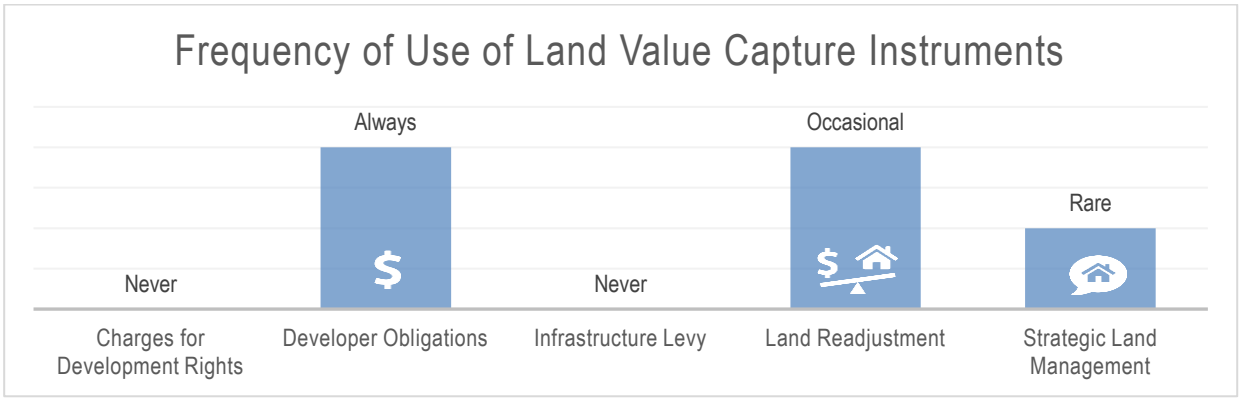
Slovenia



Several land value capture instruments are used in Slovenia. The use of land value capture instruments is enabled by both national and local laws relating to land use and planning, but there is no legal definition nor guiding policy for land value capture. Nonetheless, instruments are principally used for urban expansion and development. Main obstacles include resistance by landowners and developers, a lack of administrative capacity or coordination among public entities, an inadequate legal framework, and a lack of financing for the acquisition of land.

Main instruments

Instrument (OECD-Lincoln terminology)	Local name	National legal provision	Implementation	Use
Developer obligations	Public utility fee (komunalni prispevek) Compensation for using building land (nadomestilo za uporabo stavbnega zemljišča)	*Spatial Management Act, Official Gazette of the Republic of Slovenia No. 61*/2017, 199/2021 – ZureP-3 *Rules on the criteria for the assessment of building land development fee*/2007 (amended 2019) *Decree on the programme for servicing building land and on the ordinance determining the base for assessing the public utility charge for the existing public infrastructure and on the calculation and assessment of the public utility charge, 20*/2019	Local governments	Always
Land readjustment	Komasacija	*Spatial Management Act, Official Gazette of the Republic of Slovenia No. 61*/2017, 199/2021 – ZureP-3 [periodically updated since 2002] *Real Estate Cadastre Act, Official Gazette of the Republic of Slovenia No 54*/2021 [Replaced the Reat Estate Recording Act from 2006]	Local governments, private landowners	Occasional
Strategic land management	Strateški prostorski akti	*Spatial Management Act, Official Gazette of the Republic of Slovenia No. 61*/2017, 199/2021 – ZureP-3	Local governments, public-private partnerships	Rare

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Enabling framework

Slovenia is a unitary state with one subnational level of government: 212 local governments (OECD, 2021[1]). The national and local levels of government both create the legislative framework that structures the spatial planning system. However, there is no legal definition of land value capture and no national policy document guiding its use. Public officials at national and local levels have little discretion when deciding the granting of planning permits.

The principle of a social function of land is included in Slovenia's constitution (Articles 67 and 71).

Developer obligations

The legal basis for developer obligations is provided by national law, empowering local governments to define the charges used to fund public infrastructure, services, and utilities. Developer obligations and infrastructure levies usually take the form of land development fees (e.g. public utility fees), which must be paid before a building permit is issued or before the new/improved public service is put into operation, and taxing for the use of building land, which is an annual payment and can be treated as property tax.

Thus, local governments are responsible for issuing development approvals and fees on developers who benefit from public infrastructure or services. They also receive revenues generated by developer obligations, and do not need approval from higher levels of government. The national government does not interfere in the recovery of developer charges or land value increases. Local governments have a high level of discretion when charging developers, estimating the total fee, identifying relevant developers, and reinvesting the collected funds.

Local governments can charge developers for development approvals when charges are applied following a specific plan (e.g. local master plan), or for issuing building permits in the area of existing public infrastructure. They can also charge developers who benefit from a public improvement or service.

Charges can be based either on established rules or negotiated on a case-by-case basis. When based on established rules, charges typically take into account the size, location, and/or physical characteristics of a development, as well as the floor area ratio to land plot area. When decided directly between the jurisdiction and developer, negotiations concerning charges are unstructured and follow an ad hoc procedure for each development approval. Charges levied on developers benefiting from a public improvement or service are determined according to a score for each plot of land and property, calculated based on floor area, size, and/or ratio compared to the land plot area, or the use of the land (e.g. industrial, residential).

Developers can be exempt from charges for development approvals if their developments meet certain criteria, e.g. facilitate the delivery of public infrastructure or services, or provide a social benefit that outweighs their impact on infrastructure. As part of joint venture projects between municipalities and developers, the latter can provide cash, in-kind contributions such as land, public space, public improvements or services, or a combination to obtain development approvals, either before or at the time that approval is granted.

The timing of payment by developers benefiting from public infrastructure or services depends on local decree as well, however they are usually paid in lump sum payments when issuing building permits. In the

case of new facilities, the payment is done once the infrastructure is complete and once the landowner can benefit from the service being provided. If the landowner co-financed the infrastructure project in question, the lump sum of the charge can be reduced in proportion to the estimated contribution.

Public infrastructure or services provided by developers typically include public space, roads, parking, schools or elderly care, and public utilities. In 2019, local communities collected an approximate 70 million EUR through public utility fees in exchange for issuing building permits.

Develop/land owners sometimes appeal against the requirement to pay a development charge. The main obstacles that hinder the use of developer obligations are insufficient administrative capacity of public entities, and occasional resistance from developers.

Land readjustment

Land readjustment is used for urban expansion and development, with the legal basis provided by national law. Projects can be carried out by local governments and private landowners, and executed only in the planning zones. Local governments do not need approval from higher levels of government to pool and readjust land plots, however the majority of projects are initiated and funded by landowners. Local communities are involved as landowners or as co-financiers of the parts of a project related to public infrastructure and services. Overall, about five land readjustment projects are carried out per year.

Most of the land readjustment projects are contract based where all land owners actively participate and agree with the land parcel restructuring and sign a contract. A special confirmation document is required from the spatial development authority, that the new land parcel structure is inline with the spatial planning acts.

In the case of majority-based land readjustment, which is rarely used, landowners are also actively involved in all the phases of the process. For the majority of land readjustment projects, in order to pool and readjust land plots, consent must be provided either by 67% of landowners, or by landowners who own 67% of the land, depending on the specifics of the project. The process is legally defined, and includes public hearings and consultations. The final decisions of each phase are then publicly announced, and landowners can appeal. However, in instances where a decision that is appealed does not conflict with the law, the new land plot structure is enforced, leaving the landowner to seek any additional desired compensation at the second decision level (ministry). However, land cannot be expropriated.

After the pooling and readjustment of plots, landowners can be compensated in several ways. If feasible, they receive a readjusted plot proportional to their original holdings based on either value or surface area. If the original plots are smaller than a specific size, or if the readjusted plots are less valuable than the original ones, landowners can be compensated in cash. Conversely, if the readjusted plots are more valuable, landowners are required to pay a cash compensation. Landowners can also exchange reallocated plots for cash, receive different plots within the readjustment area or receive jointly owned plots. A share of readjusted plots are reserved for public improvements, typically roads or parking, with no limit to the amount. Other stakeholders, e.g. tenants and the local community, can participate unofficially.

Landowners sometimes appeal against the decision to pool and readjust their plots. Obstacles that hinder land readjustment include resistance by landowners, and a lack of administrative capacity among public entities.

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Strategic land management

Strategic land management is conducted by state and local governments or through partnerships between government and private developers (e.g. public-private partnerships), and is financed via direct government financing. Land can be strategically acquired and retained by local government for infrastructure and other projects related to public services, but there is no legal basis for strategic land management provided by national law. When applied, its aim is to redevelop vacant or unused land, which is usually scattered throughout a jurisdiction.

Land acquired can be either greenfield or brownfield sites, and is acquired either through purchase at market price, via transfer from the government, or expropriation. The government cannot freeze land prices before announcing a public investment or rezoning, and then buy the land at that price. Nor is there a time limit for how long land acquired can be retained.

Land can be rezoned by the government or another authorised public entity, and developed before sale. Developments carried out include conducting drainage and decontamination of soil in preparation for use, public space, public transport, roads and parking, and public utilities.

Public-private partnerships (PPPs) are set up as joint ventures or as a contract between public and private entities, where private entities have certain responsibilities for developing the acquired land and financing its development. Both national and local governments partake in PPPs.

Public land acquired via strategic land management can also be leased. This option is typically used for agricultural and forest land, but municipalities also practise the leasing of building land. Land is also disposed of for roads and land readjustment/consolidation.

Local governments and independent public entities strategically acquire, retain, and dispose of acquired land. They do so without approval from a higher level of government. Both national and local governments receive the revenues when acquired land is sold.

In principle, there is no legal provision for strategic land management in urban areas. For public infrastructure and services at the national level, public entities are usually responsible for acquiring and managing land. Despite the lack of holistic legislation on strategic land management for these purposes, the government is active in the land market to acquire land needed for public purposes and strategic projects. At the local level, governments possess land that is managed and offered in the market. The active land policy of a local community is crucial for public services and national or local government cannot acquire the land on the market, expropriation may occur, but this is a last resort for land acquisition for public purposes, and it is not conducted very often.

Obstacles that hinder strategic land management include an inadequate legal framework, a lack of administrative capacity of public entities, a lack of coordination between the relevant public entities, and a lack of financing for the acquisition of land.