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Informal Settlements: Challenges and Opportunities from South-East Europe

Note by the Bureau of the Working Party

This document contains a proposed draft publication on informal settlements in South-East Europe, prepared jointly by the Working Party and the International Federation of Surveyors.

The publication examines the causes of informal housing development in South-East Europe and assesses the Government's policies to address this issue. Its purpose is to create guidelines which would support member States to address the issue of informal development.

The Committee is invited to endorse this draft publication.

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Informal Settlements: Challenges and Opportunities from South-East Europe

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NOTE

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

This publication is in English only.

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List of abbreviations

ALL	Albanian lek
ALUIZNI	Agency for Legalization, Urbanization and Integration for Informal Zones Integration (of Albania)
DLS	Department of Lands and Surveys (of Cyprus)
DUP	Detailed Urban Plan
EU	European Union
EUR	euros
FIG	International Federation of Surveyors
GDP	Gross domestic product
GUP	General Urban Plan
I PRO	Immoveable Property Registration Agency (of Albania)
LLS	Local Location Study
MSPE	Ministry of Spatial Development and Environment (of Montenegro)
NSP	National Spatial Plan
REC	The Agency for Real Estate Cadastre (of the former Yugoslav Republic of Macedonia)
SOE	Socially-owned enterprises
TCG	Technical Chamber of Greece
UNECE	United Nations Economic Commission for Europe
UN-Habitat	United Nations Human Settlements Programme
USD	United States dollars
WPLA	UNECE Working Party on Land Administration

I. Introduction

Many definitions of the terms “informal development” and “informal settlements” exist. The terms have been used in literature to refer to the phenomenon, depending on the conditions and regulations in various countries, including “spontaneous”, “unplanned”, “unauthorized”, “illegal” or “squatter” settlements. The term “informal” may also be used for settlements of refugees or vulnerable people, overcrowded and dilapidated housing in cities, or slums.

The United Nations has used the term “informal settlements” to mean “1) residential areas where a group of housing units has been constructed on land to which the occupants have not legal claim, or which they occupy illegally 2) unplanned settlements and areas where housing is not in compliance with current planning and building regulations (unauthorized housing)”.¹ Similar definitions are used by the Organization for Economic Co-Operation and Development² and the World Health Organization.³

However, as UN-Habitat points out, “informal settlements and the definition of slums vary from area to area and region to region”.⁴ The fact that “depending on the definition of ‘informal’ used, an estimated forty to seventy per cent of urban dwellers in the developing world live in extra-legal settlements” shows how widely the extent of the phenomenon can vary according to how it is defined.⁵

For clarity, this study deals with informal urban development with illegalities that fall into both above-mentioned categories:

- Illegalities related to ownership and tenure rights. This includes informal development built on illegally occupied state or private land, implying that occupants have built either in violation of existing legislation on state ownership rights or in violation of formally registered private property rights.
- Illegalities related to non-compliance with state regulations on the use of land or technical specifications for constructions, implying that owners have built without or in excess of one or more permits: (1) planning permit, (2) building permit, (3) occupancy permit, or (4) operational permit (in the case of constructions used for purposes other than private residence, e.g., commercial constructions). These illegalities may include illegal subdivisions of land or illegal deviations from approved land use, usually on the urban fringe, e.g., from “rural” or “forest” to “residential” or “mixed”. This can happen in violation of existing legislation (such as zoning, planning, construction or safety regulations) and in some cases in violation of the constitution of the country as well.

Informal urban development is not a new issue for Europe. The southern part of the continent has long dealt with this problem. However, the amount of informal urban development in the UNECE region significantly increased soon after the political and economic changes in Eastern Europe and ex-Soviet countries in the early 1990s.

The rapid economic and political change in this time was followed by rapid urbanization and uncontrolled, massive internal migration due to a number of reasons, such as poverty, conflicts, sanctions, marginalization, natural disasters (such as earthquakes and floods), migration from other regions and a lack of social and affordable housing policy. Informal development resulted from

¹United Nations, “Indicators of sustainable development: Guidelines and methodologies”, 2001, available at <http://www.un.org/esa/sustdev/publications/indisd-mg2001.pdf>.

²Organization for Economic Co-Operation and Development, “Glossary of statistical terms: informal settlements”, 24 June 2014. Available at <http://stats.oecd.org/glossary/>

³World Health Organization, “People living in informal settlements”, 24 June 2014. Available at <http://www.who.int/ceh/indicators/informalsettlements.pdf>.

⁴UN-Habitat, “Situation analysis of informal settlements in South Africa”, Nairobi: 2007, available at mirror.unhabitat.org/pmss/getElectronicVersion.aspx?nr=2336&alt=1.

⁵Bassett, Ellen M., Gulyani, Sumila, Farvarque-Vitkovik, Catherine and Debomy, Sylvie, “Informal settlement upgrading in sub-Saharan Africa: Retrospective and lessons learned”, 24 June 2014. Available at http://people.virginia.edu/~emb7d/docs/wblitreview-Jan03_web.pdf.

inadequate regulations to cope with the resultant rapid increase in the need for housing, infrastructure and community services. Authorities were not able to offer easily accessible legalization procedures. Increased local and international market pressure, especially in areas close to the sea, which resulted in the need for rapid development, further affected this situation. A huge wave of new informal development in the greater European region appeared.

Informal settlements in the region (including Southern Europe) were further encouraged by: a cumbersome permitting process for home improvements and modernization; a misuse of power by the State and its failure to adopt pro-growth planning; the lack of political will to fully adopt modern land policies for the transition from centrally planned to market economies; and the failure or reluctance of state agencies to implement necessary measures for globalized economy reforms. Public mistrust and weak professional ethics resulted from: delays and confusion in the restitution of rights; inefficient, centrally driven and bureaucratic planning; corruption and a lack of transparency in land management, e.g., in construction permitting and other property related issues; and unfair and unrealistically high property taxation.

A formalization project normally aims to repair existing illegalities; therefore, formalization is also frequently referred to as “legalization of informal settlements”. Formalization measures may aim to address the lack of legal title to ownership for those squatting on state owned-land or squatting on private land, which belongs to some other owner. This is usually achieved through a privatization procedure of the occupied state-owned land and through legislation that defines a compensation procedure for occupied, privately owned land and the provision of new titles. The procedures, times and costs vary according to the policies adopted. In some cases, the demolition of buildings and resettlement of habitants are attempted.

Formalization also aims to repair existing planning, zoning and construction illegalities in non-permitted constructions or those with violated permits. These illegalities are usually addressed through: a revision of zoning and planning procedures, regulations and standards; a regularization and upgrade of informal settlements; applying controls and upgrading individual constructions in order to meet certain standards for the environment and the health and safety of occupants; or some combination of these.

Formalization projects vary according to the policies adopted and the priorities given by governments. For example, some countries legalize those informal constructions built before a certain date, excluding those that are built in environmentally sensitive areas, and some accompany the formalization project with a legal reform of the existing zoning and planning system, the adoption of development monitoring procedures, or with provisions for affordable or social housing. Some countries may enforce existing systems by adopting additional strict police measures, demolitions and an increase of penalties for existing illegalities; others may prioritize the provision of clear property titles and unblock the market, leaving environmental and planning upgrading for the future.

This study has its beginnings in a joint International Federation of Surveyors (FIG)/UNECE conference held in 2007 in Greece;⁶ it was estimated that more than 50 million people lived in informal settlements by 2007. The conference concluded that informal development in the region does not usually result in slum conditions. Constructions in informal settlements in the UNECE region vary from single-family houses to ten-storey, multi-family buildings with or without commercial uses. They may appear in industrial zones, agricultural lands, forests, natural parks, coastal zones, protected areas and urban areas.⁷ It must be noted that this real estate is not allowed to be registered in property registration systems, and as a consequence could not be mortgaged, formally transferred, inherited, or rented; moreover, most was not actually taxed. As the size of the phenomenon is large, European and Central Asian land reform and property registration projects are at risk; a large amount of missing information impedes sound decision-making and good governance by Governments and experts, while

⁶ See <http://www.unece.org/hlm/wpla/workshops/pastworkshops.html>

⁷Tsenkova, S., Potsiou, C. and Badyina, A., *Self-Made Cities*. (United Nations Publication, Sales No. E.09.II.E.9).

dead capital slows down economic growth.⁸ Therefore, many countries were encouraged to initiate formalization projects.

UNECE member States strongly requested that a follow up conference be organized to monitor progress and identify the remaining or new weaknesses of formalization projects, especially to examine how affordable, fast and realistic formalization procedures are and how encouraging the results are for the national economies. The UNECE Working Party on Land Administration agreed to host a joint Working Party/FIG conference in 2012⁹ to initiate further research; this conference was the background for this publication.

This study presents the results of in-depth research to investigate the recent policies adopted in six countries in South-Eastern Europe (Albania, Cyprus, Greece, Italy, Montenegro and the former Yugoslav Republic of Macedonia) to examine informal development and their impacts. The research is based on: a literature review and identification of attempts to strengthen or formalize informal development in the region; research on relevant problems identified in these countries; and site visits and interviews.

Interviews were conducted with politicians in relevant ministries (such as ministries of finance, environment, planning and agriculture), decision-makers in relevant state authorities (such as land registries, tax authorities and municipal authorities), local experts in the public and private sectors (such as civil engineers, planners and surveyors), the occupants of illegal buildings, non-governmental organizations (NGOs) and minorities, real estate agents, contractors and other relevant actors.

The purpose of this study is to provide policy guidelines and recommendations to address informal development, especially in South-East Europe, and to identify lessons learned and best practices that can be applied throughout the UNECE region. Each chapter discusses the background of the problem in informal development in each target country, identified problems, adopted policies and measures, identified remaining problems and recommendations.

⁸De Soto, H., *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (Basic Books: New York City, 2000).

⁹ See <http://www.unece.org/index.php?id=28878>

II. The formalization policy of Albania

Information used for this chapter is taken from a study commissioned by FIG and UN-Habitat¹⁰ and updated by new information from the Agency for Legalization, Urbanization and Integration of Informal Areas and Constructions (ALUIZNI).

A. Background

In the 1990s, about two-thirds of the population of Albania (Figure 1) lived in urban areas. At that time, radical political changes brought new phenomena, such as free internal migration and the dismantling of agricultural cooperatives.¹¹

The Government began the privatization of agricultural land; however, policies to increase private use and investment did not yet exist. The infrastructure to support a formal land market was not present. The desperate need for work caused many people to leave rural areas and gather in the main cities; many became unemployed. Both rural-to-urban migrants and those who lived in the cities suffered from a lack of housing. The cities were not prepared to receive the newcomers (due to a lack of serviced urban land, a rental housing market and other necessities), while the quality of the existing housing stock did not satisfy the increased desire of city dwellers for better living standards. People occupied state or undeveloped, neglected private lands and built illegally without a development plan. People even sold such constructions in an informal way, even if they did not formally own the properties they were selling.



Figure 1: Albania¹²

By 2006, there were about 400,000 illegal buildings occupying about 40,000 hectares of land. Approximately USD 6 to 8 billion was invested in informal constructions.

¹⁰Potsiou, C., “Informal urban development in Europe - experiences from Albania and Greece”, FIG and UN-Habitat working paper, 2010. Available from http://www.fig.net/pub/others/un-habitat_informal_urban_dev.pdf.

¹¹Andoni, D., “The paradigm of legalization – A paradox or the logic of development”, proceedings of the FIG/UNECE workshop “Spatial Information Management toward Legalizing Informal Settlements”, Sounion, Greece, 2007

¹²United Nations Cartographic Section, “Albania”, 18 June 2014. Available from <http://www.un.org/depts/Cartographic/map/profile/albania.pdf>



Figure 2: Informally build area "Bathore" in the northern part of Tirana¹³

In cities, illegal extensions or additions to old buildings are also common; this results from a need for new housing and lack of new planned areas.



Figure 3: Additional unauthorized top of an existing building¹⁴

The Albanian labour force, especially those who worked out of the country, had invested their earnings in homes in Albania; about 60 per cent of the total new construction in Albania was financed by remittances from abroad. Many worked in the construction sector in Greece or Italy and could avoid labour costs by building their own houses. Thus, approximately two thirds of the buildings are informal developments, but most are of good quality.

However, most informal constructions are still not connected to basic infrastructure and do not receive services such as waste management, transportation, education and health services. In 2006, more than 52 per cent of houses in rural areas had no fresh water connection, more than 70 per cent of the total population suffered from long daily power interruptions and more than 50 per cent of the total population had access to fresh water for only six hours per day. The absence of solid waste management also leads to pollution.

In 1991, the Immoveable Property Registration Agency (IPRO) initiated an immovable property registration project, and most agricultural and all urban land was privatized by various agencies and given to descendants of owners in the pre-socialist (pre-1946) period or to those who had use rights.

IPRO receives information from several other real state institutions, which are responsible for parallel land reform projects such as:¹⁵

¹³ Jazo, S., "Informal development in Albania: The problem, the procedure and the progress of formalization", *South-Eastern European Journal of Earth Observation and Geomatics*, Vol. 2, No. 2S (2013).

¹⁴ Photo by S. Jazo

- The compilation of the inventories and the transfer of the ownership of land from the State to the local government and other state institutions for management (e.g., inventories of forests and pastures).
- The restitution of property rights and provision of compensation to the pre-socialism owners.
- The privatization of agricultural land.
- The legalization of informal property.

In principle, all titles issued by the involved institutions are submitted to IPRO for registration, as it is the only institution responsible for the creation and maintenance of the immovable property registry. However, the privatization processes have not yet been completed, especially those within sensitive areas, so it can still be very uncertain which property is occupied, by whom it is occupied and who owns it.

Albania has more than eight institutions dealing with property titles, under the authority of different ministries and regulated by various pieces of legislation. Each institution has its own, sometimes uncoordinated, processes for title registration.

These institutions are:

- Agency of Restitution and Compensation of Property for expropriated persons
- Immovable Property Registration Office for the registration of properties
- Judicial Bailiff's Office for the enforcement of decisions
- ALUIZNI
- State Advocacy for the protection of the property interests of the State and representation before the European Court of Human Rights
- Agency of Inventory and Transfer of State-owned Immovable Properties
- Land Governmental Commission on the Validity of Property Titles
- National Housing Entity for social housing

B. Identified problems

There are three main types of illegality in the country:¹⁶

- Situations in which the land belongs to the user but no building permit has been obtained (or the building does not conform to the permit, for example, by exceeding the approved number of floors or building area).
- Squatting on state land.
- Squatting on private land belonging to another person, such as former owners or people who received land under the post-1991 privatization process.

Much state-owned land was occupied and illegally built on. Squatters built on land that was illegally occupied or informally purchased, causing previously rural areas to be transformed into informal urban settlements.

Informal real estate construction, squatting and unclear ownership rights have resulted in an increase in property disputes. The biggest conflicts are between legal private owners of the properties and squatters who have claimed ownership in the absence of reliable and complete information on ownership.

Furthermore, the Government is unable to provide sufficient social housing for the poor or affordable housing to low and middle-income families. Some of the few newly applied housing policies include the initiation in 2007 of a construction of social rental housing programme in some municipalities, and the decision of the Ministry of Public Works and Transport in 2008 to finance the improvement of Roma settlements. Moreover, private property rights distributed by the Government were often ignored as owners moved to new places in search of better living conditions. As the property

¹⁵Jazo, S., "Informal development in Albania: The problem, the procedure and the progress of formalization", *South-Eastern European Journal of Earth Observation and Geomatics*, Vol. 2, No. 2S (2013).

¹⁶Ibid.

registration system was not strong and people preferred to emigrate rather than invest in the land and properties they were offered, a significant amount of squatting on land privately owned and abandoned by its newly recognized owners took place.

There are no data available on the level of squatting on state or on privately owned land. International concerns about the efficiency of property market, the security of property rights and about private owners whose land was encroached upon led to a movement to legalize illegal dwellings. This included recognizing current de facto land tenure and providing compensation to those whose land was illegally occupied.

C. Measures and policies

In 2006, Law 9482 "On Legalization, Urbanization and Integration of Informal Settlements and the Establishment of the Agency for Legalization, Urbanization and Integration of Informal Areas and Constructions" was adopted. The law specifies ownership rights and establishes procedures for recognizing the user of an informal building as the legal owner of the constructed parcel. Implementing this law is the responsibility of ALUIZNI, which has cooperated with the Organization for Security and Co-operation in Europe, the World Bank and United States universities in its work.

According to the Government, for several years after privatization, informal development was the only way for the average Albanian to acquire better housing or another home. The Government decided to quickly legalize most informalities to mitigate criticism from opposing political parties and to stimulate economic growth.¹⁷ Legalization aimed to activate the billions of dollars of sleeping capital trapped in the informal market.

The government has drafted the Urban Law, a new planning approach.¹⁸ The budget for the legalization project was USD 5 million. Building through existing formal procedures usually meant waiting for several months, and the result of the application was not easily predictable. The new planning approach does not include detailed dimensional requirements for parcels (that is, there are no minimum parcel or facade sizes to build). It creates a legal development right for all parcels that may accommodate a building (except those too small or oddly shaped to accommodate buildings) as a measure to solve urgent housing market needs for the next 20 to 30 years.

The government adopted a simplified legalization procedure for informal buildings. The authorities have identified General Adjustment Plans, which demarcate where urban construction is allowed (the "yellow line"). Within this boundary, urban infrastructure systems will be expanded to allow the construction of housing, trade, service and industrial facilities over 15 years. The plan also sets the suburban line further out on the periphery of the city. Informal development within the yellow lines can be legalized (Figure 4). A total of 127 new planning zones (legalization zones over five hectares each) throughout the country have been designated based on orthophotos; these encompass 300,000 properties.

According to this law, Albanian citizens were given six months to declare their homes informal. Approximately 280,000 declarations were submitted (compared to the projected 400,000), out of which 80,000 were for multiple-family dwellings, apartments and shops. Through a self-declaration procedure and by a field survey undertaken by a state agency, the ownership of land and illegal buildings of up to four stories and of any use type can be acquired legally (Figure 5).¹⁹ After 2006, in Albania it is estimated that approximately 80,000 to 100,000 new illegal constructions have been built which are not settlements but are mainly isolated objects constructed without a permit, or extensions

¹⁷Qirko, K., "The steps followed for the implementation of formalization of informal buildings/zones by ALUIZNI in the Republic of Albania", presented at the Global Land Tool Network Expert Group Meeting, "Tools for legal integration and provision of environmental improvements in informal settlements in Europe: Case study: Albania, Greece", Athens, 27 and 28 November 2008.

¹⁸Andoni, D., 2007. "The paradigm of legalization – A paradox or the logic of development", proceedings of the FIG/UNECE workshop "Spatial Information Management toward Legalizing Informal Settlements", Sounion, Greece, 2007

¹⁹Leka, S., "Shqipëria dhe sfida e integritimit urban të zhvillimeve informale në periudhën e tranzicionit", presented at the Global Land Tool Network Expert Group Meeting, "Tools for legal integration and provision of environmental improvements in informal settlements in Europe: Case study: Albania, Greece", Athens, 27 and 28 November 2008.

to existing buildings. In May 2013, an amendment of the Law no. 9482 was entered into force, which aimed to include in the legalization process all the informal buildings built after 2006.

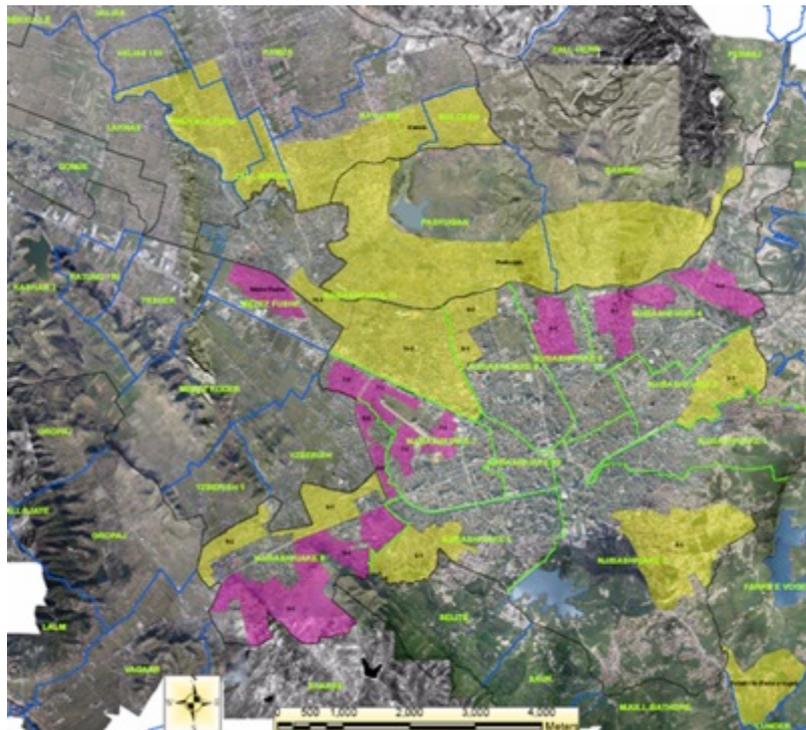


Figure 4: Informal zones in Tirana and its outskirts submitted for approval (in yellow) or have been approved (in purple)²⁰



Figure 5: The legalization procedure²¹

²⁰Ibid.

²¹Jazo, S., “Informal development in Albania: The problem, the procedure and the progress of formalization”, *South-Eastern European Journal of Earth Observation and Geomatics*, Vol. 2, No. 2S (2013).

In order to clarify the relationship between the ownership of informal buildings and the ownership of land, the law specifies that:²²

- When an object has been built on a privately owned parcel, which has a different owner than that of the object, then:
 - a) The land parcels are transferred to state ownership, through a governmental decision for land expropriation.
 - b) ALUIZNI, representing the State, prepares a contract for the transfer of ownership from the State to the individual who has built the informal object. A state notary guarantees the authenticity of the contract.
 - c) The owner of the informal building must purchase of land.
 - d) Immediately after, ALUIZNI prepares the legalization permit and sends the permit for registration to the local office of IPRO.
 - e) IPRO registers the legalization permit in the property records when the owner pays the registration fees.
- In case the informal object is built on land owned by the State, then:
 - a) ALUIZNI prepares a contract for the transfer of ownership from the State to the person who has built the informal object.
 - b) The owner of the informal building must purchase the land.
 - c) ALUIZNI prepares the legalization permit and sends the permit for registration to local IPRO.
 - d) IPRO registers the legalization permit in the property records when the owner pays the registration fees.
- In case the building is built on land for which the person has legal ownership, but the building was built without a permit, then:
 - a) ALUIZNI prepares the legalization permit and sends it for registration to the local office of IPRO.
 - b) IPRO registers the legalization permit in the property records when the owner pays the registration fees.

Applicants pay a nominal amount to buy a parcel of up to 300 m². If they wish to have more land, they may buy it, if it is available, at market prices. The cost for parcels up to 100 m² within the yellow lines is ALL 200,000 (EUR 1,463); up to 200 m², ALL 300,000 (EUR 2,195); up to 300 m², ALL 400,000 (EUR 2,926); and over 300 m², the market value.

A citizen who wishes to declare more than one informal building may choose one to formalize with these special tariffs. For residential buildings up to four stories, the applicant must sign a personal declaration assuming responsibility for any consequence that may come from natural hazards, the use of the building, or both; the Government declines liability for accidents due to poor-quality construction in informal or legalized buildings.

Previous landowners are compensated. To be able to identify the previous legal status of the property, ALUIZNI requests information from IPRO. Sometimes, these agencies cannot provide accurate and complete information, impeding legalization and increasing the risk of overlapping titles.

- By law, the amount of money collected by the transfer of the ownership from the State to the owner who has illegally constructed is divided as follows: 20 per cent of the amount goes to the local government for future investment in infrastructure and urban plan preparation, while 80 per cent of the amount goes to compensate expropriated owners. The revenue collected from taxes and penalties applied goes to the local government, which uses those funds to improve infrastructure and services in legalized areas.

Detailed planning was postponed due to the large investments of time and resources needed.²³ The Government aimed to finish legalization quickly and provide necessary infrastructure improvements (for example, water and electrical systems) with minimum urban planning norms and standards; it is

²²Ibid.

²³Tsenkova, S., Potsiou, C. and Badyina, A., *Self-Made Cities*. (United Nations Publication, Sales No. E.09.II.E.9).

expected that this will satisfy housing needs for the next 25 years. It is anticipated that, in the future, urban studies of the legalized areas will be compiled in accordance with plans approved by the relevant local authority. Minimum standards are prepared by ALUIZNI. The law provides for the participation of the community in co-financing the preparation and monitoring of the plan to turn informal areas into formal areas. The provision of land for public purposes must be negotiated with landowners on a quid pro quo basis whereby landowners contribute land for some established value. The value received may be infrastructure, such as water, sewer, electricity or gas services, or it may be the right to develop the land.

Detailed planning regulations, when needed, are currently proposed by developers and investors. They are specific to a certain area and used by the authorities as technical, rather than legislative, documents.

Law 9482 did not define what should happen to those objects that do not meet the criteria for legalization such as informal objects built in tourist areas or in polluted areas.

Recent amendments to the law, drafted by the Ministry of Public Works and Housing, approved in 2013, allow the legalization of up to five-storey buildings (instead of up to four), which are built on privately owned lands within the yellow line. Also, these amendments allow for the legalization of buildings and building extensions in cases where not all the owners of a jointly-owned building pay the legalization fee. Previously, in such a situation, legalization could not continue. Now, owners who do not pay fees cede the ownership of their part of the building passes temporarily to ALUIZNI until payment is made. The amendment facilitates legalization.

The new law also reduces conditions, which preclude the legalization of illegal buildings. For example, previously buildings closer than 100 m from the axis of the road could not be legalized; now, the minimum required distance from the axis of the road is 20 m. This change was made because of the estimated 30,000 illegal buildings that are penalized for being within 100 m of the axis of the road.

D. Remaining problems

Cumbersome land-use regulations and inefficient land administration agencies would have significantly slowed economic development if regulations were enforced. Through permissive legalization and tenure security, those Albanians working in Italy and Greece were encouraged to bring their earnings back into the country and invest locally; low property taxes were encouraging, too. This has contributed to Albania's economy outperforming other countries in the region.

From 2006, the year when legalization started, up to the end of 2013, the last update of this research in ALUIZNI records, the following progress has been made:

- Self-declared objects: 270,592
- Properties identified on orthophotos: 233,348
- Objects measured in the field and mapped (field surveys) : 195,407
- Squatted, constructed private parcels: 90,593
- Revenue from the transfer of ownership rights to the occupants: ALL 8.3 billion (about EUR 58.9 million)
- Owners compensated by the fund rose from the sales of constructed parcels: 4,818. (The research has identified that while there are 90,593 squatted, constructed private parcels, so far only 4,818 legal owners have been compensated; this means that the compensation procedure is too slow. Before transferring the compensation to a previous legal owner, a thorough title control must be done in order to adjudicate him/her, as IPRO records are not considered to be reliable.)
- Funds raised for the compensation of owners of expropriated property: ALL 5.6 billion (about EUR 39.1 million)
- Total estimated value of the squatted private land that is expropriated,: 9.9 billion ALL (EUR 70.1 million)
- Legalization permits issued: 52,555
- Legalization permits submitted for registration to IPRO: 13,885

The above data shows that the project's first three phases (self-declaration, property identification based on orthophotos and a field survey of objects by ALUIZNI) have been quite successful.

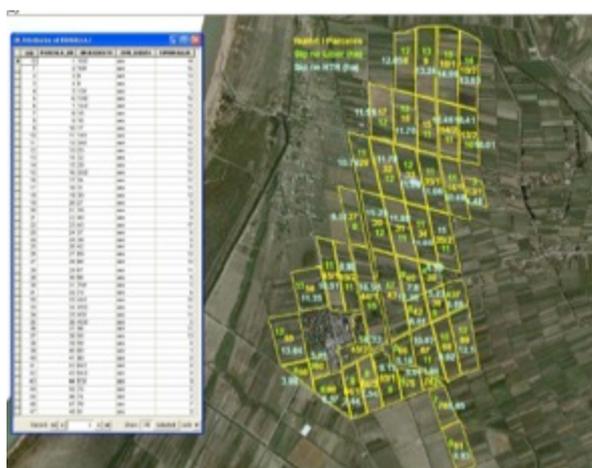


Figure 6: Management of the collected data by ALUIZNI

The commitment of citizens to formalization has been strong so far. ALUIZNI successfully: created an entire legal framework; assisted owners to self-declare by going door to door and assisting with the necessary paperwork; classified all properties according to eligibility for legalization; conducted field surveys of almost all classified objects; and created a database of the construction plots, the informal buildings and their current owners.

However, as of January 2013, only 13,855 (out of the 270,592 self-declared) permits for legalization were submitted to IPRO for registration. This has significantly delayed the national legalization programme. This implies that, though the Government had identified the existing problems and created a fast, affordable and inclusive legalization process, there are still issues that slow the process. These issues need to be addressed by improving the property registration system.

Many factors may have contributed to delay the preparation and registration of legalization permits:

- Privatization institutions (except ALUIZNI) started issuing titles before the IPRO was established, without considering the need for a registration standard when preparing privatization documents. Many privatization documents are not registered in IPRO because they are treated as problematic; this causes a loss of information and increases uncertainty about the legal status of the property.
- Documents are sometimes not submitted directly or officially to IPRO for registration; it is up to the citizens to submit such documents and citizens often underestimate the importance of this procedure.
- Titles created through involved institutions are not delineated on any map, which would have enabled easier identification of the property and facilitated the avoidance of boundary overlaps.
- Administrative boundaries are not clearly defined.
- About 300,000 illegal objects were not registered during the first registration; such objects were not even shown on the cadastral maps. IPRO does not have enough resources to quickly register this many properties.
- The first registration is still incomplete, especially in urban areas, and the quality of maintenance after the first registration is poor; IPRO records are considered to be unreliable.
- Users cannot easily and automatically access the data in the register.

E. Recommendations

The following measures are recommended to improve the registration of informal homes:

- Either IPRO should lead the hierarchy of involved state institutions, or a steering committee should be established in order to facilitate communication and coordination between

agencies. State privatization agencies should cooperate with IPRO for the first registration of immovable properties.

- All institutions involved in privatization should coordinate and standardize their products, delineate those on orthophotos and submit all titles prepared by them officially to IPRO. Meanwhile, the procedures and mechanisms to exchange information between institutions should be carefully designed and installed.
- Administrative boundaries and cadastral boundary areas should be clearly defined.
- The legal framework for title registration should be revised and include titles for properties currently ineligible for legalization.

In this way, IPRO must be enabled to support all the other institutions involved in property privatization and the functioning of the property market.

While legalization is on-going, informal constructions continue to be built. It is estimated that, since 2006, up to 100,000 new constructions have been built. The Albanian government is determined to legalize them by changing laws and procedures. It is preferable not to include deadlines for legalization until parallel tools are adopted, such as flexible, pro-growth planning and construction permitting and provision of affordable housing.

Therefore, mechanisms and plans for affordable housing and municipal financing for infrastructure improvements should be developed as well. The contribution of the private sector is important but its role should be defined by clear rules. There is a need for zoning, which will define sustainable land uses. Planning, urban regeneration and new development should be supported by general strategic plans, up-to-date and reliable cadastral information, and citizens' participation in the decision-making process.

Moreover, legislation should be improved to ensure the proper training of local experts. The poor, minorities and the disabled need to be legally empowered to increase the system's stability; research shows that there is a lack of citizen awareness of the few newly applied housing policies. The responsibilities of all involved agencies need to be clarified. Public awareness, professional capacity building and instruction in ethics should be improved.

F. Lessons learned

The study of informal development in Albania leads to the following lessons learned for UNECE member States:

- A clear hierarchy of Government institutions, with roles and responsibilities clearly defined is necessary to tackle complex issues like informal development.
- Mechanisms should exist to legalize all types of properties where the current residents have long-standing tenure of the land.
- Mechanisms should be put in place, not only to legalize existing informal structures, but to encourage new structures to be built in the formal sector.
- The private sector can contribute to surveying and quality control for legalization, but it must be regulated and its role must be clearly defined.
- Spatial planning and zoning should be done in a coordinated manner, based on updated cadastral information, to both allow for legalization and discourage further informal development.
- Policies should encourage the proper training of all relevant experts.
- The public needs to be made aware of the advantages of legalization and the necessary procedures to legalize their property.
- A lack of social or affordable housing can exacerbate the problem of informal development.

III. The formalization policy of Cyprus

This chapter is derived, in part, from an existing study²⁴ and reproduced here with permission from the published, Finnish Society of Surveying Sciences. The study has been updated based on information from a FIG/UNECE conference²⁵ and interviews with the local cadastral expert, Mr. Elia Elikkos.

A. Background

More than twelve centuries of nearly continuous Roman and Byzantine administration (from 30 BC to 1191 AD), the island of Cyprus (Figure 7) was successively ruled by the Crusaders, the Frankish House of Lusignan (1192-1489), the Republic of Venice (1489-1571), the Ottomans (1571-1878) and finally the British (1878-1960). All of them have left their mark on the culture and traditions of Cyprus, as well as the form and structure of its settlements and landscapes.



Figure 7: Cyprus²⁶

The population of Cyprus was 1,138,071 as of July 2012. Of this, 840,407 are in the southern part, which is not under Turkish control; 67.4 per cent of this population lives in urban areas. 20.3 per cent of the population is foreigners, registered as permanent residents, having lived more than one year in Cyprus. The total dwelling stock at the end of 2011 was 491,000, of which 62.5 per cent are in urban planned areas (Statistical Service of the Republic of Cyprus, 2013). Of the total 491,000 units only 297,122 serve as permanent residences. The remaining 193,878 serve as secondary residences. The country became a member of the European Union (EU) in May 2004. From 2005 until 2013, the gross domestic product (GDP) annual growth rate averaged 1.2 per cent, reaching a record high of 5.5 per cent in December 2007 and a record low of -5.7 per cent in June 2013.

The country has de jure sovereignty over the whole of the island (excluding some small areas administered by Britain). In practice, since 1974, Turkey has controlled the northern part.

During the last two decades, Cyprus has applied simplified and flexible land management procedures in order to attract foreign investment. Property sales and mortgage agreements almost doubled from 2000 to 2008. Although most demand for real estate in Nicosia, the capital comes from the local people and only seven per cent from foreigners, in the tourist coastal areas (Famagusta, Larnaca, Limassol, and Paphos) the situation is the opposite. It is estimated that between 2004 and 2007, over 65 per cent of real estate in the Paphos district was transferred to foreigners, mainly from the United Kingdom. This has resulted in increased property values.

²⁴Potsiou, C., Theodorou, M. and Elikkos, E., "Informal development due to market pressure - A case study on Cyprus and the role of land administration", *Nordic Journal of Surveying and Real Estate Research*, vol. 4, Special Series E., 2009.

²⁵Aspiridou, A., "The planning amnesty project in Cyprus", Proceedings the FIG/UNECE workshop "Informal development, property and Housing", Athens, Greece, 2012.

²⁶United Nations Cartographic Section, "Cyprus", 18 June 2014. Available from <http://www.un.org/depts/Cartographic/map/profile/cyprus.pdf>

Cyprus has a well-established system for the management of land and the provision of secure tenure, including legislation, public administration, cadastral maps, planning regulations and housing policy. There is no urgent need for publicly provided affordable housing for the poor. For this reason, there is no squatting on private or public land. Additionally, there is a good housing policy in place, which supports displaced persons from the northern part of the island. Law also protects abandoned Turkish properties in the southern part of the island, so they are not illegally occupied.

Although there are no real slums, there are a few dilapidated areas in the city centre, primarily inhabited by immigrants.

Local experts claim that most informal development appeared during the last decade, when planning agencies could not cope with rapidly increasing demand for serviced planned land.

Informal development in Cyprus is usually in the form of:

- construction without a building permit
- construction in excess of building permit limitations
- construction without planning approval (Figure 8)



Figure 8: Informal building extension constructed after the original building permit issuance and final approval (left); good quality villas constructed without a building permit (right)²⁷

By law, penalties for informal construction are scalable. When an informal construction comes to the attention of the authorities, the owners are notified, and, later, the owners are fined and municipal services are interrupted. The sale or mortgage of the property is prohibited. The engineer responsible for the supervision of the construction could be penalized. After modification of the construction so that it at least partially complies with existing regulations, legalization is usually possible. Informal homes are rarely demolished.

B. Institutional framework

Economic and regional development policy in Cyprus is based on indicative planning exercised through the Planning Bureau, an independent directorate under the authority of the Ministry of Finance, which formulates long-term development policy at the strategic level and exercises control over its implementation through the state budget.

The responsibility for spatial planning and urban policy rests with the Ministry of Interior, which delegates certain responsibilities to the larger Municipalities and the Planning Board, an independent body with advisory power over large areas of planning policy. Larger municipalities have been delegated as competent planning authorities, responsible for granting planning permissions, ensuring the sustainable distribution of land resources, prohibiting the implementation of projects detrimental to public welfare and quality of life, monitoring conformance to planning system standards in granted permissions, and enforcing standards implementation in cases of non-compliance.

²⁷Potsiou, C., Theodorou, M. and Elikkos, E., "Informal development due to market pressure - A case study on Cyprus and the role of land administration", *Nordic Journal of Surveying and Real Estate Research*, vol. 4, Special Series E., 2009.

Under the responsibility of the Ministry of Interior are the:

- Department of Lands and Surveys (DLS), responsible for the title cadastral system, property and rights registration, cadastral plan and map production, cadastral surveying, mortgages, conveyances, valuation, acquisition, the management of state land, photogrammetry, cartography, and the use of Geographic Information Systems.²⁸
- Department of Town Planning and Housing, responsible for the implementation of town and country planning legislation and aspects of urban policy and spatial planning. The Department is comprised of the following sections:
 - Housing, responsible for national housing policy, as well as the design and management of public housing, at present almost exclusively serving people displaced from the 1974 conflict with Turkey.
 - Development Control, responsible for implementing and enforcing development plans, as well as administering six of the nation's Planning Authorities.
 - Spatial Planning, responsible for urban and spatial policy formulation on, inter alia, land use and preservation, transportation and territorial development.

The hierarchy of development plans includes the:

- Zoning and planning regulations on Cyprus.
- The “Island Plan”, which refers to the national territory and the regional distribution of resources and development opportunities.
- Local plans for major urban areas or regions undergoing intensive development pressures. They include written regulations according to general and specific policies and a broad range of regulatory plans and maps (at scales of 1:25,000 or 1:10,000) for a variety of development types and infrastructure networks for large urban geographical areas.
- Area plans, which include policies and regulations at a more detailed level for smaller geographical areas than those of local plans and are mainly project oriented.
- The Policy Statement for the Countryside for the Sustainable Development of Cyprus refers to all government-controlled territory, except areas where a local plan or area plan is in place.

The Town Planning Board is responsible for formulating housing policy in local and area plans. The procedure for updating and revising local plans is the following:

- According to Law 90/1972 for Town and Spatial Planning, a revision of a local plan may be compiled every seven years under the responsibility of the Ministerial Board. Once the new plan is revised, the Town Planning Council is responsible for its publication.
- An objection submission, examination and amendment phase follows, and the new version is submitted to the Ministerial Board for ratification. The objection procedure should be completed within 18 months.

C. Identified problems

1. Territorial challenges

According to information provided by the Ministry of Interior, the major territorial challenges affecting Cyprus today (besides the division of the country due to conflict) are:

- The deterioration of historic urban areas due to their gradual abandonment and their dilapidation due to the recent influx of migrant workers.
- The gradual abandonment of mountainous villages.
- Continued urban dispersal and associated peri-urban sprawl.

²⁸Elikkos, E., “Cadastral template – country data: Cyprus”, 18 June 2014. Available at <http://www.cadastraltemplate.org/countrydata/cy.htm>

- Lagging implementation of the protection of nature and insufficient agriculture restructuring. These problems are especially evident in the countryside and at the urban fringe, where informal development continually encroaches on prime agricultural land and areas rich in natural and cultural resources. Pressures on land development for secondary houses further complicate the situation; due to the pleasant landscape and mild climate of Cyprus, there is a high demand for holiday houses by foreigners, and for permanent residences by pensioners from northern European countries (about 40 per cent of the dwelling stock is secondary houses).

2. Procedures for the certificate of compliance

By Law 90/1972, obtaining a planning permit is the first step of the development process. This requires an architectural study (accompanied by the title of the parcel) and approval of projected housing volume, land coverage percentage and building-to-lot ratio. A planning permit is not necessary in areas covered by Local Plans within the building development zone for a construction up to eight units (apartments) in a parcel with street and utility access. Even if the parcel is in a non-building development zone of the plan, but is larger than 4,000 m², a planning permit may be issued if the architectural plans are in compliance with the general relevant regulations for that area and only for a house area less than 400 m². If a the parcel is outside the local plan, a planning permit for a single family house may be issued only if the parcel is bigger than 6,000 m² and the owner has no other residence within the areas of the local plans. By law, a planning permit is to be issued within three months after the application is submitted.

However, in practice, the process usually takes about one year. In case of non-compliance with regulations, the Department of Town Planning and Housing may ask for a revision of the architectural plans, but some developers go forward without making the requested revision. Figure 9 shows the procedure for acquiring a planning permit within the Local Plans and Figure 10 in areas outside them. In red, it is shown where it is likely for an owner or developer to build extra-legally. Planning permits are registered in DLS.

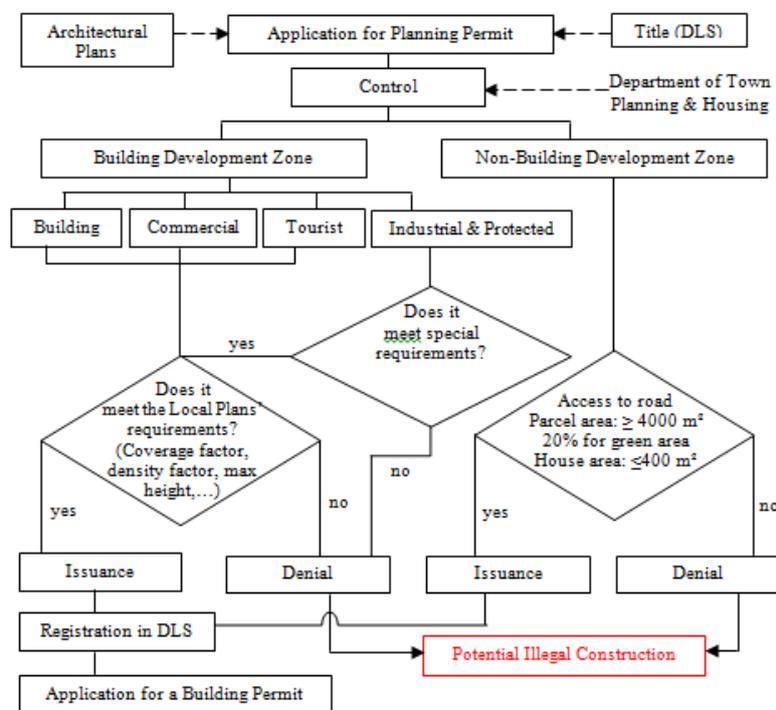


Figure 9: Development Permitting Process in areas covered by Local Plans²⁹

²⁹Potsiou, C., Theodorou, M. and Elikkos, E., "Informal development due to market pressure - A case study on Cyprus and the role of land administration", *Nordic Journal of Surveying and Real Estate Research*, vol. 4, Special Series E., 2009.

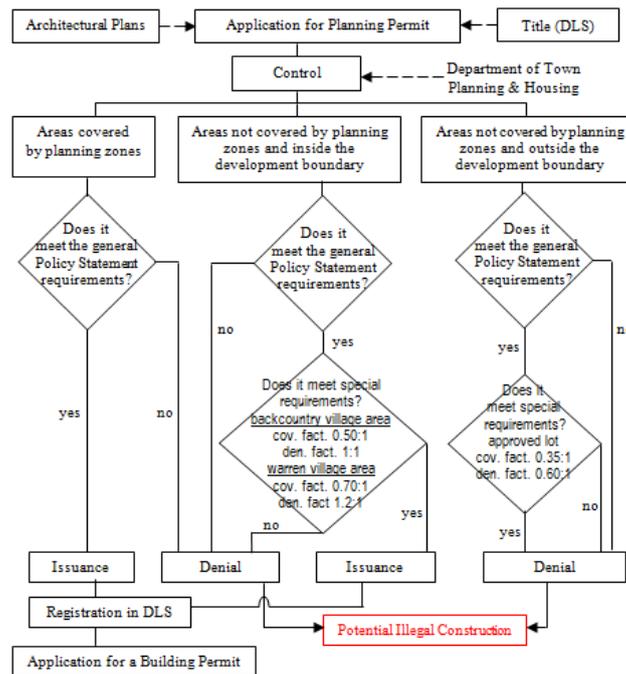


Figure 10: Planning Permitting Process in areas covered by the Policy Statement³⁰

After a planning permit is obtained, the developer needs a building permit, which requires the structural aspects of the proposed building to be approved. The owner must appoint an independent engineer to supervise the construction and declare his/her name at the municipal office. The engineer certifies the construction after it is completed. Responsible agencies for the final inspection and certificate of compliance are either the Municipality or the District Administration Office.

Within twenty days after the construction is completed, the owner must submit the certificate derived from the private engineer and an application to the above agencies for a final inspection, issuance of a certificate of compliance and registration of the construction to DLS. If the final construction exceeds the limitations of the building or planning permit, the result is an informal construction, in which case the owner or developer does not apply for a final inspection and the construction is not registered with DLS.

However, to sell or mortgage the home, it must be registered in DLS records. A title, planning and building permits and a certificate of compliance must be submitted for the transaction. Data on building registration is not well-maintained in DLS. This is partially due to the difficulty of documenting informal construction.

Multi-family and apartment constructions may be sold before completion by a sale contract. Sales contracts for new condominiums may be preliminarily recorded in the cadastre before construction is completed, providing security to the buyer; this is called “preliminary registration”. DLS prepares a sales contract, which is signed by the buyer and seller. The title is kept by the seller and not transferred to the buyer until completion of construction, final inspection and acquisition of a certificate of compliance. Informal apartment constructions that do not comply with the issued permits cannot acquire a title since the certificate of compliance is missing; only the sale contract is recorded in DLS. Owners of such apartments never get a title; the title remains with the seller forever. So, any further formal transaction of apartments is impossible. This can result in the Cyprus cadastral system being practically transformed from a title system to a deed system.

While 80 per cent of existing condominiums are preliminarily registered in DLS records before construction is completed, a significant number of them did not have property titles registered after

³⁰Ibid.

completion, because the final inspection of the buildings and the issuance of occupancy permits never took place; the remaining 20 per cent were not registered at all.

Informal single-family houses may be sold by a transaction of the land parcel, since the owner has a legal ownership title for the land parcel; the transfer of the informal building is not recorded.

In total, 60 per cent of existing single-family houses are not registered with DLS. It is estimated that 40 per cent of non-registered single-family houses have small illegalities, while 15 per cent of them have significant illegalities. It is also estimated that 45 per cent of non-registered single family houses remained unregistered because the owners had no interest in making any transactions such as a sale or mortgage. According to information provided by the director of the Technical Services in the Municipality of Paphos, 40 per cent of current constructions in 2009 had not received a certificate of compliance.

Owners pay property taxes once a year. The amount is based on the general valuation value, which was fixed in 1 January 1980. Transfer fees are paid at the time of the sale at DLS. Capital gains tax is also paid at the time of sale at the district income tax office. Onsite inspections are made according to the DLS plan for the revaluation of properties in order to collect all data needed for taxation, and also when a new planning permit is sent to DLS by a local authority declaring the intention to build.

DLS does not check for informalities but does inspect all properties that have new buildings erected on them and conducts a general revaluation of existing properties when time permits. DLS may suspect a change to the property, but not necessarily informal construction, if their records do not correspond to the planning permit. DLS is usually informed about changes, but there is a delay before DLS revaluates the property after being informed.

DLS collects all necessary data sent by the Local Authority for all properties. However, in the case of an informal construction without a planning permit, DLS is not informed about the intention to build, so no on-site inspection is made. When an inspection is made, the valuation of the property includes the total value of the land and the construction regardless of any informality; when it is not, the valuation does not include the value of informal constructions. As a result, informal construction causes a considerable loss of tax revenue to the State.

A single-family property with informalities can be mortgaged after an on-site inspection. Bank valuers determine value for the mortgage based on an on-site inspection and not on records. Mortgages are registered in DLS records and mortgage loans vary between 60 to 80 per cent of the total estimated value.

Informal and unmonitored construction negatively affects the environment, too. In many cases, informal constructions are deprived of basic public infrastructure like fresh water and electricity connections and the owners have to find other ways to solve the problem. It is expected that through a new law on urban land consolidation, more serviced urban land will be available to meet increased market needs for housing.

The impacts of informal development on the property market are recognized by the government and by owners (especially foreigners, who recognize the weaknesses in the system).

D. Measures and Policies

The Government attempted to solve these problems and restore the reputation of property market by providing clear ownership rights to those who have suffered from such informalities for decades. In April 2011, following a two-year period of comprehensive work by several authorities, organizations and institutions involved in the construction industry, the House of Representatives approved amendments to the Town and Country Planning, the Streets and Buildings Regulation, and the Immovable Property (Tenure, Registration and Valuation) Laws, which were submitted to the Ministry of the Interior. This group of legislative amendments, called “planning amnesty”, aims to simplify and modernize procedures to updated titles (Figure 11).

Valid planning and building permits are no longer required to issue an updated title. Deviations of the structure from these permits are now noted on the title. The legalization of planning and building

informalities is optional at this stage, but all owners must now acquire a title; fines apply to those who do not. Owners of informal houses may first apply a Declaration of Intent so that they will get the ownership title, and at a later stage they may apply for a planning and building permit. Declarations of Intent under this law are accepted until 2013. Previously, only the owner of a property could apply for legalization or an updated title. Legal reforms extend these rights (to apply a Declaration of Intent) to the purchaser (under certain conditions) or competent authority.



Figure 11: Campaign for the planning amnesty project ³¹

Irregularities that can be legalized include, inter alia, increase of the approved building-to-lot ratio up to 30 per cent; increase in the height, number of floors or the coverage ratio of the building; differences in the approved layout; failure to comply with the minimum required distances from property boundaries or between buildings; change of use; reduction in the surface and the dimensions of existing plots up to 20 per cent of the surface area deriving from the designated plot ratio; failure to complete part of the approved development; and incorrect infrastructure construction. According to this law, only excesses of building and planning permits can be legalized; buildings constructed without permits cannot be legalized. All types of buildings (including residential, commercial, industrial and mixed use) are included in the law.

If a building exceeds its approved area or floor area, in order to get a planning permit, a penalty levy equivalent to half of the market value of the excessive area is imposed on the owner or purchaser. (The market value is defined by the valuation department of the cadastral agency, and those fined have the opportunity to object). These values are determined on the basis of general estimates carried out by the DLS. A 20 per cent discount on the levy is provided for applications submitted within the first year. All revenue is managed by the local authorities and used for upgrading projects. By November 2012, only 14,000 statements of intent had been submitted for about 26,000 housing units, while only 36 updated property titles had been issued by the Cadastre. As the results were poor, the deadline for the submission of statements of intent was extended until 30 April 2014, and the deadline for applications for permits until 31 December 2015.

The permitting process in Cyprus is not cumbersome or unrealistic; however, market pressure causes some delays. In order to speed up the development process and meet market and environmental needs, the Ministry of Interior is preparing a new law to introduce urban land consolidation procedures in peri-urban or tourist areas. This is to ensure that serviced urban land will be available in case of an increase in housing demand.

E. Conclusions and recommendations

Cyprus has a well established and well-maintained land registry and cadastral system, which secures land tenure, eliminates squatting on private or public land and serves the real estate market well. Unlike Greece, Cyprus has a flexible planning and zoning system. These examples show that compliance with planning regulations as a prerequisite for issuing an ownership title impedes development of the cadastre and blocks the property market and the economy.

The Government expects that about 80 per cent of existing condominiums suffer from informalities and aims to receive about 130,000 statements of intent. This represents about 42 per cent of the existing dwelling stock in Cyprus.

³¹ “Ministry of Interior”, 18 June 2014. Available at <http://moi.gov.cy>

The main motive for informal development in Cyprus seems to be increased demand:

- Increased international market demand for secondary houses.
- Increased demand in the local market for larger, more comfortable condominiums and houses.
- Increased demand, due to increased land values, for land use change from rural to urban.

The new legislation on legalization includes some desirable characteristics, which could be replicated in other countries, such as “planning amnesty” and the separation of property rights from informalities and the immediate updating of property titles.

However, the law does not address all existing problems; for example, it is not valid for a large number of informal constructions, such as buildings built without a building permit.

In addition, the legalization fees are excessive. No reliable statistics on public opinion regarding the legislation are available. Fewer than expected statements of intent to legalize have been submitted. The law is not sufficiently fast, inclusive or affordable.

The only serious weakness in the Cyprus’ system is the procedure for the final individual on-site inspection for the certificate of compliance, which only takes place if the owner applies for it. This has led to increased informal development. On-site inspections are costly and time-consuming, and the system cannot accommodate periods of high demand.

F. Lessons learned

The study of informal development in Cyprus leads to the following lessons learned for UNECE member States:

- Legalization programmes are most effective when compliance with planning regulations is not a prerequisite for title issuance. Property rights should be separating from informalities.
- Spatial planning and zoning should be done in a coordinated manner, based on updated cadastral information, to both allow for legalization and discourage further informal development.
- Fees and penalties for legalization should be kept affordable, in terms of both time and money, for all, including the poor and middle-class.
- Planning amnesty programmes can be useful measures to bring large amounts of informal properties into the formal sector.

IV. The formalization policy of Greece

Information used for this chapter is taken from a study commissioned by FIG and UN-Habitat³² and updated by research from the author. Research was supported and funded by the Global Land Tool Network, which is facilitated by UN-Habitat.

A. Background

As a result of poverty, immigration, lack of affordable housing and inefficient land administration and planning, Greece (Figure 12) has a long history of informal or unplanned development. The country has long focused on educating land professionals and raising awareness at all levels on the importance of: controlling development, securing and protecting public- and state-owned land; safeguarding the environment; preserving cultural heritage; and taxing private real estate. Civil engineering standards for constructions were first enforced in 1959 and since then updated several times (in 1984, 1993, 2000, 2004 and 2010), because of the high risk of earthquakes. Due to a continuous effort to provide social services to the poor there are very few slums³³ and the majority of informal buildings are safe and strong, built on legally owned land.



Figure 12: Greece³⁴

The Greek economy is highly centralized. In 2010, the country entered a deep financial crisis, real property taxes were rapidly increased and real estate prices crashed.

Although Greece has been an EU member state since 1981, national and local governments have been slow to encourage privatization and secure private property rights; they have not been seen to widely encouraged private investment in land (except for areas covered by a detailed city plan) or developed standards for the fair protection of private property, especially against restrictions or appropriation of the land for the public benefit. The public benefit principle has seemingly superseded the protection of private rights. It was only after 2004 that the influence of the European Court of Human Rights caused a higher priority to be given to private land rights.

More than half of Greek territory is state-owned land, the use of which is highly restricted for environmental and cultural reasons; any forested land is considered to be under state ownership unless there are original private titles registered in the land registry and a continuous chain of registered legal transactions since 1884. Due to the lack of forest maps in Greece, this law has always created exploitation of resources and disputes between private investors and the forest authorities. Past efforts

³²Potsiou, C., "Informal urban development in Europe - Experiences from Albania and Greece", FIG and UN-Habitat working paper, 2010. Available from http://www.fig.net/pub/others/un-habitat_informal_urban_dev.pdf.

³³Potsiou, C. and Dimopoulou, E., "Access to land and housing of the Greek Roma" *Surveying and Land Information Sciences*, volume 72, no. 1, March 2012, pp. 37-49.

³⁴United Nations Cartographic Section, "Greece", 18 June 2014. Available from <http://www.un.org/depts/Cartographic/map/profile/greece.pdf>.

by the State to compile forest maps have been unsuccessful and the project was stopped due to the large amount of disputes submitted to the courts. Since 1995, the State claims ownership rights on privately owned land in forest areas by initiating the compilation of new forest maps in parallel with the cadastre project; this action has affected more than 48 per cent of the private land parcels registered in the cadastre. Any construction in parcels within the forest areas is considered to be informal. Private small or medium investors suffer from a lack of cadastral, forest and other zoning maps. Therefore, it is necessary for them to investigate an often long series of successive deeds registered in the land registry to investigate ownership rights before purchasing the land, which is prohibitively time-consuming and costly for most small and medium investors. Existing regulations and restrictions are not indicated on maps and a reliable investigation of the valid regulations on each property is a difficult task. The State treats large investments, called “strategic investments” for the Greek economy, separately (similar to the case in Montenegro).

The law on adverse possession treats squatting on private land; if a squatter is using the land for 10 years with the belief that he is the owner of this land or for 20 years without any objection from the owner, he may claim ownership of the land at the court. The principle of adverse possession is not valid if the landowner is the State. Therefore, the State frequently claims ownership rights on privately owned land in the suburban areas, even if the land has been used for longer than 20 years by the current occupant or even if property ownership rights are registered in the land registry, especially if a parcel is characterized to be within a forest zone. It is worth mentioning that any rural land that is not cultivated may become forest land; then the State may claim ownership rights. Many abandoned their privately owned rural parcels in the past due to urbanization; such parcels if forested by specific forest type flora, are now claimed by the State.

Development informalities in Greece today mainly result from violations of zoning, planning and building regulations or construction without permits, and less from squatting. Most informal development consists of the construction of one- to two-storey single family houses built on legally owned parcels in unplanned areas or one- to two-room extensions beyond legal limits in the urban areas.

Approximately one fifth (or more than 1 million) of constructions are informal and built without building permits (Figure 13). This does not include the estimated 1.5 million or more additional properties with minor informalities, like extensions into semi-open spaces (Figure 14), changes of use, and unapproved extra rooms. In fact, more than 90 per cent of initially legal constructions built since the 1980s have such informalities. Basic infrastructure, such as water piping and the paving of roads have been provided to many unplanned settlements with informal constructions when local authorities implemented environmental improvements in their neighbourhoods. (As the implementation of new city plans and infrastructure provision requires a central decision which is usually long-delayed by the central governments, local authorities periodically have provided services with limited standards, such as local fresh water supply, garbage collection at the periphery of the informal settlements, and the paving of existing roads). Electricity was provided in most informal settlements by 2003 by the State; telecommunication connections are provided as well.



Figure 13: Informal buildings in unplanned areas without a permit³⁵



Figure 14: Informalities within the city plan³⁶

These 1 million informal constructions built without building permits, worth an estimated EUR 72 billion (based on pre-2010 market prices), were effectively dead capital.³⁷ By law, such informal constructions cannot be mortgaged or transferred, as they are informal and by law they must be demolished; they are not taxed either, as they are not registered. Only very recently, in the wake of the economic crisis, Greece initiated a formalization project, in order to rescue these constructions from demolition for the next 30 years. However, few owners of informal constructions have participated in this formalization project, as the formalization is not permanent and the penalties are not affordable, so the situation remains more or less unchanged.

Today, due to the economic crisis and the austerity measures imposed on Greece, property markets in Greece have practically ceased to function and it is difficult to assess the market value of these problems.

Environmental protection in Greece is based on: Article 24 of the current Constitution, adopted in 1975 and revised in 2001; a series of laws and judicial decisions by the Council of the State (which functions as the supreme court of Greece); EU legislation; and international law and conventions (such as Habitat Agenda 21).

The principles that govern the Council of the State's decisions are:³⁸

³⁵ Potsiou, C., "Informal urban development in Europe Experiences from Albania and Greece," UNHABITAT, HS/151/10E, ISBN: 978-92-1-132266-8

³⁶ Potsiou, C., "Informal urban development in Europe Experiences from Albania and Greece," UNHABITAT, HS/151/10E, ISBN: 978-92-1-132266-8

³⁷ Potsiou, C. and Boulaka, I., "Informal development in Greece: New legislation for formalization, the chances for legalization and the dead Capital", proceedings of the FIG workshop "Knowing to manage the territory, protect the environment, evaluate the cultural heritage", 2012, Rome, Italy. Available at http://www.fig.net/pub/fig2012/papers/ts09k/TS09K_potsiou_boulaka_5514.pdf

³⁸ Dekleris, *Law of Sustainable Development: General Principles*, Athens, Greece, 2012.

- Any land development that may damage the environment is not considered to be sustainable development, and is forbidden a priori.
- All land which has been or will be zoned as forest or areas of equal ecological value (like areas with wild bushes and sporadic trees, where the projection of canopy cover on the ground is more than 25 per cent of the ground area), based on aerial photos from 1945 and from more recent series, is characterized as “forest” and is protected by law. (It was in 1945 that aerial photos of the country first became available.) Once such areas are characterized as forests, ownership rights are claimed by the State as well.
- A varying coastal zone buffer up to 50 m wide is common-use, public, state-owned land. Greece has approximately 13,000 km of coastline, including the seashore, lakes and rivers. As the definition of the coastal zone depends on the highest winter waves and there are no maps available for the entire coastline, private properties bordering the coastal zone face boundary disputes with the State.

B. Identified problems

The planning and zoning principles in Greece, mentioned above, have not been adapted to national and international social and economic changes. Spatial and urban planning is centrally driven, costly and bureaucratic while the relevant legislation is comprehensive but very complex, consisting of more than 25,000 pages. Planning studies, on average, take more than 15 years and cost more than EUR 6,000 per hectare. Although construction is allowed in unplanned areas, the building permit process involves more than 25 agencies (among them the forest and the archaeological services), may take several years, and in many cases requires court decisions. The process is delayed by a lack of the necessary spatial data (such as cadastral, forest maps and coastal zone maps) and the fact that unplanned areas may already include formal or informal developments. The Greek planning system is so inflexible that, in several cases where there has been a need for large-scale construction works like Olympic infrastructure, neighbourhood renewal projects like the Botanikos reformation or a large investment of strategic importance, procedures can be facilitated only by implementing ad hoc legal arrangements outside the current system.³⁹

According to the system which existed before 2011 (the year that the current formalization law was introduced), the legalization of informal settlements in unplanned areas was only possible through the enforcement of a city plan if: the legalization was permitted by the Constitution; the surrounding infrastructure was improved; and the property passed a safety inspection.

The majority of formal constructions are within planned towns and only formal constructions can be mortgaged. Therefore, most residents purchased a residence within the planned areas by acquiring a large loan. Moreover, planned towns have limited space for further development. For that reason, real estate values have been extremely high even for condominiums in many planned areas, even those with primarily low- or medium-income residents. However, a 2009 opinion poll shows that 40 per cent of Greeks had already found it difficult to repay their housing loans and 50 per cent considered informal development to be the only solution to their housing needs (even after the restructuring of loans, 33 per cent of loans in 2013 were non-performing). People, especially those who owned a land parcel in suburban areas, preferred to resort to self-built informal construction rather than obtain a large loan to buy a moderate condominium; they resort to informal construction when there is no other realistic and affordable option that satisfies their needs. In the words of one person interviewed in 2013, “State land policies force me to live in an extremely costly but small, beehive-like apartment where it is impossible to breathe, especially in the summertime, while I would rather build an equally small but cheap, self-made home in my own land parcel and be able to watch the sunrise and cultivate my own vegetables, especially during this era of unemployment and poverty”.

Urban development continued to increase until the economic crisis and usually took place before new city plans were compiled and implemented, so most of the planning projects in Greece were, in practice, urban regeneration projects.

³⁹Potsiou, C. and Apostolatos, G., “Legal reforms for land management in support of the 2004 Olympic Games in Greece and infrastructure after the Games”, *Surveying and Land Information Sciences*, vol. 67, no. 3 (September 2007), pp. 159-173.

As Athens and other large cities grew larger, they became congested and had limited space for green areas or parking. Many are critical of features promoted in the plan for Athens: five- or six-storey apartments attached to each other on small parcels; few green areas or public squares; and public schools with small yards (Figure 15). Nonetheless, this layout is the result of pro-poor housing and land-planning policies, which tolerated informal development in legally, owned parcels in the unplanned peripheries of cities as well as later urban regeneration projects. Furthermore, buildings heights are usually kept to less than six floors because of the risk of earthquakes and the fragmentation of land into small parcels. The situation is similar in other Balkan countries.



Figure 15: The centre of Athens (view from the Acropolis). The neoclassical houses (at bottom) around the Acropolis are protected by law.

As a result, the remaining informal settlements struggle today with poor garbage collection (Figure 16) (also an issue in planned areas) and a lack of security. Informal settlements rely on private-sector initiatives for schools, medical treatment and transportation. Before the economic crisis, most people in informal settlements wanted to integrate their neighbourhoods into an urban plan to gain the rights to develop the land and build or reconstruct legally, but they did not want to significantly increase the urban density in these newly urbanized peri-urban areas. In some areas, like the Keratea municipality (which has significant problems with informal development), citizens were willing to undertake all the costs for studies, planning and infrastructure provision, not because they were wealthy but because they did not want to wait until the State to finance urbanization projects.⁴⁰ Citizens also requested flexibility in the application of the General Building Code to avoid the creation of attached housing with limited open space and gardens. However, the State was unwilling to allow any flexibility in the planning procedure or any legalization of informal development prior to urban regeneration and technical controls. The current crisis has slightly changed the State's attitude as described above, but has greatly affected people's ability to pay, so any attempt to formalize informal development has now little chance of success.

⁴⁰Potsiou, C. and K. Dimitriadi, "Tools for legal integration and regeneration of informal development in Greece: A research study in the municipality of Keratea, *Surveying and Land Information Science*, vol. 68, no. 2 (2008), pp.103-118.



Figure 16: Poor garbage collection is a major problem in the unplanned informal settlements in Greece (photo by C. Potsiou)

C. Measures and policies

In 1983, the Urban Regeneration Project was started to legalize informal development in Greece. Law 1337/1983, enacted during the socialist administration, initiated a serious effort to integrate informal suburban areas into a formal city plan. These areas had dense, unplanned development, consisting primarily of informal houses built on legally owned parcels and buildings with legal permits. This law represented the biggest such effort in recent Greek planning history. Through this law, the State recognized the actual size of the settlement and attempted to organize the neighbourhoods, provide the necessary infrastructure, and finally legalize informal settlements (a procedure similar to the one currently applied in Montenegro). The city plan and its implementation were ratified by both the Ministry for the Environment, Physical Planning and Public Works and the Council of the State.

For this, a detailed cadastral survey to facilitate the adjudication of owners was undertaken. Owners had to contribute land and money; however, the initial parcel size was usually small. A land readjustment took place creating urban plots according to the city plan.⁴¹ The final stage of the process involved the creation of new parcels, the issuance of new ownership titles, and registration of the new parcels and titles in the land registry. After the land registration process was finished, the legalization of informal constructions began. This was done through on-site inspections of individual properties. Citizens were involved and allowed to file objections. About 80 per cent of the infrastructure provision costs were paid for out of Government funds.

The project, however, was not completed as planned. Urban plans were compiled for 60,000 hectares of land;⁴² land readjustment was completed on only 45,000 hectares, and of that, legalization of informal developments was completed on only 25,000 hectares. By 2006, 700 Presidential Decrees and decisions have been made as part of this process. The remaining owners of informal houses have not had their properties legalized, and thus still cannot improve their informal houses. Nor can they inherit, rent, transfer or mortgage their property or register it in the Hellenic Cadastre.⁴³ The Urban Regeneration Project is officially on-going; however, since 2003, hardly any new urban plans have been ratified.

Since the partially implemented legalization reforms began in 1983, the Government has demonstrated little political will to legalize informal developments prior to the planning and infrastructure provision.

⁴¹Potsiou, C. and Mueller, H., "Comparative thoughts on German and Hellenic urban planning and property registration", *Technica Chronika, Scientific Journal of the Technical Chamber of Greece, I*, vol. 28, no. 2-3 (May-December 2008) pp.19-35.

⁴²Xinofilaki, E., "Informal construction and procedures defined by the Law 3212/2003", proceedings of the TCG workshop "Urban planning and construction", 20 and 21 May 2004.

⁴³Potsiou, C. and Ioannidis, C., "Informal settlements in Greece: The mystery of missing information and the difficulty of their integration into a legal framework", proceedings of the fifth FIG Regional Conference, Accra, Ghana, 2006. Available at: http://www.fig.net/pub/accra/papers/ts03/ts03_04_potsiou_ioannidis.pdf.

In September 2009, a new law was adopted to formalize illegalities only within planned areas; for example, it allowed the formalization of the build-up of the semi-open areas of buildings, but only if this not exceed approved building size restrictions (Figure 17 right). It did not allow for legalization of constructions, which exceeded the approved height (Figure 17 left) or area.



Figure 17: Illegal room under the roof of the building (left); build-up semi-open areas that are within the ratified outline of the volume of the building (right)⁴⁴

The political opposition (particularly the socialist and communist parties) claimed that this law was contrary to the Greek Constitution, as, by legalizing or formalizing built-up areas, there would be an increase of the floor area or land ratio in the planned areas, which is considered to negatively impact the environment. After the national elections and the concurrent beginning of the current economic crisis in Greece, a new Law 3843/2010 was presented by the new socialist government to temporarily formalize, for a period of 40 years, these extra areas in the planned cities. Formalization fees were to be deposited into the Green Fund and the revenue of this fund was planned to be used for environmental and regeneration projects. From 2010 to September 2011, declaration of these informalities was practically optional and had little meaning for the owners, as law never prohibited transactions and mortgages of properties in planned areas with such minor informalities.

In response to the pressure of the current economic crisis, a new Law 4014/2011 was adopted. The Law was supported by the majority of the members of the parliament of the two largest political parties and aims to make obligatory the declaration of informalities in planned areas. According to this law, for any future property transaction of either formal or informal property, a declaration by the owner and a recent certificate signed by a private engineer after a recent on-site inspection is required to certify that there is no informality in the real estate at the time of transaction. The owner usually hires the engineer to compare the real situation of the construction with the permit to check for informalities. The on-site inspection must be done each time the real property is transferred.

As a result, general transaction costs have increased significantly for both legal and illegal properties and the procedure has become more bureaucratic. This contradicts the global trend to reduce the time and costs required for property transactions.⁴⁵ Recently, the Ministry of Environment has clarified that this certificate is not required in the case of mortgages.

Law 4014/2011 also allowed the formalization of planning and building informalities, only for a period of 30 years, of constructions which exist either: 1) within planned areas, but not within the volume of the building (Figure 18), 2) within unplanned areas and on legally owned parcels (Figure 19) but not in protected areas. Within this 30-year period, local authorities are expected to proceed with the compilation and implementation of the necessary city plans so that the owners of such properties do not have to pay costs to buy land and recommence formalization procedures. For

⁴⁴Dimopoulou, Efi and Zentelis, Panagiotis, "Informal settlements with a spatial development framework", proceedings of the FIG/UNECE workshop "Spatial information management toward legalizing informal settlements", Sounion, Greece, 2007.

⁴⁵World Bank, *Doing Business 2011: Making a difference for entrepreneurs*, (Washington, DC, 2011) p. 267.

example, to build legally in unplanned areas in Attika, one needs a parcel of at least two hectares, while the average parcel where such informal properties are built is from 300 to 500 m².



Figure 18: Informalities in planned areas that do not exist within the ratified outline of the volume of the building (informal closing of uncovered balconies that are not considered to be within the ratified volume), but can be formalized by Law 4014/2011 (photos by C. Potsiou)

According to this law, for the next 30 years, owners of these properties will not be asked to pay any additional formalization penalties for the illegalities that they declare now; connections to utilities will be provided (to those few that do not have them); and transactions will be permitted when the owner pays all legalization fees in advance and receives a certificate of formalization. Formalization fees are high but scalable depending on the year of construction, the tax zone base value (defined by the Ministry of Finance) and whether the property serves as a first residence or not, and can be paid in instalments within the two and half years after beginning formalization. However, owners must hire engineers for the preparation of the necessary plans and documents. Surveyors should prepare highly accurate surveying plans and civil engineers should inspect and certify the construction's stability.



Figure 19: Informal settlements in the unplanned areas in Keratea, Greece (photos by C. Potsiou)

Within the next 30 years, if the municipalities prepare detailed city plans, these informal settlements will be permanently legalized. Unfortunately, this new legislation is not accompanied by reforms in the planning system and procedures.

There are approximately 1.5 million small informalities within planned areas; at the time of writing, only 655,000 declarations have been submitted for formalization according to Law 3843/2010. According to the Ministry, most declarations have been submitted in Athens, Creta, Eastern Attika, Evia, Thessaloniki and the islands of Cyclades and Dodecanese. The formalization fees for this project are estimated to be from five to 11 per cent of the tax value of the property. The revenue so far collected is approximately EUR 190 million, while the originally projected revenue was EUR 800 million.

The government extended the deadline for the declaration of submissions several times, hoping to collect more declarations and formalization fees. Law 4014/2011 came into effect in September 2011; it was supposed to expire by the end of November 2011 but was extended until the end of May 2013.

This law referred to more than one million buildings, mainly located in unplanned areas all over Greece. A rough analysis of the declared informal buildings shows that the majority of those declared are commercial constructions and a few expensive informal residences. The future is unclear for those who cannot pay, for those on land claimed by the State and for minority groups, like the Roma, without legal rights to land.

Interviews revealed feelings of resentment from the owners of properties formalized under this programme. They are forced to pay large formalization fees in addition to the other taxes the Government enforces on real properties. Many said that they were willing to participate but unable to pay. Paying loan payments (including for non-housing purposes), income and property taxes and formalization fees in a year is unrealistically burdensome for many households, especially given the country's increased unemployment (30 per cent), reduced salaries and increased prices due to the crisis. Many think the procedure is overly insecure, costly and long.

Owners reported that they understood that even if they declared the informality and even if they had paid the formalization fees they might still be unable to formalize the property. Even in optimal conditions, they would be reluctant to invest and improve their properties for the next 30 years as they believed the State will always consider these houses to be informal.

Interviews with local authorities indicated that they have long been working to improve informal settlements and integrate them into the city plans. However, it is unclear how they will manage to find the necessary funds for future mandated planning; almost all of the revenue from formalization penalties goes directly to the national budget.

Experts, such as engineers, support this programme, which creates new jobs for them. Much of the responsibility for the implementation of planning rules and regulations has been transferred to private engineers. The educational centre of the Technical Chamber of Greece (TCG) has organized e-training courses to improve engineers' professional capacity in this field and to emphasize the importance of professional ethics. The TCG is currently revising the ethics code for engineers for use in these courses.

Other local professionals like contractors and real estate agents were also interviewed. Most local contractors have been informally acting as real estate agents as well. The majority of them were against the formalization law, as they wished to sell the semi-legal constructions they had under construction as fast as possible in case of a future market collapse. As construction was long discouraged in unplanned areas through numerous regulations and restrictions, and informal houses cannot be legally transferred, the few semi-legal constructions they built were few and expensive, yet profitable. After formalization, many newly formalized properties were expected to flood the market, decreasing prices.

According to local real estate agents, the real estate market for informal properties has been nearly frozen for 30 years. When a transaction occurred, it was usually because owners had an urgent need for funds; they often sold property for less than half of its true value. With the current economic crisis in Greece, most potential buyers are foreigners, who usually buy property in coastal areas.

Until May 2013, about 562,263 declarations had been submitted, of which 385,535 paid the fees; 331,300 transactions have been registered. For the period from 2009 to 2013, the announced total revenue is about EUR 1 billion, while the expected total revenue raised because of Law 4178/2013 was estimated to be about EUR 5 billion. Yet, it is estimated that by keeping these informal constructions out of the economic cycle the annual GDP loss is about EUR 3 billion.⁴⁶

In May 2013, the Council of the State decided that Law 4014/2011 is contrary to the Constitution (especially to the articles on the protection of the environment), as such informal constructions on parcels smaller than the required size harm the environment, and therefore, no formalization or legalization will take place under that law. In search of solutions to overcome the decision of the Council of the State, on 10 September 2013 the Government introduced a new formalization law

⁴⁶Nystrom, S., "The annual GDP loss in Greece due to unregistered and restricted informal development", proceedings of the FIG/WPLA Workshop "Informal development, property and housing", Athens, Greece, 2012.

4178/2013 “on tackling informal development and environmental balance provisions”. The Government now allows the possibility to deduct the costs for energy efficiency and stability improvements from the penalty, up to 50 per cent of the penalty. However, the total costs for both formalization penalties and energy or stability improvements are high. Therefore, formalization under this law is still unaffordable for low- and middle-income families, taking into consideration that annual property taxes will also be applied following formalization. All of these annual costs are estimated to total more than 30 to 40 per cent of the annual income for low or middle income families; this is not affordable, especially during the economic crisis and given that many owners of such informal constructions are currently unemployed.

D. Conclusions and recommendations

The right timing is important. Unfortunately, the Greek government delayed relaxing the planning prerequisites through legislation. Finally, formalization legislation was adopted during a severe economic crisis but accompanied by very high penalties without any real benefit to residents. Any formalization project depends on people’s ability to pay and willingness and trust to participate; it is obvious that formalization in Greece needs to respect this concept. Property owners cannot pay the required expenses and fees, and so the previously projected direct revenue from formalization is no longer realistic. The number of declarations of informality and the amount of revenue collected has fallen short of expectations. Formalization procedures and the necessary technical documentation should be low-cost, inclusive and affordable to all.

Furthermore, the formalization law was not accompanied by reforms to adjust forest zoning to reality, simplify planning and permitting procedures or reduce general transaction costs. However, by making formalization more affordable and by facilitating a pro-growth policy in order to help the property market to recover, indirect revenue to the State could increase considerably. The current estimated annual GDP loss of EUR 3 billion should also be considered.

The Government should unblock the market by making property rights clear. Penalty collection should be de-prioritized, the formalization procedure should be simplified and owners should be encouraged to use money to make environmental and stability improvements to constructions by themselves, if they can afford it. The Government should concentrate on the improvement of the property market and the collection of annual property taxes.

Law 3843/2010, Law 4014/2011 and Law 4178/2013 have inherited the weaknesses of the Greek planning system (complexity, confusion and bureaucracy) and, rather than solve the problems in informal areas, create new costs, mistrust and bureaucracy while postponing measures to solve the root causes of the problem for 30 years.

Formalization fees and costs for the preparation of the necessary plans and documents are high, around one-third to one-half of the property value. Formalization programmes should not be considered an opportunity to impose unnecessary expenses on owners to create jobs for engineers. Much of the responsibility for formalization is now in the hands of the private sector, and the Ethics Code now replaces state supervision and fills the role of a social contract between individual professionals and professional unions. As such, engineers should share information with clients in simple and understandable language, and should also publish and share their knowledge and experiences so that others can learn from them.

During the crisis, laws were revised so that 95 per cent of the revenue of the Green Fund is directed to the regular national budget rather than to fund environmental improvements. This means that future improvements in planning and environmental protection are unlikely to be financed from this fund.

The occupants of informal houses remember the 1983 attempt at legalization, which did not achieve its goals. They understand that with the current economic situation it is not easy to conduct detailed plans in their areas within the next 30 years, and they wonder how many times they will be asked to formalize their own homes.

It is interesting to record the view of one foreigner interviewed, a potential buyer interested in a house in a suburban coastal area of Greece: “The sale of ‘protection’ services has a long history in the major

cities in the United States. A store or restaurant owner is approached by the neighbourhood boss of thugs and advised that, without his protection, the security of the enterprise cannot be guaranteed. Doubt on the part of the storeowner is dissuaded when his windows are blown out the next day. Protection will cost the proprietor a percentage of his gross (not net) income. It is extortion in its simplest form. Accordingly, it is astonishing to read of the proposal of the Greek government to charge certain homeowners a fee (tax? penalty?) for protection against the demolition of their houses for (only) the next 30 years. It is extortion of a higher order.”

The decision of the Council of the State to forbid formalization under the current initiative creates a problem for those who have already declared and paid the fees or who have bought or sold “formalized” informal development. Nevertheless, the Government has now introduced formalization law 4178/2013, though many politicians oppose this and claim that it will fail like the others. Improvements to the formalization process should include measures for environmental recovery to comply with the Constitution.

Informalities should not hinder the market. Such informalities can be mentioned on the deed. Buyers or sellers should be allowed to correct the informality when this would be affordable to the owner by introducing environmental balancing and stability provisions.

It is, however, important that, prior to any formalization of informalities, ownership rights should be specified, ownership disputes with the State in forest areas should be solved, and properties should be allowed to be transferred, mortgaged, inherited and taxed.

Finally, strict planning laws have prevented the construction of large tourist resorts as in neighbouring Mediterranean countries. These regulations are good for the environment but, if exaggerated, have a negative effect on the country’s economy. Good and flexible planning should be used to achieve both environmental protection and sustainable economic growth.

E. Lessons learned

The study of informal development in Greece leads to the following lessons learned for UNECE member States:

- Fees and penalties for legalization should be kept affordable, in terms of both time and money, for all, including the poor and middle-class.
- Spatial planning and zoning should be done in a coordinated manner, based on updated cadastral information, to both allow for legalization and discourage further informal development.
- The public must trust in the long-term viability of a formalization project to participate in it.
- Formalization laws should be formulated and enforced in a way that protects the environment, encourages secure tenure and promotes economic growth.
- Property laws must be clear, and the Government should not, in most cases, retroactively enforce ownership rights over land that has been in the private sector for an extended period of time.
- Overly strict and expensive formalization procedures can severely limit the real estate market’s ability to function.
- Strong state programmes for social programme leads to fewer slums and dilapidated social housing.

V. The formalization policy of Montenegro

Information used for this section is derived from recent research conducted by the author on behalf of Statens Kartverk, the Norwegian Mapping Authority.⁴⁷ The research was supported by a grant from the Norwegian Embassy to Montenegro. Material from the research report was used here with permission from Statens Kartverk. Documents provided for the compilation of this study include the following:

1. The Strategy Converting Informal Settlements into Formal and Regularisation of Building Structures with Special Emphasis on Seismic Challenges, 2010
2. Law on Spatial Development and Construction of Structures, 2008
3. Draft Law on Regularization of illegally built structures, 2011
4. Law on Spatial Planning, 2011
5. Draft Law on Amendments to the Law on Spatial Development and Construction of Structures
6. Montenegro informal Settlement report, 2011
7. Law on Citizenship
8. Strategy for the Improvement of the Position of Roma in Montenegro, 2008-2012
9. Law on Asylum
10. Law on Foreigners
11. A List of Building Erected without a building permit or used without a use permit in Zabljak
12. Law on State Property of Montenegro
13. Report on the Status of Spatial Development for the year, 2009
14. Law on State Surveying and Cadastre of Immoveable Property, 2007

A. Background

On 3 June 2006, the Montenegrin Parliament declared the independence of Montenegro. Montenegro is a small country of about 13,812 km² on the Adriatic Sea with 295 km of coast (Figure 20). The capital is Podgorica. Montenegro is divided into twenty-one (rural) municipalities and two urban municipalities (subdivisions of the Podgorica municipality), which are further divided into 1,256 settlements. The results of the 2011 census show that Montenegro has 661,807 citizens. More than 50 per cent of the population live on about 22 per cent of the territory, mainly in the coastal municipalities and in Podgorica.



⁴⁷Potsiou, C., "Study on Illegally Built Objects and Illegal Development in Montenegro", 2012. Available at <http://www.undp.org/content/dam/montenegro/docs/projectdocs/ee/Study%20on%20Illegal%20Development%20in%20Montenegro.pdf>

Figure 20: Montenegro⁴⁸

Montenegro is a country of special natural beauty that is recognized by its Constitution as an “ecological” country. The natural and cultural beauty of Montenegro attracts tourism and international real estate investors. However, the Montenegrin coastal zone is a high-risk seismic area. In the territory of Montenegro, destructive earthquakes are most often related to large movements of rocks (from landslides or rock erosion), floods, avalanches, regional fires and other natural hazards.

In 1993, two thirds of the Montenegrin population lived below the poverty line. From 1993 to 1994, displaced people and refugees moved in. Before its independence in 2006, about 30,000 refugees migrated to the region of Montenegro from other regions of the former Yugoslavia (Bosnia and Herzegovina, Croatia and Kosovo). Self-made housing built on state land was the only alternative to inadequate state social or affordable housing. Over 6,000 households, many of which are Roma, live in substandard dwellings (slums). Following independence, several factors led to an increase in informal settlements in Montenegro.

Montenegro experienced a real estate boom in 2006 and 2007, with wealthy people from the Russian Federation, the United Kingdom and other countries buying property on the Montenegrin coast. In 2008, Montenegro received more foreign investment per capita than any other nation in Europe. However, poverty levels differ significantly between northern Montenegro and the rest of the country.

The first informal settlements in the area started in the era of socialism, when Montenegro was part of the former Yugoslavia. Land was under state control. Despite the ambitious housing projects and social housing policy (all employees had to pay 1 to 5 per cent of their income to the State for social housing purposes) there has always been a lack of state resources for housing. The need for funding increased due to natural disasters in the region. To meet the costs of a devastating 1979 earthquake, the government of Yugoslavia set up a statutory fund to which, from 1979 to 1989, all workers contributed 1 to 5 per cent of their monthly salary to the restoration effort. By 1984, Montenegro was still under restoration, with the coast (especially Budva, Cetinje and Kotor) receiving the most restoration assistance.

The exact total number of informal constructions in the country is not recorded; moreover, no reliable numbers about the various classifications of informal buildings are available. Incomplete official data document 39,922 informal buildings. According to unofficial data from the United Nations Development Programme⁴⁹, in Montenegro there are about 130,000 informal structures mainly concentrated in small and medium settlements throughout the country. Informal structures are located on all types of land (private or state); they vary in terms of standard (from slums to luxurious residences), location (from suburbs to city cores and protected areas), use (residential, mixed and commercial) and size (from several small units to more than 70-hectare settlements; from small guesthouses to large hotels) (Figure 21).⁵⁰ It is estimated that more than 80 per cent of the houses and apartments in Montenegro are “informal” due to having been constructed completely without building permits on state land up or built beyond the specifications of the permits.

⁴⁸United Nations Cartographic Section, “Montenegro”, 18 June 2014. Available from <http://www.un.org/depts/Cartographic/map/profile/montenegro.pdf>.

⁴⁹MSPE, “Strategy for converting informal settlements into formal and regularization of building structures with special emphasis on seismic challenges (Strategy 008)”, 2010.

⁵⁰Helleren, L., “Formalization of property rights - A case study of Montenegro”, Master’s dissertation, Department of Landscape Architecture and Spatial Planning, Norwegian University of Life Sciences, 2011.



Figure 21: Informal development in the coastal area (left) and in Podgorica (right) (photos by C. Potsiou)

B. Identified problems

1. Delays in land privatization

The Land Cadastre introduced in 1976 in the former Yugoslavia, provided information about parcels and their owners and users (social owners) related to cadastral surveys produced by geodetic and photogrammetric means. Buildings are recorded (up to the ground level) on maps and accompanied by records of apartment users. Since 1988, the Real Estate Cadastre was introduced in Serbia and Montenegro⁵¹ and today covers 65 per cent of the territory of Montenegro with cadastral maps. Privatization of land and restitution of property rights to those who hold the rights to use parcels is delayed. Priority is given to the cadastral mapping of the territory but not to the restitution of rights or to privatization and formalization of the real estate market. In 2002, the Law on Restitution of Ownership Rights was passed but its implementation is still doubtful.⁵²

Those who have the right to use a parcel often build there without a building permit, because to obtain this permit, one needs to submit the ownership title of the parcel, among other documents. These informal constructions, built on parcels for which the ownership title has not yet been issued to the users, cannot be registered in the cadastre; the 2007 law for the cadastre requires a building and an occupancy permit in order to register a building.

Former owners who, during the socialistic era, voluntarily transferred property rights into public, state, social or cooperative ownership are not entitled to restitution or compensation. According to information derived from the Ministry of Agriculture, such cooperatives still exist in rural areas, greatly impacting the use and productivity of land. Those who build rural homes on such parcels lack ownership rights and therefore the homes are informal and unregistered. In fact, most rural homes lack building permits and are considered informal, as, in the past, farmers were allowed to build their homes following a simple letter of acceptance from the municipality. Also, large land complexes that are considered of significant value to the State are exempted from restitution. Expropriation with compensation is supposed to take place instead; however, there are no available data on the amount of such expropriated private lands or the compensation provided; people may have already built informal homes there. There is still a great deal of abandoned rural, State-owned land.

Until 2009, in order to participate in any legal purchase of land one needed to be a citizen of Montenegro; many foreigners made informal constructions or transactions, especially in unplanned coastal areas (15 per cent of the informal buildings belong to foreigners). In addition, in order to participate in the property restitution project, one needs to be a citizen of Montenegro. Many refugees

⁵¹Dimova, S. and Mitrevska, T., "Types of registration of the land in the cadastre of Macedonia, proceedings of the fourth international conference "Recent problems in geodesy and related fields with international importance", Sofia, Bulgaria, 2007.

⁵²UNECE, *Country Profile on the Housing Sector: Serbia and Montenegro* (United Nations publication, symbol ECE/HBP/139).

lacked citizenship documents and had, therefore, no access to legal property rights to land. The citizenship law of 2008 grants citizenship to refugees under certain criteria, but such people have also built informal houses on parcels they did not own.

2. An inefficient development process

Montenegro, as a country of special natural beauty, is recognized by its Constitution as an ecological country that should be protected. However, this is misinterpreted by bureaucratic planning that aims to control development through numerous field inspections and expensive and cumbersome procedures for building permits. Construction is permitted in Montenegro in areas without Detailed Urban Plans (DUPs), as long as a Local Location Study (LLS) is in place; this gives limited flexibility to serve market needs. National spatial planning is within the responsibility of the Ministry of Spatial Development and Environment (MSPE), while the planning departments of the municipalities perform urban planning. The National Spatial Plan (NSP) of Montenegro was adopted in 2008 and the Spatial Plan of Special Purpose Area for the Coastal Zone was adopted in 2007. National spatial planning in Montenegro includes the following levels of planning:

- A Spatial Plan that regulates the whole territory of Montenegro
- Spatial Plans of Special Purposes
- State Location Studies in Scope of Spatial Plan for Special Purposes

On the local level, planning documents include:

- Local Spatial Plans of the local government
- General Urban Plans (GUPs)
- DUPs (a detailed city plan for municipalities)
- LLSs (applied for specific locations in areas either within the GUP but where there is no DUP in place, or in specific locations outside the GUP)

On the basis of the NSP, the municipalities prepare the Local Spatial Plans and the GUPs; on the basis of the GUPs the DUPs are made. In order to provide a building permit a DUP or a LLS must pre-exist. In order to compile a DUP a GUP must exist.

This detailed planning procedure is expensive and time-consuming; many municipalities lack GUPs and DUPs and more than 40 per cent of urban settlements lack DUPs.⁵³ Therefore, building permitting was practically limited and many have built without a permit. But, even in areas with a DUP, acquiring a building permit is a costly (due to communal fees, property taxes and other expenses) and bureaucratic procedure; therefore, many have built informally within the DUPs (about 15,000 buildings in areas with a DUP are without a building permit, while the majority of those with a permit have some kind of informality). Another issue is that in many cases the existing DUPs do not correlate with the current parcel arrangement due to property restitution and changes or disputes in land tenure; in such cases, a building permit cannot be issued. The German development agency GTZ (now part of GIZ) has financed the compilation of some GUPs and DUPs. Also, a five-year World Bank Land Administration and Management project began in 2009 to support the elaboration of GUPs in several municipalities in the northern and central regions (Bijelo, Cetinje, Danilovgrad, Kolašin, Nikšić, Plav, Polje, and Šavnik).

DUPs and LLSs must be in compliance with the higher levels of planning, such as the NSP and GUP. Each municipality takes decisions on the basis of investors' requests. The municipality commissions the LLS to the private sector, through a tender procedure, usually for a greater complex area than the investor's requirement. By law, the municipality should pay the costs for the compilation of the LLS from funds raided through collecting communal fees collected by the municipalities for utilities provision and connection. In practice, as there is a shortage of money for this purpose, investors pay these costs.

⁵³Mueller, Y. and Lješković, S., "Illegal construction in Montenegro". *Technica Chronika, Scientific Journal of the Technical Chamber of Greece, I*, 2008), pp. 105-110.

When a DUP is not in place and a private investor or citizen wants to build, an LLS should first be compiled. After a request by the investor or citizen, the municipality commissions the LLS from the private sector. The cost to create an LLS for, e.g., an area of 10,000 m², may be about 0.5 EUR/m²; to speed up the process, these costs are paid by the investor but are expected to be deducted from the communal charges the investor must pay to the municipality for utility provision and connection. However, in private interviews, many small-scale property developers claimed that they had paid the communal fees to the municipality and then hired private companies to do the utility connections, as the municipalities are very slow to provide services. The communal fees for connection to utilities in Podgorica, for example, for a house of 100 m² are approximately EUR 10,000. It is obvious that low- and middle-income people cannot afford to follow the legal permitting procedure in order to acquire a formal house.

The high-level NSP and special purpose spatial plans for Montenegro are also commissioned to the private sector through a tender procedure and, once finished, are approved by the parliament. Once the plan is ratified it becomes law. The NSP for Montenegro was updated in 1974 and 2000.

The GUPs for municipalities and DUPs are commissioned to the private sector through a tender procedure and approved by the municipalities. During the compilation of GUPs, DUPs or LLSs, citizens may submit objections. Only recently is there an indication that citizen participation in the planning procedure is considered by the State. However, the procedure is still highly centralized, expensive and inflexible, as the Ministry may return the planning document to the local government for modification before the draft is established and the public hearing is started, which has sometimes been the case.

Land planning regulations often do not take sufficient account of their impact on property values; this is a legacy inherited from the socialist era. This approach creates public mistrust, discourages investment in land and should be changed. Similar approaches are found in Greece.

Until 2008, in rural areas (where no detailed plans exist) neither rural houses nor agricultural facilities required a construction permit. Instead, a letter of acceptance of the construction from the municipality was sufficient. According to a new spatial planning law, all rural constructions built during that time are considered illegal and must be legalized; but, as there are no detailed plans for legalization, this process will take at least two years. This creates confusion in several municipalities and serious delays in World Bank rural investment projects.

Spatial planning in Montenegro favours field inspections (such as spatial protection inspections, urban planning inspections, inspections for construction structures and ecological inspections) before granting construction permits. As of June 2011, construction permitting for housing requires several steps and an average of year to complete. Montenegro ranks 173 out of 183 countries on the ease of obtaining construction permits.⁵⁴ Obtaining a construction permits in Montenegro requires 17 procedures and takes 267 days.⁵⁵ According to field reports, inspectors often facilitate services for wealthy investors after taking bribes, to the detriment of small investors.

In many cases, practical parcel boundaries in the field do not match existing plans, thus making building permitting impossible even in areas where DUPs exist.

3. Lack of social housing policies for low-income families

For a long time, many refugees lacked Montenegrin citizenship and have had no property rights to the land.

There is a lack of electric service identified in informal settlements of six of the 21 municipalities. Waste collection is not provided in informal settlements in eight municipalities; waste producers in such informal settlements dispose of the generated waste at unsuitable sites.

Having no access to credit socially marginalizes poor occupants of sub-standard illegal slums. They experience high health risks from poor-quality drinking water. This applies to Roma settlements, as

⁵⁴ World Bank, *Doing Business 2012: Doing business in a more transparent world* (Washington, DC, 2012).

⁵⁵Ibid.

well; local NGOs estimate that there are from 20,000 to 28,000 Roma in Montenegro. Improving the conditions of Roma is one of the most difficult challenges faced by the country. Little or no municipal funding is available for the purpose, though some United Nations and other international agencies have provided support for the integration of internally displaced persons (most of them Roma) into Montenegrin society or for their voluntary return to Kosovo.

4. Poor real estate market regulation

Montenegro is ranked 108 out of 183 economies on the ease of registering property.⁵⁶ The notary profession did not exist in Montenegro until July 2011. “Real estate agent” companies and individuals served the market. The courts authenticated the signatures of contractual parties’ sales agreements. Private real estate agents identify the following weaknesses in the system that created fraud:

- Courts are usually overloaded by a variety of cases.
- Courts are not well organized and, therefore, access to court records to check if a property has been sold, but not yet registered in the cadastre, is impossible.
- Records can be searched only by owner name, not by object; this requires more effort to identify the particular property for sale.
- Cadastral offices are inefficient and delay the registration process.

Citizens of Montenegro and displaced refugees are emotionally attached their land and do not want to sell; many consider possession of a land parcel with informal housing where one could cultivate vegetables and raise a few cattle as a security against economic and political instability. This results in a weak land market both within urban and rural areas; only since 2009 can foreigners acquire real property in Montenegro. In agricultural areas, foreigners still cannot own property and have long-term leases instead.

The tax rate on real estate transfers was raised from 2 per cent to 3 per cent on the 7th of January 2008. It is estimated that roughly only 20 to 30 per cent of real property owners manage to pay their property taxes. Many homeowners’ units are shared with tenants, sub-tenants or relatives, and only 10 to 14 per cent of owners pay maintenance fees in multi-family buildings. For emergency repairs, municipalities must often finance the unfunded difference.

The data in the real estate cadastre in Montenegro is organized into four sheets: sheet A contains data on the real estate; sheet B contains data on the holder of the rights to the real estate; sheet V contains data on buildings and other improvements; and sheet G contains data on encumbrances. Until 2007, informal constructions could be registered in the cadastre as encumbrances, as long as the occupants had Montenegrin citizenship and use or ownership rights on the land parcels. Informal buildings were then noted in sheet G as an encumbrance.

Occupants of informal buildings registered in the cadastre before 2007 are expected to pay property taxes, while owners of informal buildings not registered do not pay annual property taxes.

The local and international market pressure for land, especially on the Montenegrin coast due to real estate boom in 2006 and 2007, can lead to unethical behaviour by real estate professionals, abuse of power by politicians, speculation and corruption.

C. Measures and policies

After about 50 years of informal construction, in 2008 the Criminal Code of Montenegro and the Law on Construction of Objects were amended. Amendments to the criminal code defined new criminal offences (Articles 326 and 326b): the construction of structures without a building permit, or contrary to the permit and technical documentation, and the connection of illegal constructions to utilities. If the electricity company allows connection without a building and occupancy permit, it is also criminally liable. Informal constructions built before the adoption of the new Criminal Code in 2008 are not obligatorily demolished. However, those built after that date must be demolished.

⁵⁶Ibid.

In addition, constructions without use or occupancy permits (those which have not gone through the permitting and controlling procedure) cannot be registered in the cadastre. The specified punishment for such registration, from six months to five years' imprisonment, is rarely applied due to prison overcrowding. To avoid future non-permitted construction, the Government elaborated planning documentation and strengthened the on-site inspection supervision system by introducing a variety of inspectors for urbanism, spatial protection, construction, urban planning, structural integrity, ecological sustainability and other areas. All inspection bodies are now obliged to inform each other on measures and actions undertaken within their competencies. The Government started considering the integration of existing informal buildings into the planning and controlling system and their subsequent final legalization.

In the case of such legalization, an owner of an informal building must pay (a) a legalization penalty, (b) a property registration fee to be registered to the cadastre, (c) communal fees to the municipality to connect with utility, (d) annual property tax to the tax office and (e) to buy the land, if he is not the owner of it, plus all the expenses to the private sector in order to prepare the documents, studies and controls in order to get the necessary permits and to do the necessary improvements on the building prior to legalization.

It is estimated by the Government that the expected revenue from communal fees (the fees an owner of an informal building should pay after legalization to the municipality for connection to utilities) could be approximately EUR 950 million from about 100,000 informal objects of an average size of 100 m² each; this is expected to be collected within the next 20 years. The expected annual revenue from collecting property taxes on informal objects that will be legalized is estimated to be EUR 42.5 million. Revenue is also expected to be derived from legalization penalties; the amount depends on the type of informality, location, quality of construction and other factors and it is estimated to be EUR 142.5 million (95,000 objects at EUR 1,500 each). However, governmental experts believe that is a very optimistic or unrealistic calculation of the expected revenue.

For an average building of 100 m², the communal fees may be more than EUR 10,000, while the average salary of the head of a four-member family is typically about EUR 400 per month. Housing government experts claim that the total legalization cost might become affordable as people could pay such costs in monthly instalments approximately equal to a monthly mobile phone bill. For this to happen, government experts expect: to make an agreement with the State or private utility companies to provide discounts to the bills of the owners of legalized buildings; an agreement with international donors to subsidize costs; and an agreement with the union of Montenegrin engineers for an extension of the payment period for the controls, certificates and plans needed for formalization. They also understand that legalization expenses as planned still will be high and are considering an agreement with municipalities to allow the owners to pay communal fees with the help of bank loans with a term of 10 to 30 years.

Formalization can be decomposed into two stages. The first may include the identification of informal buildings, orthophoto production, the compilation of the detailed survey plans of each plot and building, and a contract with the municipality to expand the payment period for communal fees. The second stage may include the compilation of DUPs, the issuance of certificates for seismic vulnerability and the issuance of occupancy permits.

According to the Law on Legalization of Informal Constructions, which at the time of this study was just sent to the parliament, the prerequisites for legalization are:

- The existence of a DUP
- On-site inspection of the construction to ensure compliance with building and planning regulations
- On-site inspection for rating the seismic vulnerability of the construction
- A certificate of ownership rights

It is estimated that about 5 per cent of the current 130,000 constructions will be demolished because they cannot comply with the plan and regulations; these owners will be resettled.

The Government also classifies constructions in terms of planning. Informal constructions within the planned areas are divided into 3 categories:

- a) Those which could be legalized but their owners don't intend to follow the legalization process
- b) Those which their owners have the intention to do legalize but so far cannot
- c) Those constructions not qualified to be legalized

Each category, respectively, is addressed as follows:

- a) The Government proposes measures to enforce formalization, including disconnection from utility networks, an increase of property taxes of up to five times the original amount, or both.
- b) Owners should then provide a certificate of structural safety signed by a business organization licensed for construction and pay to obtain a merged permit that includes both the building and the occupancy permit. An occupancy permit shows that the building has been checked and found to be built according to permits and fulfil all standards for health and safety, so the owners are allowed to use the building.
- c) Such constructions must be either be improved, if possible, or demolished.

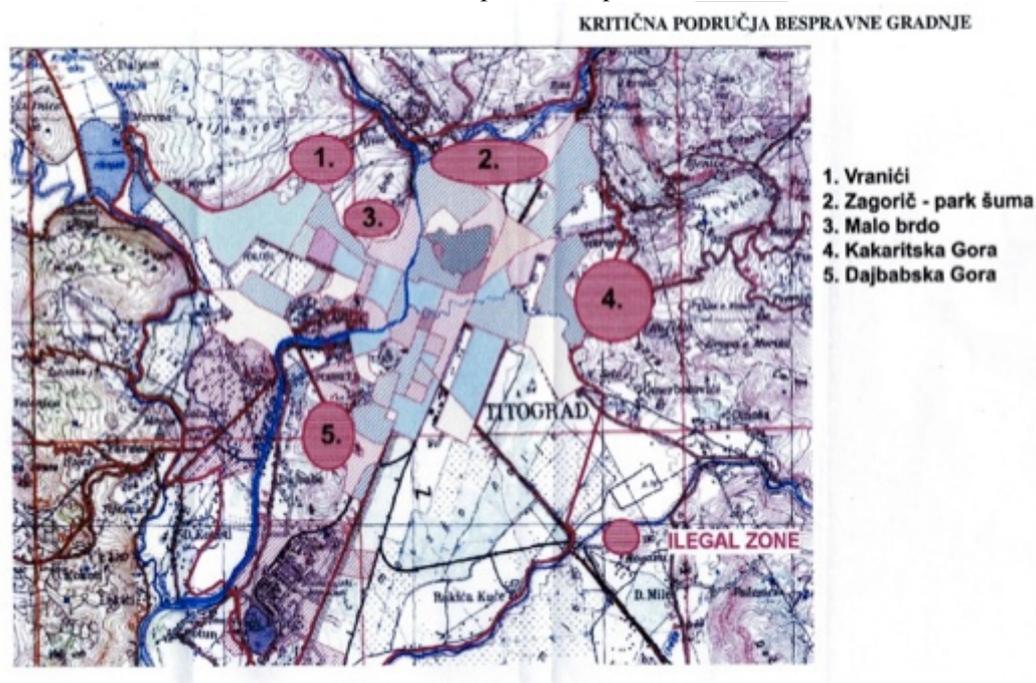


Figure 22: Illegal zones in Podgorica⁵⁷

Informal constructions that exist within unplanned areas cannot be legalized until the detailed plans are prepared; such constructions will be legalized at a later stage. However, an on-site inspection is required to check the seismic vulnerability of the construction, which will be considered by the planners for the compilation of the detailed plan. Such constructions are taxed like those whose owners do not intend to legalize.

For those constructions on state or municipal land, the Government offers owners two choices: to purchase the state or municipal land with a loan or to lease the land with a long-term contract.

The collected fees will go to the state or local government. Of the revenue collected, 25 per cent will be used for the demolition of unwanted buildings.

The Government estimates that the legalization procedure may last about ten years and expects to employ all Montenegrin engineers for that period.⁵⁸

⁵⁷MSPE, "Strategy for converting informal settlements into formal and regularization of building structures with special emphasis on seismic challenges (Strategy 008)", 2010.

⁵⁸Ibid.

D. Financing formalization

The following analysis of the proposed law for legalization shows that the selected approach is not an affordable, simple and quick solution. The process is expected to last more than 10 years, with dubious results. Legalization in Montenegro is designed to fit with the practices, policies and legal framework of a highly controlled economy.

For example, the total estimated costs for the legalization of an individual building of about 130 m² are:

Communal fees:	~EUR 16,900
Assessment of seismic and static stability of the facility:	EUR 500
Geodetic survey of the structure:	EUR 120
Building and use permits:	EUR 100
Reconstruction of seismically and statically unstable structures (if necessary):	EUR 15,000

Where the facility was built on state land: The average cost to buy this land and acquire an ownership title may be, on average, 100 EUR/m² for a parcel of area 300 m², EUR 30,000.

According to these estimates, in order to legalize an informal house, without reconstruction, a loan of 17,620 EUR is needed, while with reconstruction a loan of EUR 32,620 is needed. If legalization requires no reconstruction, but does require a land purchase, a loan of EUR 47,620 is needed, an excessive cost for the owner of an illegal house. If both reconstruction and land purchase is required the cost is usually more than residents can pay, but the Government plans to resettle such residents.

An interview with the local Erste Bank yielded important insights regarding financing for those in informal housing. The bank currently offers housing loans and home improvement loans only to those clients whose salaries are paid through the bank (mostly state employees) or who are employed by municipalities or a few large and stable private companies. Similar policies are followed by the other three banks in Montenegro; therefore, it is unlikely that most Montenegrins could qualify for financing for legalization. Probably, only upper-low and middle income citizens will qualify for such bank loans. Besides, it is not a common banking practice to issue loans in order to pay property taxes, legalization fees, or communal fees, though this could be possible if the loan applicant had sufficient income and stable employment.

E. Conclusions and recommendations

As the selected legalization approach is expensive and not affordable to all citizens or municipalities, plans should focus on priority expenses.

Ownership rights should be separated from obligations or permits like construction and occupancy permits (operational permits in the case of commercial buildings) and planning permits. The acquisition of ownership rights through legalization should be affordable for primary residences, as in Albania. Priority should be given to ownership title provision. Property registration, mortgages and transactions should then be permitted. The property market should not be blocked due to planning inefficiencies.

A pro-growth approach to simplify and facilitate development should be adopted. This approach should consider, inter alia, the economic situation of the citizens, existing private property rights, market needs, the lack of reliable plans and lack of personnel and of funds. Occupants of informal buildings in areas without DUPs should not be taxed like those who live in areas with DUPs but do not intend to legalize. Municipalities lacking DUPs are usually poor municipalities with high unemployment.

The planning and building permitting system should be simplified; plans for affordable housing are necessary. Legalization penalties should be affordable to all. Furthermore, the Government should not

set fixed fees and services for agreements between the private sector and engineers; instead, it should set maximum fees but then allow the market to determine fees, which could be lower than the fixed fees.

Automated procedures and mechanisms should be adopted for environmental protection and development monitoring. The empowerment of local authorities and participation of citizens can and should be increased. Innovative and increased citizen involvement and participation can reinforce or replace the State in some areas. Tasks traditionally carried out by the local government should, in some cases, be transferred to the citizens.

Seismic vulnerability controls in informal constructions require: on-site inspections by specialized structural engineers; studies or possible improvements where needed; and maintenance. This requires an ethical, professional workforce. If such controls are missing, this can be noted on the title. Potential buyers will then be informed about this weakness and may pay for such controls.

For seismic vulnerability controls in existing informal constructions, buildings are usually classified into three categories according to their main use: residential use, professional use or professional use that requires a special operation license.

Thorough seismic vulnerability technical controls are mainly intended for informal structures of professional use that require a special operation license, public buildings, high-rise informal buildings of all uses (such hotels and restaurants) and other institutional constructions that may accommodate many people. Such controls should be commissioned to licensed engineers and a prerequisite for operational permits.

In practice, single-family houses and residential buildings of moderate height and good construction quality are considered to be low-risk in the event of an earthquake, as long as the intended residential use of such buildings is not changed. Therefore, no detailed, thorough technical controls are usually made. A thorough visual inspection by an expert hired by the potential buyer might be sufficient.

F. Lessons learned

The study of informal development in Montenegro leads to the following lessons learned for UNECE member States:

- Legalization programmes are most effective when compliance with planning regulations is not a prerequisite for title issuance. Property rights should be separating from informalities.
- Spatial planning and zoning should be done in a coordinated manner, based on updated cadastral information, to both allow for legalization and discourage further informal development.
- Fees and penalties for legalization should be kept affordable, in terms of both time and money, for all, including the poor and middle-class.
- The active involvement of the public in the legalization process should be encouraged.
- Formalization laws should be formulated and enforced in a way that protects the environment, encourages secure tenure and promotes economic growth.
- Affordable, legal housing should be available to reduce the demand for informal development.
- In natural-hazard-prone areas, controls to prevent large-scale destruction of life and property are necessary. This requires a professional, ethical workplace to ensure the enforcement of standards.
- A lack of social or affordable housing can exacerbate the problem of informal development.

VI. The formalization policy of the former Yugoslav Republic of Macedonia

This chapter is based, in part, on a 2009 study conducted by the author for the Agency for Real Estate Cadastre (REC).⁵⁹ It has been updated with more recent information.

A. Background

Located on the Balkan Peninsula, the former Yugoslav Republic of Macedonia (Figure 23) is bounded on the north by Serbia and Kosovo, on the east by Bulgaria, on the south by Greece, and on the west by Albania.



Figure 23: The former Yugoslav Republic of Macedonia⁶⁰

The country, formerly a part of a Yugoslavia, has been independent since 1991. It has a population of approximately 2.04 million citizens. According to the 2002 census, the country's population consists of 64 per cent Macedonian, 25 per cent Albanian, 4 per cent Turkish, 3 per cent Roma, 2 per cent Serb, 0.5 per cent Bosniaks, 0.5 per cent Vlachs, and 1 per cent other ethnic groups. The country consists of 84 municipalities, out of which 43 are rural municipalities. There are, in total, 1,795 settlements. Most (98.4 per cent) of these settlements are in rural areas.⁶¹

Illegal construction, mainly around the capital of Skopje, started when the country was part of the socialist Yugoslavia. From the 1960s to the 1990s, government and international and local planners tried to enforce a modern city model in Skopje as the city was rebuilt after natural disasters. In 1962, a major overflow of the Vardar River destroyed most building foundations in Skopje. On 26 July 1963, a magnitude 6.9 earthquake reduced the city of Skopje to ruins and left about 80,000 homeless and 70,000 more living in heavily damaged buildings. The existing housing stock was assessed to have lost 65 per cent of its technical value and only 1 in 40 dwellings remained appropriate for occupation.⁶²

Occupants of about 13,000 single-storey, substandard dwellings were offered new homes. However, this amount represented a very small percentage of those affected; the rest lived in slum dwellings, due to lack of government funds. The Roma population did not accept to move into high-rise apartments, as proposed by the Government, so it occupied land in Shuto Orizari, an unplanned area at the edge of the city, and created a self-made, informal settlement there. Some of these Roma

⁵⁹Potsiou, C. "Study on illegally built objects and illegal development", World Bank, 2009.

⁶⁰ United Nations Cartographic Section, "The former Yugoslav Republic of Macedonia", 18 June 2014. Available from <http://www.un.org/depts/Cartographic/map/profile/montenegro.pdf>.

⁶¹United Nations, "Human settlement country profile: Republic of Macedonia", 2004. Available at <http://www.un.org/esa/agenda21/natlinfo/countr/macedonia/HSettlMacedonia04f.pdf>

⁶²Home, R., "Reconstructing Skopje, Macedonia, after the 1963 earthquake: The Master Plan forty years on", Papers in Land Management No 7, Anglia Ruskin University, 2007. Available at <http://www.anglia.ac.uk/ruskin/en/home/faculties/alss/deps/law/staff0/home.Maincontent.0014.file.tmp/No7-Skopje.pdf>

neighbourhoods have now been integrated into DUPs and are legalized, while some still remained illegal.

As all land was under state control, planners, focused on serving the Government, did not seriously consider people's individual preferences, existing ownership rights, market land values, or any future market needs; the Government prioritized the construction of as many low-cost dwellings as possible as part of its post-natural disaster reforms. As a result, many people were reluctant to be moved out of their communities to the new apartments built by the State, and so built or repaired their own houses at their own expense, informally, contrary to what planners and the Government had intended. Due to this major reconstruction most of the labour force moved to Skopje in search of employment; these workers also built their houses illegally in the urban fringe.

During the reconstruction period, a radical rural reform was also attempted, which aimed to increase agricultural production. But, due to the inefficiency of social housing and rural policies, many rural families in the greater area of the 10 largest cities ended up growing their own food on their rural parcels in unplanned areas, for which the right of use (but not an ownership right) had been issued to them; they also managed to build houses for their own use. Such houses are still considered to be illegal, since they were built in agricultural land not meant for constructions.

By 1981, about 160,000 citizens lived in self-made houses. Since the country's independence, the poor social and economic status of the rural population has led to internal migration towards the urban centres.

Soon after country's independence, the social and civil stability of the country was seriously affected by the Kosovo crisis of 1999, during which the country received around 300,000 refugees. This resulted in a comparatively high concentration of population in the cities; 66 per cent of the population lived in urban areas in 2009.⁶³ This led to increased urban poverty and the rapid expansion of illegal settlements, mainly in Skopje and in the 10 largest cities. Part of the populace solved their housing needs through illegally building on state land, often with substandard constructions in the non-construction areas of the towns. Since the average family could not afford a new home, many people lived with their parents, causing overcrowding.

Existing DUPs did not consider important aspects like land tenure and valuation, whether land was state-owned or private, or whether land was subject to denationalization. This and poorly defined land rights created difficulties for land development and the functioning of the real estate market.

B. Institutional framework

The following authorities are involved in the development process and the formalization of illegal constructions:

- The Ministry of Transport and Communications, responsible for the privatization of urban land, the ratification of GUPs and their amendments, the ratification of the detailed city plans and their amendments, social housing policy, the construction and management of social housing, the maintenance of building records, inspectorates, and monitoring construction on state-owned land.
- The Ministry of Environment and Physical Planning, responsible for general spatial planning policy, the Law for Spatial Planning, environmental regulations, the compilation of the water provision master plan, and all bylaws according to which construction is permitted or prohibited.
- The Ministry of Agriculture, Forestry and Water Economy, responsible for agricultural land (48 per cent of the country's land) and its privatization. (In the country, 25 per cent of land is arable and 57 per cent of agricultural land is used for farming. Most arable land is held privately by small farmers, often with unclear legal rights. Land-use conversion is prohibited

⁶³World Bank, Country Profile of the former Yugoslav Republic of Macedonia, 2009. Available at <http://www.worldbank.org.mk/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/MACEDONIAEXTN/0,,contentMK:20630587~menuPK:304480~pagePK:141137~piPK:141127~theSitePK:304473,00.html>

unless specified by the spatial plans, but the Ministry has not accepted the integration of agricultural land into these plans in cases where illegal development exists.)

- The Ministry of Local Self-Government, responsible for the territorial organization of the municipalities and their economic development.
- The Ministry of Justice, responsible for notaries and the legal rights to land.
- The Ministry of Finance, responsible for real estate taxation and land denationalization.
- REC, responsible for the registration and security of rights and the compilation and maintenance of cadastral maps.

The municipalities, responsible for the compilation of plans and building permitting, regional development, construction land management, land valuation, tax assessment and collection. Taxes are estimated as a fixed percentage of the market value, but the municipalities for the sake of revenue frequently overestimate market value. (Ensuring correct reporting by municipalities is the responsibility of the Ministry of Finance.)

C. Identified problems

1. Procedures for formalization and for building permits

Unclear responsibilities or political differences in the municipalities of Skopje often lead to conflicts between the mayor of Skopje and the 10 other mayors of the local municipalities of Skopje and create confusion in permitting and supervising construction. The formal construction sector has faced serious problems, as well. The average age of buildings is about 30 years; due to poor maintenance, most are in need of renovation. Condominium dwellers have added illegal extensions to existing buildings (such as built-up balconies, extra floors or staircases) mainly due to a lack of awareness of regulations or because of a need for the space. This has affected the legal status of condominiums, the safety and value of buildings, and the integrity of the real estate market.

In small rural settlements built in zoned village settlement areas, until nine years ago, it was common practice for local authorities to make DUPs for initially illegal settlements as they grew. As of 2004 (when the Law on Spatial and Urban Planning was adopted), after the DUP of a settlement is in place, those who have gone through the process to convert land-use rights into ownership rights could legalize their illegally built houses by acquiring a building permit.

Development of land not originally zoned for construction in the GUP may take place at the request of citizens and with the agreement of the Ministry of Agriculture and of the municipal council on the costs for connection to basic infrastructure. If citizens are willing to pay for much of this cost, the DUP may be modified accordingly. Property taxes are, by law, revenue for the municipalities, which makes local governments more willing to extend DUPs. However, citizens, especially minorities or those with low or middle income, sometimes cannot afford the costs of planning and building permits or for connections to infrastructure, so informal housing solutions are sometimes used, such as illegal construction in unplanned areas and illegal connections to infrastructure. In some municipalities, as much as 60 per cent of state-owned land has illegal constructions.

Development in non-construction land in areas outside the GUPs may be regulated by individual plans prepared for the specific development of production facilities only. The Ministry for Spatial Planning is responsible for regulating spatial planning. All municipalities including the municipality of Skopje have proposed to the Ministry of Transport and Communication the necessary amendments for their GUPs, always according to the existing spatial plan; implementing these amendments will be a lengthy and costly procedure.

The Law on Spatial and Urban Planning still strictly separates urban areas from rural areas (Figure 24). It disallows mixed uses (e.g., combined industrial and residential uses) in agricultural areas. As agricultural land is protected by the Constitution, change of land-use by transformation of agricultural land into urban land is not possible; therefore, formalization of informal settlements in the non-construction agricultural land is prohibited. In addition, urban areas and rural areas are administratively separated and belong under the responsibility of different ministries (the Ministry of Transport and Communication and the Ministry of Agriculture, Forestry and Water Economy). As the Ministry of Transport is responsible for the formalization of illegal buildings, its responsibility for

illegal buildings existing in non-construction agricultural areas is limited; this creates problems in formalization of such settlements.



Figure 24: Mixed uses are not allowed in rural areas (photo by C. Potsiou)

Land fragmentation is not limited. The subdivision of private land is permitted, as there is no minimum parcel size in either urban or rural areas; this may encourage further fragmentation of rural land with the intent of more informal development in the non-construction agricultural areas in the contact zones.

The building permitting procedure is lengthy and costly. There are 20 documents that need to be submitted for a permit for a single-family house; this has led citizens to explore informal solutions. The formal process takes about one month if all documents are in order. The following steps are necessary to acquire a building permit:

- a) Engagement of a (usually costly) private construction company.
- b) Verification that the parcel lies within the city plan and submission of a copy of the DUP from the municipality archives.
- c) Submission of a property list, the cadastral map and the geodetic report from the cadastral office.
- d) Drafting of a project design (including architectural plans and plans for the safety and structural vulnerability of the construction) by the construction company.
- e) Verification of the compatibility of spatial and legal data with the actual situation with a field visit by the construction company.
- f) Collection of certificates from agencies that may have an interest in the parcel, including, inter alia, the electricity company, the gas company, the water utility, telephone carriers, the sewage utility, and the military, to ensure that none of their installations go through the parcel.
- g) Acquisition of a building permit from the municipality.
- h) Informing the neighbours about the intention to build and the project design, so that they have the opportunity to submit objections. Neighbours are informed by the municipality via post if in the country, and through the relevant embassies if abroad.
- i) Examination of objections and information of all interesting parties by the municipality;
- j) Allowance of a second opportunity for neighbours to submit objections, followed by a re-examination of the information.
- k) If objections exist, application by the neighbours to the Supreme Court to resolve the case.
- l) Issuance of the final court decision.

New constructions have faced serious problems as well. Many contractors engage in unethical practices or are unreliable; for example, many have double-sold apartments or left buildings unfinished while beginning new constructions (Figure 25). Construction inspections are intermittent and the enforcement of regulations is weak; no reliable data on regulation enforcement is available.

The wealthy, as well as the poor and middle class, construct illegally. Commercial buildings also often involve informal development.



Figure 25: Unfinished buildings in urban areas (photo by C. Potsiou)

To accelerate development and to achieve economies of scale, in 2009, the Government decided to enforce minimum building heights of 25 m, for parcels up to 500 m², and 30 m, for larger parcels in the Skopje area. As buildings are poorly maintained, there are concerns that communication and agreement among so many apartment owners will be difficult and that building quality will deteriorate quickly.

The Ministry of Transport and Communication is responsible for the process of transformation of use rights into ownership rights in urban areas; many people are willing to pay (usually in instalment payments) and buy ownership rights for the land and their houses (up to the ground floor) built on it. There are no reliable data about the percentage of construction land that has been privatized already. Once occupants are ready to pay, they register with the REC. However, if owners cannot afford a building permit they are denied registration in the property list and registered in another list, called the “evidence list” instead.

In the absence of a record of a building permit, people can pay for a building permit if they have built on a legally-owned parcel; otherwise, the building is registered in the evidence list. However, the cost of this process is prohibitive for many people. If part of the building is legal (such as the building’s ground floor), then that part appears in the ownership list and the rest in the evidence list. Most of houses within urban areas have legal electricity connections. As the electricity company is a private company, and is not obliged by law to require a building permit in order to provide connections, many have paid and obtained connections. There are also houses with illegal electricity connections, but reliable data on the number of such houses do not exist.

For those with no prior land-use or ownership rights to the land on which they have built a house, the land is registered in the ownership list as state-owned land and the building is registered in the evidence list along with the name of the occupant. Construction quality varies in such settlements. According to the 2008 Law for Privatization, such occupants should pay both for obtaining land ownership titling and the building permit necessary for registration. Municipalities issue building permits if the necessary infrastructure is in place. If people cannot afford to pay for ownership rights, they might lease or rent the land for several years instead. Illegal buildings are displayed on the new cadastral maps, marked with a black diagonal line (Figure 26) and on the REC evidence list. However, not all the country’s cadastral maps are current; much information is digitized from old maps, and new buildings and constructions are missing.



Figure 26: Cadastral map of the old city of Skopje, where illegal buildings are marked with a black diagonal line (Source: AREC, 2009)

2. Agricultural land

During the socialist era, rural land went through several agrarian reforms to improve agricultural production and reduce poverty. During these reforms, the ownership of rural land was treated differently. In 1946, villagers pooled their land and livestock in cooperatives (similar to the Russian *Kolkhoz*). In 1949, participation in cooperatives became obligatory. At the peak of the cooperative era, cooperatives included about 15 per cent of the total number of agricultural households and 12 per cent of the arable land. Private farms continued to hold 80 per cent of the land even during the period of the most severe pressure for collectivization.⁶⁴

In 1953, the concept of socially owned farms (including the land and the enterprise) was introduced as a tool to improve productivity; many private farmers joined cooperatives and contributed their land voluntarily. Many cooperatives were disbanded and, in areas up to 10 hectares, land was returned back to the farmers by the Law on Public Land and Distribution of Land to Workers' Agricultural Organizations. The rest of the land formerly held by cooperatives was designated as social or public land and managed by newly created socially-owned enterprises (SOEs); village pastureland was also given to SOEs. Social ownership came to mean that all members of an SOE were jointly assigned permanent usufruct rights to the enterprise and its features while society at large maintained the ownership rights.⁶⁵ Usufruct rights were also issued to the poor who were working in the SOE. Rights to use the agricultural land were registered in special rural records called *posedoven* lists. Existing landowners of private rural land were obliged to cultivate their land; if they failed to do this, the People's Board took control of the land and the land could be given to an SOE for one to three years. When private rural land was on sale, the SOE had first right to purchase the land. The fragmentation of rural land was also prohibited.

⁶⁴Melmed-Sanjak, J., Bloch, P. And Hanson, R. "Project for the analysis of land tenure and agricultural productivity in the Republic of Macedonia", Working Paper No 19, Land Tenure Center, University of Wisconsin, United States, 1998.

⁶⁵Ibid.

After independence, the Government's policy was to privatize the business operations of agricultural SOEs, but to retain agricultural land in state ownership,⁶⁶ according to the Law of Agricultural Land. However, there is some land that is still registered as under "cooperative ownership rights to use". According to the Law of Agricultural Land, as agricultural land is state-owned, it may be transferred to other physical persons and firms (domestic and foreign) through a privatization process.

The Ministry of Agriculture, Forestry and Water Economy is authorized to make contracts to rent these lands. The only constructions that could obtain legal rights in agricultural areas are those constructions used for production and not for housing. Houses in such land were usually built (without a permit) by those with usufruct rights, either sporadically or with others to create a community. Many small farmers were partially occupied in agriculture during weekends; illegal weekend houses (Figure 27) built on agricultural parcels exist in the rural areas.

The privatization of agricultural land is done carefully and methodically. Such production facilities are also registered in the REC once their users pay for the ownership rights. Agricultural land is still considered a "good of public interest" which the State must constitutionally protect.



Figure 27: Illegal weekend houses in agricultural land (Source: C. Potsiou 2009)

Unclear land tenure (lack of ownership rights) has been the most important problem related to illegal buildings. The denationalization of land and transfer of ownership to the original owners started in 2000, but by 2009 it had not been completed. The current policy to return land that was taken through nationalization in the 1950s to the original owners (after they submit a request with the necessary legal documents), or to compensate the original owner with a parcel of the same quality and quantity in another location. According to the law of denationalization, facilities of substantial historical and cultural significance and "natural rarities," as defined by law, are not subject to denationalization.

According to the Constitution, "All the natural resources of the Republic of Macedonia, the flora and fauna, amenities in common use, as well as the objects and buildings of particular cultural and historical value determined by law, are amenities of common interest for the Republic and enjoy particular protection. The Republic guarantees the protection, promotion and enhancement of the historical and artistic heritage of the country's people and of the nationalities and the treasures of which it is composed, regardless of their legal status. The law regulates the mode and conditions under which specific items of general interest for the Republic can be ceded for use" (Article 56, paragraph 1 of the Constitution).

Agricultural land, pastures, uncultivated village land, forests, and land reserved for public construction in the GUP are considered to be goods of public interest and naturally scarce. Such lands cannot be returned to owners and thus compensation is given instead (Article 10). Compensation is also given in the case that another physical person or legal entity has acquired ownership right on the basis of a legal act or decision of a competent court (Article 11). If the value of claimed land has been increased after confiscation, the requester has to pay the difference to gain ownership rights. Even for the amendment or modification of GUPs, the conversion of agricultural land to residential land (e.g., in Kumanovo area) was prohibited by the Ministry of Agriculture, Forestry and Water Economy, due to

⁶⁶Dimova, S., Mitrevska, T., 2007. Types of Registration of the Land in the Cadastre of R. Macedonia. Proceedings of the 4th International Conference on "Recent problems in geodesy and related fields with international importance", Sofia, Bulgaria.

constitutional constraints. Issuing ownership rights to illegal settlements built in agricultural land appears impossible under current legislation unless urban plans are compiled.

Legal (or constitutional) constraints are among the causes for illegal development in the country.

D. Adopted policies and measures

In February 2011, the Law on the Treatment of Unlawful Constructions was adopted by Parliament in order to facilitate the formalization of illegal properties; this law is valid for six years. This measure covers buildings important to the State, such as hospitals, as well as privately owned houses. The Ministry for Transport and Communication is responsible for legalizing facilities of importance (such as health institutions and electronic communication networks and devices) in accordance with this and other laws. Municipalities are responsible for legalizing houses up to 10.2 meters tall.

The symbolic charge for registration is EUR 1 (61 Denar) per m² for all legalizations, payable in 12 instalments. The government decided on that innovative approach in order to make it affordable to those who could not legalize through the previous system. Unfortunately, some citizens and local experts do not support this policy.

The charges for the legalization of commercial constructions were determined by the Ministry of Transport and Communication and are equivalent to construction permit charges for the specific use of the building. The local government determined the charge for a building permit. Facilities of importance for the country, in accordance with the Law on the Treatment of Unlawful Constructions, such as hospitals and lines for utility networks, were legalized without cost. Rejection requests can be submitted by a directly adjacent neighbour, the landowner, or anybody directly involved with the construction site. A period of six months was provided for citizens and legal persons to submit all documents to the municipal authorities.

The needed documents for legalization of the illegal buildings are simple:

- A citizenship certificate or copy of national identification.
- Proof of connection to utility infrastructure, such as a copy of a paid bill for electricity or water.
- A land survey report to establish that the construction is unlawful, with a property certificate for the land where the unlawful construction is built (a geodetic elaborate).
- A long-term lease agreement for the land with the landowner (if the unlawful construction is constructed on land which is not owned by the applicant). Municipalities accepted all documents within the deadline and allowed for later submissions of the land survey reports.

There is no control of the seismic vulnerability of constructions at this stage. Illegally built constructions must meet environmental and public health standards, fire prevention codes and construction codes. Following the receipt of the request for legalization, the commission formed by the agency competent for performing activities in spatial planning assesses the building via a site visit and prepares a report of the inspection with photographs and technical data on the unlawful construction. Within six months, the agency must either reject the request or accept it and provide the applicant with an authorization for formalization. Illegal constructions on parks, protected areas, archaeological sites and areas within airport protection zones, cannot be legalized unless the authorities decide otherwise. Owners of structures that are built illegally on land owned by the State must submit a request to purchase that land within three months of submitting the legalization request. Otherwise, the authorities determine a long-term lease plan by default. The law requires any money the municipalities receive from the legalization and land purchases to be invested in infrastructure.

3. Remaining problems

Around 354,169 requests were submitted by 2012. They comprise about 60 per cent of the houses built during the migratory wave from rural to urban areas during the 1960s and 1980s. The procedure for legalization should be finalized within six years from the adoption of the law on unlawful constructions. The law is very popular and citizens have participated well. In addition, there is an ongoing project (until 2015) of the National Roma Centrum aiming to improve the proceedings and the implementation phase of legalization of Roma houses in the cities of Skopje, Kocani, Kumanovo,

Prilep, Tetovo and Stip. Some of the identified problems in the requirements for the legalization procedure, through an assessment of 2013, include the following: (a) many Roma lack of personal documentation (legal standing) in order to be able to initiate the legalization procedure of their houses; (b) the requirement of a geodetic report imposes a financial burden which in many cases is beyond what poor applicants can bear; (c) resolving the land ownership issue, if land is not owned by the occupant, is also a financial burden for many applicants; (d) there is a lack of awareness among the Roma and less educated about the requirements and the procedures of the project; (e) there have been cases of abuses in the implementation of the law by some municipal authorities, e.g., favouring members of one political party, or requesting bribing for completing the procedure; and (f) as already mentioned, the general constitutional requirement of zoning compatibility and urban planning priorities makes several settlements ineligible for legalization.

As a result of the above, by February 2013, from the total submitted applications only about 42,997 applications were approved and 497 were rejected. While around 19 per cent of submitted applications (67,172) were in process, in nearly two thirds of all cases (66.1 per cent or 234,132) processing had been still suspended due to pending completion of application packages; a deadline of June 2014 is imposed for the submission of geodetic reports.⁶⁷

E. Recommendations

It is not clear if the new law on legalization will eliminate informal construction in the future; there is still a need for planning for affordable housing in the country. The goal of the new procedure is to be simple, short and attractive to citizens, which is good practice. However, the Government has not reduced the costs or amended the requirements of the normal construction permitting procedure for housing in order to make it attractive to those who wish to follow it. Reforms in zoning and planning should accompany reforms in legalization, to reduce illegal construction in the future. Access to land rights should also be made affordable.

The programme is still in its initial phase and already, about 500 claims have already been rejected. Many requests for the legalization of constructions in Roma settlements, which are often in unstable areas, have been submitted; if these applications are rejected, these people will be left effectively homeless. There is a need for social housing policies and resettlement tools for very low-income citizens.

F. Lessons learned

The study of informal development in the former Yugoslav Republic of Macedonia leads to the following lessons learned for UNECE member States:

- Policies to discourage future informal development are just as important as policies to legalize current informal development. This includes well-made policy for construction permitting and regulation.
- Formalization should be done in coordination with spatial planning.
- A lack of social or affordable housing can exacerbate the problem of informal development.

⁶⁷Friedman, E., Ismaili, F., Rodic-Kitanoviski, G., Skenderi, S., Sikovska, L. and Toci, M.,” Civil society monitoring report”, 2013. Available at http://www.romadecade.org/cms/upload/file/9270_file10_mc_civil-society-monitoring-report_en.pdf.

VII. Summary of results

Table 1 (Potsiou, 2014) shows the major identified causes for the recent informal development in each country.

Table 1: Identified causes of informal development⁶⁸

Causes	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
Migration/urbanization	yes	no	yes	yes	yes
Centrally controlled/bureaucratic planning	abandoned (a problem in the past)	no	yes	yes	yes (now improving)
Ecological or other constitutional concerns about development	no	no	yes	yes	yes
Inadequate housing policy	yes	no	yes	yes	yes
Refugees/displaced persons	no	no (a problem in the past)	no	yes	yes
Policies regarding Roma and other minorities	yes	no	yes	yes	yes
Unclear property rights	yes	no	yes (in zones in contact with forests)	yes	yes
Inefficient property registration/planning systems	yes	yes	yes	yes	yes
Costly/complicated construction permitting	no (a problem in the past)	no	yes	yes	no (a problem in the past)
Poverty	yes	no	yes	yes	yes
Insufficient housing provided by the real estate market	yes	yes	yes	yes	yes

Table 1 shows that:

- Inefficient real estate markets and public administration are common causes for informal development in all examined countries. When neither the Government nor the private market

⁶⁸ Potsiou, C., Policies for formalization of informal development: Recent experience from Southeastern Europe. Land Use Policy, volume 36, Jan 2014, pp33-46

efficiently provides formal housing, people turn to informal solutions when they wish to improve their housing.

- In Montenegro and Greece, ecological and constitutional concerns hinder housing construction; the former Yugoslav Republic of Macedonia also faces restrictions imposed by its Constitution and difficulty in transforming agricultural land into construction land.
- Montenegro and the former Yugoslav Republic of Macedonia have similar causes of informal development, as they both were part of the former Yugoslavia.
- Greece has much in common with the former Yugoslav republics (countries in transition from centrally controlled to free market economies); including weak private-property rights due to long-existing policies with promote state-owned land, while Cyprus does not.

Table 2 (Potsiou, 2014) shows the various types and the estimated total size of informal development in each country and which types of informal development the countries consider appropriate for formalization.

Table 2: What types of informal development can be formalized?

Type	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
On state land	yes** via purchase or lease	not an issue	no there is ID on legally owned & registered land which is claimed by the state as forest (48% of registered private land in unplanned areas)	yes after the provision of a plan, case by case consideration and direct negotiations	yes*** via purchase or lease
On private land that belongs to another owner	yes** compensation provided	-(****)	-(****)	yes after direct negotiations	yes*** long term lease agreement
In violation of zoning	yes**	no	yes* for 30 years only, it is formalization	yes following a thorough revision	yes***
Without building permit in the unplanned areas	yes** planning will follow legalization	no	yes for 30 years only, requiring planning to be provided until then	yes following a thorough examination and detailed planning provision	yes planning & infrastructure will follow legalization in land designated in construction
In excess of the building	yes	yes	yes for 30 years	yes	yes

permit					
Total approximate number of informal objects	500,000 objects	Total unknown; about 80% of condominiums, 130,000 objects, are in excess of building permit, and about 40% of single-family houses are built without a building permit in an unplanned area	2,500,000 objects, 1,000,000 of which without a building permit in unplanned areas and 1,500,000 in excess of building permit; in addition there is a large and unknown amount of informal construction in “forest lands”	130,000 objects	350,000 objects

* *Not within the forest areas, coastal zone, archaeological sites, stream routes and other protected areas.*

** *Only within legalization zones.*

*** *Except within parks, protected areas, archaeological sites or areas within airports’ protected zones, unless the authorities decide otherwise.*

**** *The legalization law does not address resolution of property ownership problems. Squatting on private land may be resolved through adverse possession legislation.*

In Albania, Montenegro and the former Yugoslav Republic of Macedonia there is a considerable amount of informal development on state or private land that belongs to another owner. As the phenomenon is extensive it was decided that legalization and title provision is the only practical solution. However, Albania and the former Yugoslav Republic of Macedonia have provide titles, at affordable prices, to those squatting on state land (for their primary residence), regardless the existence of a plan, while Montenegro has a more complicated procedure.

In Cyprus and Greece this is not the case; most informal development is due to planning and zoning illegalities only. There is not extensive informal development on state or private land that belongs to another owner, as the right of private ownership is well respected and protected by the citizens in these countries. In addition, this problem can be resolved in the courts through the adverse possession principle, which however is not valid in the case of squatting on state land.

In Greece, there are cases where the state claims ownership land that was bought and registered legally, before forest zones were delineated on maps. There are existing communities of privately-owned and –registered construction, which have existed for decades, are claimed by the State because there is no legal registered sequence of titles since 1884. This is primarily a problem where urban or rural zones border the forest zone. This is a problem that needs to be solved, which may require reinterpreting or amending the Constitution.

Also, Table 2 shows that:

- Albania and the former Yugoslav Republic of Macedonia have adopted a more affordable, inclusive and pro-growth legalization approach, while in the rest of the examined countries planning issues are still connected with property registration and titling.
- Greece, due to numerous regulations and restrictions, has a great number of objects with illegalities. However, it has not adapted a fast and inclusive legalization procedure, as

constitutional environmental concerns do not allow for it without detailed planning provision and there is a lack of the awareness of the impacts of non-legalization on the economy. This is also true in Montenegro, where the legalization law has not yet been adopted by the parliament and the requirements for on-site inspections are more stringent than in Greece.

- Cyprus adopted an innovative planning amnesty and separated informalities from property titles, but only within the planned areas.

Table 3 (Potsiou, 2014) shows the basic elements of the legalization/formalization framework.

Table 3: Legalization framework

	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
Responsible agency	Ministry of Public Works and Housing, but by the ALUIZNI special agency	Ministry of Interior	Ministry for Environment, Spatial Planning & Climate Change	Ministry for Spatial Planning & municipalities	Ministry of Transport & Communication & Municipalities
Date of law for legalization adoption	2006	2011	2011, 2013, 2014 Several laws have been adopted	In draft	2011
Popularity of the project	positive	negative	negative	unclear	positive
Seismic vulnerability controls prior to legalization	no	no confirmed by the involved engineer	yes visual control by private sector	yes	no
Detailed controls for environmental and construction standards	no	no (legalized ID exists within the plan)	no on-site visual controls by private sector	yes	no on-site visual controls by authorities
Infrastructure provision	unclear	Exists already	Basic infrastructure exists already	unclear	At a later stage; funds from legalization
Speed (expected time for legalization)	Declaration was made fast; the next steps are very slow	Slow, due to low popularity of the project and high costs	Slow, due to security concerns and high costs and the financial crisis	Approximately 10 years	unclear
Formalization of primary housing affordable?	yes	doubtful	doubtful	doubtful	yes 1 EUR/m ²

It can be noted that:

- Albania has established one organization responsible for legalization and initiated their current legalization project first. That is good, but registration with the cadastre is still overly cumbersome.
- The former Yugoslav Republic of Macedonia has also made significant progress towards a pro-growth approach.
- Both Albania and the former Yugoslav Republic of Macedonia have adopted a fast, simplified, affordable and inclusive procedure
- Montenegro and Greece are the most inflexible in their policies, and Montenegro, Greece and Cyprus have not adopted affordable, inclusive and attractive legalization procedures.

VIII. Conclusions and recommendations

The following lessons can be learned from a study of informal development in the countries examined in this work:

- A clear hierarchy of Government institutions, with roles and responsibilities clearly defined is necessary to tackle complex issues like informal development.
- Mechanisms should exist to legalize all types of properties where the current residents have long-standing tenure of the land.
- Mechanisms should be put in place, not only to legalize existing informal structures, but to encourage new structures to be built in the formal sector.
- Legalization programmes are most effective when compliance with planning regulations is not a prerequisite for title issuance. Property rights should be separating from informalities.
- Spatial planning and zoning should be done in a coordinated manner, based on updated cadastral information, to both allow for legalization and discourage further informal development.
- Fees and penalties for legalization should be kept affordable, in terms of both time and money, for all, including the poor and middle-class.
- Overly strict and expensive formalization procedures can severely limit the real estate market's ability to function.
- Formalization laws should be formulated and enforced in a way that protects the environment, encourages secure tenure and promotes economic growth.
- Property laws must be clear, and the Government should not, in most cases, retroactively enforce ownership rights over land that has been in the private sector for an extended period of time.
- The private sector can contribute to surveying and quality control for legalization, but it must be regulated and its role must be clearly defined.
- Policies should encourage the proper training of all relevant experts.
- Planning amnesty programmes can be useful measures to bring large amounts of informal properties into the formal sector.
- The public needs to be made aware of the advantages of legalization and the necessary procedures to legalize their property.
- The active involvement of the public in the legalization process should be encouraged.
- The public must trust in the long-term viability of a formalization project to participate in it.
- Affordable, legal housing should be available to reduce the demand for informal development.
- In natural-hazard-prone areas, controls to prevent large-scale destruction of life and property are necessary. This requires a professional, ethical work place to ensure the enforcement of standards.
- Policies to discourage future informal development are just as important as policies to legalize current informal development. This includes well-made policy for construction permitting and regulation.
- A lack of social or affordable housing can exacerbate the problem of informal development.
- Strong state programmes for social programme leads to fewer slums and dilapidated social housing.

The first priority for the national economy of each country should be the strengthening of private property rights. Any institution involved in property privatization and legalization should coordinate and standardize its products, delineate these products on orthophotos and submit all titles to the cadastral agency. It is estimated that the annual loss caused by undeclared informal real estate is significant; therefore, the fees for the privatization of land and informal real estate and all other legalization costs should be eliminated so that occupants will be enabled to participate and declare their informal real estate. Similarly, compliance with planning regulations and a detailed survey of existing informal constructions as prerequisites for an ownership title can block the property market for a long time. Instead, motives should be provided so that existing informal constructions will be renovated and improved; a detailed and costly survey of the existing informal construction may not be of great value. A standardized delineation on orthophotos together with basic information about the total area and number of floors of the construction may be sufficient for legalization. In the near future, countries may agree on International Property Measurement Standards for the various types of real estate to better serve the markets and allow for credit, so that improved constructions can then be documented accordingly.

Planning and all other environmental and safety controls and improvements should follow property registration; all properties should be allowed to be mortgaged and transferred regardless their condition. Only then will the occupants of informal real estate be able to obtain credit and proceed with the necessary improvements. Such improvements may be made by the new owner in case of sale.

There is also a need for flexible and pro-growth improvements to the existing planning, building permitting and zoning systems; mechanisms and plans for affordable housing and municipal financing provision for infrastructure improvements should be developed as well. It is therefore preferable that legislation not include any deadlines for legalization until parallel measures are adopted, such as flexible, pro-growth planning and construction permitting and the provision of affordable housing mechanisms. The contribution of the private sector is important but its role should be defined by clear rules.

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