditions and procedures related to disposition with the things owned by the State. The Law was initially drafted to regulate the use and disposition of thing owned by the State, and later on, it was added that it will also apply for things owned by municipalities. For this reason, the text of the law doesn’t particularly address the use and disposition of things owned by the municipalities. It simply directs that the same rules apply for municipalities in respect to the things that they own. The legal treatment of municipal ownership in this special law is not in line with the position of the legislator which calls for state and municipal ownership to be independent from one another. Since this Law does not actually consider the other existing regulations on municipal ownership in special laws like the Law on Municipalities[[20]](#footnote-20) and the Law on Financing Municipalities[[21]](#footnote-21) there is now parallel regulation on the matter. Another issue with this special law is that it does not serve the intended purpose. The intended purpose of this special law was to offer uniform rules for use and disposition with things owned by the State or the municipalities that will generally apply. However, this purpose was defeated when provisions related to sale or other forms of trade or lease of things (primarily real estate) owned by the State began to appear in other special laws such as: the Law on Agricultural Land, the Law on Construction Land, the Law on Sale of Agricultural Land Owned by the State[[22]](#footnote-22) and etc. To our opinion the idea of having a single special law that regulates the manner of acquisition, use and disposition of things owned by the State, or in other words a special law that will regulate the manner in which the State will exercise its ownership and other property rights is a good idea that has been executed poorly. There needs to be complete revision of the provisions of the Law on Use and Disposition with Things Ownership of the State and Things Ownership of Municipalities. This special law should only focus on regulating the exercise of ownership and other property right of the State, without including the municipalities. The regulation should be generally applicable for all things owned by the State so there would be no need for other laws to contain special provisions on the same matter. As for municipalities, we consider that there should be special regulation regarding the exercise of ownership and other property rights of municipalities introduced in separate special law, or integrated in the text of the Law on Municipalities.

In the area of real estate registration there is a special law – the Law on Real Estate Cadaster[[23]](#footnote-23) that regulates: land survey, registration of real estate and the registration of property rights and other rights on real estate in property sheets, registration of infrastructure in property sheets for infrastructure and other related matters. Main purpose of this special law was to provide legal security and transparency in the use and trade with real estate. The records of the Real Estate Cadaster are public and available to anyone. The use of this records is mandatory when drafting contracts concerning real estate or rendering decisions concerning real estate by the government bodies or other entities with public authority. According to the provisions of the Law on Real Estate Cadaster the ownership and other property rights are considered to be fully acquired upon their registration in the property sheet, and are terminated only after they have been deleted from the property sheet. This Law is undoubtably a step forward in real estate registration and it is drafted to meet the EU standards regarding real estate registration. However, for the sake of consistency, the special Law on Real Estate Cadaster and the basic Law on Ownership need to be harmonized especially on the matter of acquiring ownership and other property rights on real estate since these two laws contain conflicting provisions.

Legal regime of infrastructure is regulated in several special laws. The definition on what falls under infrastructure is determined by the Law on Real Estate Cadaster. According to its provisions infrastructure are all structures of the land, air and water traffic, underground and overhead installations, and the electronic communication networks and appliances with all the adjoining installations (Art. 2). The Law on Real Estate Cadaster also contains provisions regarding the legal regime and registration of property rights on infrastructure. According to the Law on Real Estate Cadaster the infrastructure is to be treated as a separate and independent real estate legally unconnected with the land it is situated on. Due to this treatment of infrastructure, the registration of ownership and other property rights on infrastructure is done in a separate Cadaster called Cadaster for Infrastructure. The Law on Real Estate Cadaster contains general provision regarding all types of infrastructure, while special provisions regarding specific type of infrastructure can be found in several special laws such as: the Law on Air Traffic[[24]](#footnote-24), the Law on Inland Sailing[[25]](#footnote-25), the Law on Public Roads, the Law on Electronic Communications, the Law on the Railway System[[26]](#footnote-26) and other special laws. Regarding infrastructure we consider that the source for general provisions regulating the legal regime of infrastructure should be the Law on Ownership and not the Law on Real Estate Cadaster. Currently, the Law on Ownership contains provisions regarding infrastructure that are in conflict with the provisions in the Law on Real Estate Cadaster. To be more precise the basic Law on Ownership considers infrastructure to be integral part of the land it is situated on, while the Law on Real Estate Cadaster, as we have said, treats infrastructure as a separate and independent type of real estate.

 Urban planning and construction are also an area of Macedonian property law subject to regulation by several special laws. The Law on Urban Planning[[27]](#footnote-27) regulates all aspects of the process of urban planning such as preparation, passing and enforcement of zoning plans, supervision of the process of urban planning and other related matters. Construction is regulated in the Law on Construction[[28]](#footnote-28).The Law on Construction contains provisions regulating the conditions and the necessary documentation for issuing a building permit, rights and duties of participant in the construction process, supervision of the construction process, use and maintenance of the erected structures and other related matters. As for the legal regime of the land where construction can be conducted, the Law on Construction Land applies. Relevant provisions concerning construction on agricultural land are found in the Law on Agricultural Land. The Law on Minerals also contains provisions regarding construction of structures for mining operations. Provisions regarding construction are also found in the Law on Protection of Cultural Heritage, Law on Waters, Law on Air Traffic, Law on Energy and other laws. The Law on Real Estate Cadaster ensures publicity during the construction process by registering the structure under construction in a so-called pre-registration sheet which provides information about the investor, the issued building permit, concluded pre-sale contracts, mortgages on structures under construction and other relevant information. Related to urban planning and construction is also the special law that deals with the legalization of illegal structures. As we can see, the provisions regulating the area of urban planning and construction are dispersed in various special laws. The dispersion causes difficulties in the proper application of these provisions in the legal practice, especially those who are found in special laws that primarily regulate other areas of property law relations. In order to make the regulation on urban planning and construction easily applicable, the dispersion need to be eliminated and the provisions systematized in fewer legal texts.

Regulation on agriculture is found in several special laws such as: the Law on Agricultural Land, the Law on Agriculture and Rural Development[[29]](#footnote-29), the Law on Organic Agriculture[[30]](#footnote-30), Law on Conducting Agricultural Activity[[31]](#footnote-31), the Law on Sale of Agricultural Land Owned by the State[[32]](#footnote-32), the Law on Consolidation of Agricultural Land[[33]](#footnote-33) and other special laws. The legal regulation of the area of agriculture is faced with the same challenges as the regulation on urban planning and construction. The existence of many special laws regulating agriculture makes it difficult for legal practitioners to learn to navigate through the entire regulation. The result is delayed proceedings before the public authorities, long litigations proceedings, difficulties in exercising right of farmers and difficulties in access to the fonds intended to finance agricultural development. Regarding the regulation pertinent to agriculture, we consider that systematization of the provision in fewer legal text to be the most viable solution also.

Property rights are mainly regulated by the basic Law on Ownership. This Law contains provisions regulating ownership and other property rights: servitudes, pledge and real burdens. However, the basic Law on Ownership is not the only source for regulation of property rights. Provisions regulating property rights are also found in special laws like the Law on Agricultural Land, the Law on Construction Land, the Law on Forests and etc. These special laws usually contain provisions pertinent to real property rights of the State and the exercise of such rights against private owners. However, there are special laws that substantially regulate other property rights like the Law on Construction Land, the Law on Contractual Pledge[[34]](#footnote-34), the Law on Obligations and Property Relations in Air Traffic[[35]](#footnote-35), the Law on Inland Sailing, the Law on Securing of Claims[[36]](#footnote-36) and other laws. The Law on Construction Land regulates the right of long-term lease as a property right on construction land. It is a new type of property right not recognized by the basic Law on Ownership. The right of pledge, although it has been regulated by the basic Law on Ownership, it is also regulated by several special laws as well. The contractual pledge is regulated by the Law on Contractual Pledge and the judicial pledge is regulated by the Law on Securing of Claims. The Law on Obligations and Property Relations in Air Traffic regulates legal and judicial pledge on aircrafts and the Law on Inland Sailing regulates all types of pledge on boats and other floating devices. It is our opinion that property rights (ownership and other property rights) need to be regulated by the basic Law on Ownership. This is why we propose the provisions from the Law on Construction Land regulating the right of long-term lease to be incorporated in the Law on Ownership. The regulation pertaining to the right of pledge found in several special laws needs to be systematized and in a form of generally applicable provisions it should be incorporated in the Law on Ownership as well. This will make the regulation of property rights much more comprehensive and easily applicable in the legal practice.

Regulating the transformation of State ownership into private ownership was a necessary step in the process of building the free enterprise economy for all post socialistic countries like the Republic of North Macedonia. For the free enterprise economy to be able to thrive, private property needed to be established as the dominant form of property. Having private property is crucial for natural persons and legal entities since it provides the material base for their entrepreneur activities. Considering the necessity of reinforcing the private sector, the Macedonian legislator starting as early as 1990 passed several laws that were intended to regulate the transformation of State property into private property. The transformation process included the property of the sate acquired by nationalization and other repressive measures during the period of socialistic governing, and the property acquired with social fonds by the State. Starting point of the transformation process was the sale of housing units given for housing purposes under the socialistic “tenancy right”. The sale was conducted under privileged conditions in favor of the tenants according to the Law on Sale of Socially-Owned Apartments[[37]](#footnote-37). Next in the transformation process were the state-owned legal entities that conducted what were essentially business activities. Those type of state-owned legal entities were transformed into privately owned legal entities with the Law on Transformation of Companies with Social Capital[[38]](#footnote-38). Other laws that regulated transformation of state-owned legal entities were the Law on Transformation of Companies and Cooperatives with Social Capital that Managed Agricultural Land[[39]](#footnote-39), the Law on Privatization of State Capital in Companies[[40]](#footnote-40), Law on Institutions[[41]](#footnote-41) and other laws. The transformation of the state-owned land followed after the transformation of the state-owned legal entities. This process of transformation included mainly the construction land which was entirely state-owned and some of the state-owned agricultural land. There are two main laws that regulate the process of transformation of state-owned land into privately owned land, those are the Law on Denationalization[[42]](#footnote-42) and the Law on Privatization and Lease of State-Owned Construction Land. The Law on Denationalization dealt with the recuperation of nationalized property (movable and immovable) in favor of the former owners or their legal heirs if the former owners have passed. As for the Law on Privatization and Lease of State-Owned Construction Land, this law deals with the process of acquiring private ownership on state-owned construction land (privatization) or acquiring lease. According to the Law the right of privatization is afforded to former owners turned “users” of the construction land and natural persons or legal entities to whom construction land was given to use for construction of housing or office buildings or other structures of permanent nature. Up to this date, the transformation processes are considered to be mainly concluded, not considering the individual cases in some transformation proceedings that are subject to disputes between the State and the concerned parties participating in those proceeding.

Looking into the entire transformation process we can conclude that it was littered with mistakes and missteps that created uncertainty in the area of property law regulation. One great misstep was leaving the transformation of state-owned land into privately owned land for last. This misstep had a “ripple effect” on the entire property law system because it went against one of the basic principles of the property law concerning real estate and that is the principle of superficies solo cedit[[43]](#footnote-43). Transformation of state ownership on budlings and other structures into private ownership before the transformation of the state-owned construction land into privately owned land created conflict of rights between the interested parties and prolonged the transformation process. Overall, the laws regulating the process of transformation didn’t consider the bases on which the new property law system was being built, and therefore didn’t account for the long-term effects of the transformation process on the property law system. The disharmony between the laws regulating the transformation process and the new laws that set up the base for the modern property law system, primarily the Law on Ownership, is the main reason there are still ongoing proceedings related to the transformation. Until these issues and disputes are not dealt with, the harmonization process will be brought to a halt.

**2. Approach and challenges in the process of harmonization of the Macedonian property law**

By analyzing the structure of the Macedonian property law system, we have shown that it consists of a basic law – the Law on Ownership, and a large number of special laws regulating particular areas of the property law system, which makes the property law system rather fragmented. The high level of fragmentation is undoubtably undesirable because it causes difficulties in the practical application of the laws. However, that is not the biggest problem. The bigger problem is that the group of special laws regulating particular area of the property law system contradict each other, on one hand, and contradict the basic Law on Ownership on the other. As a result of such contradictions between the laws there is a high level of disharmony in the Macedonian property law system. The present state of disharmony of the property law system makes it difficult for individuals to acquire, exercise and protect their property rights. Public authorities struggle with implementation of the laws that contradict each other, not knowing which law to apply on a particular case in the legal practice. As a result, there are prolonged court and administrative proceedings concerning property rights and there is a lack of unified judicial and administrative legal practice for essentially similar cases. All this goes against the principle of rule of law and causes legal uncertainty for the property rights holders that needs to be overcome. Initiating the process of harmonization of the Macedonian property law is an important step in the direction of creating a well-structured and consistent property law system. Having a well-structured and consistent property law system will ensure full implementation of laws regulating property relations, it will bring order and stability in property relations and predictability regarding the exercise of property rights.

Regarding the approach in the process of inner harmonization of the Macedonian property law we consider that gradual, step-by-step harmonization, is the best alternative due to the high level of fragmentation of the property law. The step-by-step approach will entail harmonizing the group of laws that regulate the same area of property law so that all contradiction between them and the basic Law on Ownership will be eliminated. In some areas the harmonization should also entail concertation of the provisions regulating a particular area of property law in one or few legal texts instead of being dispersed in many special laws. The process of harmonization will also call for amendments to the basic Law on Ownership and to the special laws.

- The step of removing contradictions between the basic Law and the special laws should include all special laws in all areas of the property law system. This way the established hierarchy between the basic law and the special laws will be reaffirmed and a cohesion of the property law system will be achieved.

- Concentration of the provisions regulating particular area of property law relations is another step in the process of harmonization that will help lower the level of fragmentation of the property law system. For example, the regulation related to exercising state and municipal ownership could be concentrated in two special laws, instead of being dispersed in several special laws, as it is in the present state. By concentrating provisions in one of few legal texts the practical application of laws will be facilitated, which in return will enable full enforcement of the regulation. For areas like agriculture and urban planning and construction we consider that it would be beneficial for the process of harmonization to be followed by lower level of codification. This lower level of codification will mean concentration and systematization of the provisions regulating agriculture and rural development in a rural code, or in case of urban planning and construction it will mean concentration of the provisions in an urban code.

- Amending present laws and introducing new regulation is another necessary step in the process of harmonization. As we have said, the novelties in the property law system introduced with special laws have made large portion of the provisions in the basic Law on Ownership unapplicable, therefore amending it has become a necessity. Amending the basic Law will include incorporating provisions form existing special laws or introducing completely new regulation that is in accordance with EU standards. For example, part of the regulation on the right of pledge from several special laws needs to be transferred into the basic law, the same goes for the regulation on the right of long-term lease, provisions regarding condominium property found in the Housing Law[[44]](#footnote-44) also need to be transferred into the basic law and etc. Some special laws will have to be amended as well in order for them to be purified form provisions that are disruptive to the cohesion of the property law system.

The process of harmonization will unavoidable be accompanied with challenges. Some of obvious challenges are concreting the bases of the property law system and envisioning an overall concept about further development of the property law system. Undertaking a harmonization process will be futile if there is no legislative consensus about what are the bases of the property law system that cannot be undermined. These bases presently, and in the future, should be concreted by the basic Law on Ownership and they should enable further development of the property law system according to an overall concept about future development. All special laws implemented in the property law system now, and in the future, should respect those bases and not undermined them with provisions that contradict the general provisions of the basic Law. Currently in the Macedonian legal system the opposite is true. Special laws are often used to circumvent restriction and limitations regarding property relations put up by the basic Law on Ownership. Whenever a provision of the basic Law on Ownership is found to be too restrictive or contrary to the interests of lobby groups, the legislator has resolved the issue by passing special law on the matter and derogated the general provision of the basic Law, instead of amending the basic Law or simply respecting the limitations. As long as the special laws are used as an instrument to derogate the basic Law, and not as an instrument to regulate in details a particular area of the property law in accordance to the general provisions of the basic Law, harmonization cannot be achieved.

Hyperproduction of special laws and overregulation or under-regulation of property law relations is another problem that prevents successful harmonization. Special laws are often passed in speedy legislative procedures, without any real supervision on the quality of the legal text or debates about the effect of the proposed regulation. As a result, we have laws that are published in the Official Gazette of the Republic of North Macedonia full of technical and linguistic errors, laws where there is unproper or inconsistent use of legal terminology, laws that overregulate in minor details certain issue, while living other important matter completely unregulated, laws that contain unconstitutional and/or unapplicable provisions and etc.

For the harmonization process to be successful, the problems preventing inner harmonization need to be addressed and resolved.

As for the external harmonization, meaning harmonization of Macedonian property law with EU legislation we consider that to be a process that should run in parallel with the process of inner harmonization. This will enable adopting regulation on property law relations that coincide with EU principles and standards. However, we should be aware that the possibilities for harmonization of property law on EU level thus far are very limited. The idea of harmonizing European private law persist since 1989 and it was expressed in resolutions of the European Parliament[[45]](#footnote-45), however the efforts of the European Commission and various groups of legal scholars to turn that idea into something substantial such as a European Civil Code have not been successful. Nowadays, the efforts for harmonization on EU level are being directed to particular areas of private law (contract law, consumer law, tax law)[[46]](#footnote-46). It has been noted that harmonization of contract law on EU level may have an effect in property law as well[[47]](#footnote-47). One example being the contracts for sale of real estate. Not taking into account the intermediate effect coming from harmonization of contract law, most scholars consider that harmonization of property law on EU level is not in the foreseeable future, and then there are those who even reject the idea for harmonization of property law on EU level as unnecessary[[48]](#footnote-48).

At the end we pose the question: Why should the harmonization of Macedonian property law be considered as a necessity?

Our answer to that question is that it is extremely beneficial for the legal system out of two reasons. For one - the effect of a properly conducted process of harmonization is the creation a cohesive, consistent and sustainable property law system that will bring order, stability and predictability in property relations. Second – harmonization of the Macedonian property law will pave the way for codification of the Macedonian civil law, or in other words, without harmonization there can be no codification.

**3. Conclusion**

The paper addresses the need for harmonization of the Macedonian property law as a prerequisite for codification of the civil law.

Main purpose of the harmonization process is to eliminate contradictions between the laws regulating property relations, to improve the functionality of the property law system and the raise the level of legal security within that system.

The paper proposes for the harmonization process to be conducted on national level (inner harmonization) and within possibilities on EU level (external harmonization).

Regarding the scope of inner harmonization process, it is stated that the process should include the basic Law on Ownership and all special laws regulating property law relations.

As for the approach in the process of inner harmonization, gradual or step-by-step harmonization is proposed considering the high level of fragmentation of the property law. The step-by-step approach should entail eliminating contradiction between the basic Law on Ownership and special laws, concertation of provisions regulating a particular area of property law in one or few legal texts and amendments to the basic Law on Ownership and to the special laws with introducing new regulation.

Major challenges in the process of harmonization, as it is underlined in the paper, are achieving legislative consensus on the bases of the property law system and creating an overall concept about further development of the property law system.

Concerning external harmonization - harmonization of Macedonian property law with EU legislation, the paper recognizes the need for the Republic of North Macedonia to follow the standards and principles of EU legislation, but also notes that the possibilities for harmonization of property law on EU level are very limited.

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