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ON
THE HOUSING SECTOR

SERBIA AND MONTENEGRO



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FOREWORD

The country profiles on the housing sector are intended to assist the Governments of countries with economies in transition in improving the performance of their housing sector while promoting sustainable development. They analyse trends and policy developments, and make an overall assessment of the political, economic and social framework of the sector in the process of reform. This work was initiated by the United Nations Economic Commission for Europe's Committee on Human Settlements in the early 1990s in response to requests from its member States.

The studies are carried out by international teams of experts in cooperation with governmental bodies, non-governmental organizations, local authorities and the private sector. Through a process of broad consultations, the experts carry out a comprehensive analysis of the housing sector, and draw conclusions and make recommendations to help policy makers develop strategies and programmes.

This Country Profile on the Housing Sector of Serbia and Montenegro is the tenth in the series published by the UNECE Committee on Human Settlements. I would like to thank the experts who contributed to the preparation of the country profile as well as the institutions that provided funding. I hope that this country profile will prove useful to all those with an interest in the Serbia and Montenegro's housing sector – policy makers and legislators, government officials, academics, NGOs and other national stakeholders, as well as international organizations, including lender and donor organizations, technical assistance agencies, or private sector investors.



Paolo Garonna
Officer in charge
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PREFACE

The Country Profile on the Housing Sector of Serbia and Montenegro started with a preparatory mission by the secretariat in May 2004, followed by a research mission of the international expert team in November 2004. The project's expenses were covered by extrabudgetary funds provided by the Governments of the Czech Republic, Finland and Norway. The successful conclusion of the project would not have been possible without this generous support.

The previous studies in this series include: Bulgaria (ECE/HBP/101, published in 1996); Poland (ECE/HBP/107, 1998); Slovakia, (ECE/HBP/111, 1999); Lithuania (ECE/HBP/117, 2000); Romania (ECE/HBP/124, 2001); the Republic of Moldova (ECE/HBP/125, 2002); Albania (ECE/HBP/130, 2003); Armenia (ECE/HBP/132, 2004) and the Russian Federation (ECE/HBP/131, 2004).

Three other UNECE publications related to housing may also prove useful to Serbia and Montenegro and other countries in transition: (i) Guidelines on condominium ownership of housing for countries in transition (ECE/HBP/123); (ii) Housing finance systems for countries in transition (ECE/HBP/138, 2005); and (iii) Guidelines on social housing (forthcoming). This Country Profile, as well as the other publications mentioned above, is available on the web site of the Committee on Human Settlements at <http://www.unece.org/env/hs/>.

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THE SOCIO-ECONOMIC FRAMEWORK FOR THE DEVELOPMENT OF THE HOUSING SECTOR

A. General information

Serbia and Montenegro is located in South-East Europe in the heart of the Balkan Peninsula. The country covers an area of 102,173 square kilometres, and consists of two republics, Serbia and Montenegro. Serbia is considerably larger (88,361 km²) than Montenegro (13,812 km²) and covers 85 per cent of the total land area of Serbia and Montenegro. The country is bounded by the Adriatic Sea, with 199 kilometres of coastline, and 2,246 km of land borders with seven countries. Albania lies to the south-west, Bosnia and Herzegovina to the west, Croatia to the north-west, Hungary to the north, Romania and Bulgaria to the east and the Former Yugoslav Republic of Macedonia to the south-east.

The State of Serbia and Montenegro replaced the Federal Republic of Yugoslavia on 4th February 2003. The two republics share a titular president and run joint policies on defence, foreign affairs, international and domestic economic relations, and protection of human and minority rights.

B. Economy

1. Macroeconomic developments

Among the republics of the former Socialist Federal Republic of Yugoslavia (SFRY), Serbia

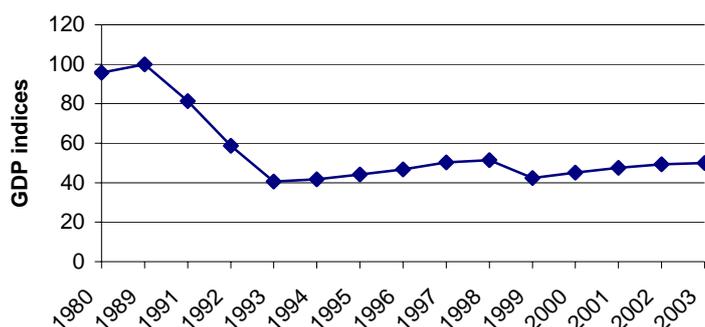
and Montenegro were average in terms of prosperity and economic performance. Both economies were, however, severely damaged during the 1990s. Armed conflict, international sanctions, and disruption of markets resulting from the break-up of the SFRY led to a drop+ in GDP by nearly 60 per cent between 1989 and 1993 (see figure 1.2). Unemployment and poverty increased sharply. A slow recovery ensued in 1994 after the end of hyperinflation, but the imposition of a new set of sanctions, supply disruptions, and the destruction of physical infrastructure by NATO bombing related to the Kosovo crisis produced a renewed output contraction in 1999. High inflation and under-investment depleted the capital stock and led to erratic growth and high structural unemployment.

With the political changes in late 2000, economic performance in Serbia and Montenegro has grown to be more solid. Even though real GDP rebounded from the decline in 1999, it remains at a low level compared to 1989; trade in goods as a share of GDP grew, as did direct foreign investment. Table 1.1 gives an overview of the main macroeconomic indicators between 1999 and 2003.

Table 1.1. Macroeconomic indicators

Indicator	1999	2002	2003
GDP (current US \$)	9.8 billion	15.7 billion	19.2 billion
GDP growth (annual %)	-18.1	4.0	3.0
Exports of goods and services (% of GDP)	21.0	20.7	22.2
Imports of goods and services (% of GDP)	34.6	43.8	45.3
Gross capital formation (% of GDP)	11.6	16.1	17.8
Trade in goods as a share of GDP (%)	48.7	54.8	-
Foreign direct investment, net inflows in reporting country (current US\$)	112.0 million	475.0 million	-

Source: World Bank, World Development Indicators Database, August 2004.

Figure 1.2. GDP development in Serbia and Montenegro (Indices, 1989=100)

Note: From 1999 without Kosovo and Metohia.

Source: UNECE, *Economic Survey of Europe*, 2004, No.1.

The economic structure of Serbia and Montenegro continues to shift gradually away from agriculture and industry, and towards services, following an established pattern of more developed economies. In 2003 industry accounted for an estimated 29 per cent of the State's Social Product¹ and agriculture 15.5 per cent, with services making up the remaining 56 per cent. However, the two republics have markedly different economic structures. Serbia has a larger agricultural sector, much of which is based in the northern province of Vojvodina, as well as a significant manufacturing sector that includes industries such as textiles, chemicals, metals, machinery, etc. The much smaller Montenegrin economy is more oriented towards services, including tourism, and specialises in the manufacture of a few products, notably aluminium².

2. Income and employment

The economic difficulties resulting from the break-up of the SFRY were not without effect on income and employment in the two Republics.

In *Serbia*, the real income of the population rapidly decreased between 1990 and 1993. Due to hyperinflation in 1993, the average salary dropped to 15 per cent of its 1989 level. After 1994, real income increased to around 30 per cent of the 1989 level. Real income dropped

again in 1999 but picked up after 2000, with the establishment of macro-economic stability and a real increase in GDP, reaching an average of 212.68 Euro³ (240.75 USD) per month in 2003.

The drop in income was accompanied by a dramatic rise in unemployment. The number of unemployed people in Serbia has been constantly increasing since 1990. While the number of employees in 2003 decreased by 22.1 per cent compared to 1990, the number of unemployed in the same period increased by 102.8 per cent. There has also been a structural shift in employment away from the public sector, where the number of employees decreased by 39.1 per cent in comparison to 1990. At the same time the number of employees in the private sector has increased 7.5 times. However, the increase in the number of employees in the private sector has not been sufficient to compensate for the loss of jobs in the public sector.

Using the ILO definition, the unemployment rate is estimated to be between 8.4 per cent and 11.9 per cent, although some surveys place Serbia's unemployment rate much higher, at around 30 per cent. The difference is most likely due to the pervasive grey economy and social security and income tax evasion. Unemployment is in particular a growing problem for Serbia's youth, reaching over 50 per cent in the 19-24 age group.

¹ The Social Product, the common measurement used in Serbia and Montenegro, differs from the GDP in that it excludes government services.

² The Economist Intelligence Unit, *Country Profile 2004 - Serbia and Montenegro* (London, 2004).

³ Republic of Serbia. Statistical Office.

This trend of growing unemployment has also not been reversed by the overall positive economic development in recent years. Although the economy grew in the period 2000-2002, overall employment fell by 1.6 per cent in spite of employment growth in the private sector of 21.4 per cent. The expansion of employment opportunities is hampered by the lack of capital, inadequate property laws, and the insecure status of privately owned small and medium enterprises⁴.

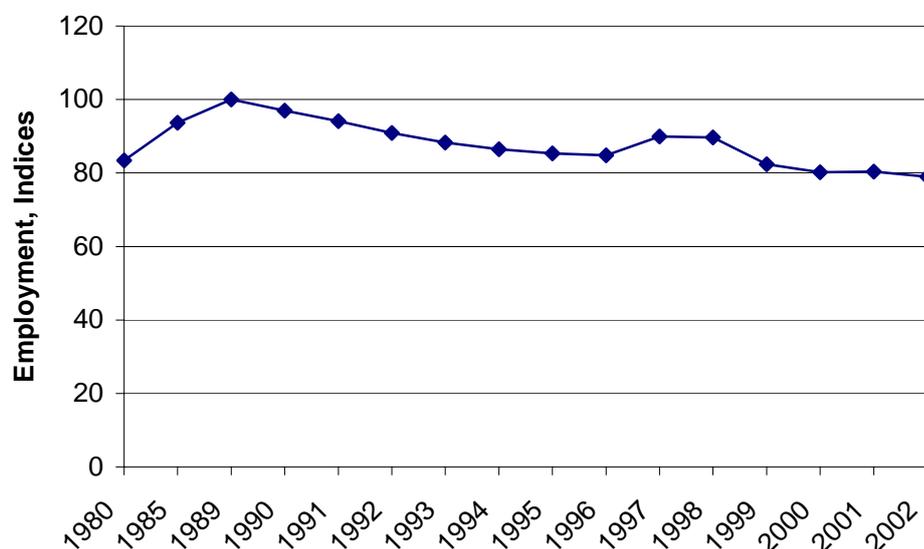
In *Montenegro*, employment sharply declined throughout the 1990s. According to official statistics, the employment rate, between 1990 and 2002, dropped annually by about 2.9 per cent on average. The unemployment rate in Montenegro, in 2002, amounted to 30.2 per cent, according to official records, and to 20.7 per cent according to Labour Survey data. The difference is accounted for by “unemployed” workers registered with the labour market bureau who also hold jobs in the grey economy. This strategy

enables these employees to qualify for health insurance, which is extended to those who register as unemployed, meaning that they do not hold jobs in the formal sector.

The informal economy in Montenegro has become a major source of employment for a large part of the population. As in most countries in transition, the size of the informal sector increased with the rise in poverty, offering the possibility to earn a living to that part of the population, which was not able to ensure more stable income in the formal sector. The average net income in the informal sector during 2002 amounted to Euro 200-250 per month, which is approximately 30 per cent higher than the average earnings in the formal sector.

Figure 1.3 below shows the decline in employment in Serbia and Montenegro since 1989. The aggregate employment for the two republics in 2002 was 80 per cent of the 1989 level.

Figure 1.3. Employment in Serbia and Montenegro, 1980-2002 (Indices, 1989=100)



Note: From 1999 without Kosovo and Metohia.

Source: UNECE, *Economic Survey of Europe*, 2004, No.1.

⁴ United Nations Country Team, *Common Country Assessment for Serbia and Montenegro*, Belgrade, October, 2003.

3. Poverty

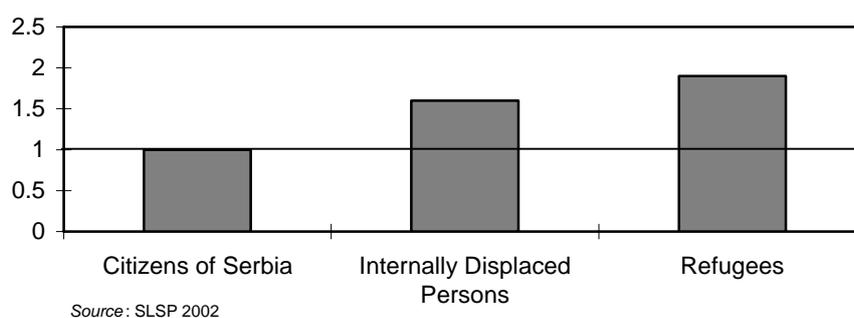
Poverty analyses show that the poverty rate in Serbia and Montenegro is about 11 per cent. In rural regions of both Serbia and Montenegro, however, poverty rates are much higher than average, ranging from 19 per cent in northern Montenegro, to 23 per cent in south-eastern Serbia. Poverty is generally correlated with unemployment, low levels of education, large family size as well as single-member and elderly households. The highest rates of poverty are found among a number of vulnerable and socially excluded population groups, such as displaced persons, refugees, the disabled, and the Roma population. According to the most recent estimates, 22 per cent of refugees and the internally displaced population (IDPs) live in poverty. Although there are no precise figures, some estimates indicate that there are approximately 360,000 disabled people in the Union. Only one-third of those have a job adjusted to their needs.

In *Serbia*, according to the Survey on the Living Standard of the Population (SLSP), carried out in 2002⁵, about 800,000 people lived

below the poverty line, defined as consumption of less than 4,489 dinar or 72 US\$ per month⁶, and about 1.6 million were at risk of falling below the poverty line. With regard to households, 10.3 per cent or about 250,000 households in Serbia lived in poverty, and 19.5 per cent or about 474,000 households were at risk of falling below the poverty line.

The picture of poverty in Serbia is even more sombre than this suggests, since the data do not include all the refugees and internally displaced persons who are more affected and vulnerable than those with permanent residence in Serbia. Figure 1.4 illustrates this point, showing clearly that refugees and internally displaced persons who were included in the SLSP are at much greater risk of poverty than Serbian citizens. It should also be mentioned that the SLSP survey did not include either Roma or the 25,000 people living in collective centres, who certainly belong to the most vulnerable group. Taking into account all these aspects, a rough estimate indicates that around a million people in Serbia are below the poverty line and more than two million are at risk.

Figure 1.4. Relative poverty risk of refugees and internally displaced persons in Serbia, in 2002



In *Montenegro*, consumption poverty affects about 9.4 per cent of the population; an estimated number of 87,000 people live below Montenegro's poverty line of 107 Euro per person per month (the cost of the full minimum subsistence basket). The elderly and to some extent children under 16 years of age are more likely to be poor than other age groups. More than 60 per cent of the poorest live in households

with pension income. Poverty is particularly acute among minority population groups, especially the Roma. A recent survey in Montenegro found that 52 per cent of Roma live in poverty; they have an unemployment rate of 43 per cent and 70 per cent have not attended secondary school⁷.

⁵ Excluding Kosovo and Metohia.

⁶ The poverty line of 4,489 dinar includes, besides food expenditure, also expenditure for clothing, hygiene and household goods, transport, healthcare and education.

⁷ United Nations Country Team, *Common Country Assessment for Serbia and Montenegro* (Belgrade, October, 2003).

To tackle the problem of poverty, the government, in 2002, developed a Poverty Reduction Strategy for Serbia and Montenegro. This entailed the identification and development of several indicators in line with the United Nations Millennium Development Goals. The poverty reduction strategy includes specific recommendations for the Republic of Serbia and the Republic of Montenegro. The recommendations touch upon three broad strategic areas:

- Establishment of the necessary conditions for dynamic and equitable economic growth, through the creation of a stable macro-economic environment and favourable investment climate, that will create employment and reduce economic vulnerability, as well as the establishment of key programmes to directly promote employment among the poor;
- Prevention of new poverty resulting from the modernisation and restructuring of the economy through targeted training and social measures enhancing the population's ability to take advantage of new opportunities created in the reformed market economy;
- Improved access for the poor to social services, such as health, education, water and other key infrastructures, through better targeting of existing programmes, and actions that improve the efficiency and quality of services delivered, particularly to the most vulnerable groups in society. The goal of these activities is to initiate a long-term process of empowering vulnerable groups to move out of poverty, through the development of new market-oriented skills, and the provision of minimum standards of living.

The *Strategy* calls for the establishment of better systems for the implementation of activities targeted at the poor and for monitoring key poverty indicators in close cooperation and with active participation of all relevant government and non-government stakeholders.

C. Demographic trends

Table 1.2 gives an overview of the main demographic developments in Serbia and Montenegro between 1990 and 2002.

The overall population of Serbia and Montenegro decreased between 1990 and 2002, due to a declining birth rate, an increasing death rate and an outflow of war refugees; at the same time there was a considerable influx of refugees to Serbia and Montenegro.

In 2004, the State Union of Serbia and Montenegro still hosts the largest number of refugees and internally displaced people (IDPs) in Europe. In 2004 there were 283,349 registered refugees (270,341 in Serbia and 13,008 in Montenegro) from Croatia and Bosnia and Herzegovina, and 226,410 registered IDPs (208,391 in Serbia and 18,019 in Montenegro) from Kosovo. The majority of refugees and IDPs live in private accommodation, while only a small percentage live in approximately 190 remaining collective centers, some of which are in very bad conditions (please see chapter 6).

Although the demographic developments in the two republics share a number of common characteristics, in particular with regard to the large refugee population, there are also significant differences as shown in table 1.2.

*Serbia*⁸ had a total permanent population of 7,498,001 in 2002, according to final census results reported by the Republic Statistical Office, down from 7,839,142 in the 1991 federal census. However, the results are not strictly comparable with those of the 1991 census, due to changes in measurement criteria.⁹ According to the 2002 census, 83 per cent of the permanent population described themselves as ethnic Serbs; the next largest group is the Hungarians, with less than four per cent of the population. Those defining themselves as "Yugoslav" made up 1.1 per cent of the population in 2002, while the Serbo-Croat speaking Muslims accounted for 0.3 per cent. Other minorities include Roma, Vlachs, Bulgarian, Czechs, Slovaks and Ruthenians (Ukrainians).¹⁰

⁸ Excluding Kosovo.

⁹ For more detailed information, please refer to EIU, Country Profile 2004 - Serbia and Montenegro, London, 2004.

¹⁰ Idem.

Table 1.2. Main demographic indicators

	1990			1995			2000			2001			2002		
	S&M*	S*	M*	S&M	S	M	S&M	S	M	S&M	S	M	S&M	S	M
Population size in 1000**	8,542	7,898	644	8,432	7,797	635	8,342	7,688	654	8,326	7,668	658	8,304	7,498	660
Population growth rate	0.00	-1.00	+9.00	-1.00	-3.00	+17.00	-9.00	-11.00	+14.00	-5.00	-7.00	+15.00	-7.00	-8.00	+10.30
Birth rate	11.69	11.45	14.56	11.35	11.06	14.95	9.94	9.59	14.04	10.48	10.23	13.43	10.73	10.50	13.28
Death rate	10.47	10.83	6.11	11.72	12.05	7.76	13.12	13.53	8.27	12.54	12.91	8.25	13.31	13.72	8.54
Population 0-19 (%)	26.62	26.15	32.39	25.26	24.73	31.75	23.68	23.18	29.59	23.39	22.90	29.17		22.30	
Population over 65 (%)	11.15	11.35	8.75	13.88	14.20	9.99	15.77	16.15	11.32	16.04	16.42	11.62	-	16.54	-
Total fertility rate	1.727	1.725	1.785	1.692	-	-	1.472	1.436	1.851	1.550	1.529	1.790	-	-	-
Life expectancy at birth	72.30	72.12	75.57	71.89	71.75	74.11	71.56	71.40	73.66	72.15	72.06	73.91	-	-	-
Number of refugees in 1000	-	99.6***	-	325.1	296.8	28.3	500.7	477.5	23.2	483.8	469.4	14.4	389.0	375.5	13.5
Number of IDPs in 1000	-	-	-	-	-	-	234.9	204.0	30.9	228.5	196.3	32.2	231.1	201.7	29.4

Source: United Nations Country Team, *Common Country Assessment for Serbia and Montenegro* (Belgrade, October 2003).

* S&M: Serbia and Montenegro, S: Serbia, M: Montenegro.

** Excluding Kosovo. Population size is calculated on the basis of mid-year estimates. The data presented here is from the Federal Statistical Office publication 'Saopštenja', No. 041, 3 March 2003.

*** A significant influx of refugees was registered from 1992.

Development has been unequal between different regions. Out of a total of 161 municipalities, the number of inhabitants has decreased in 120 of them, while increases have been recorded in just 41 municipalities. Municipalities with positive population growth are mostly within the territory of Vojvodina and almost exclusively in the South Backa and Srem county, as well as within Belgrade City. These are also the regions where there is a relatively large share of refugees and internally displaced persons. One of the main characteristics of Serbia's demographic development is an increasingly old age structure, with a decreasing share of young people and a simultaneous increase of the elderly, as well as an increasingly urban population.

Serbian's urban population has been growing continuously after the Second World War. That increase was intense during the 60's and 70's, but continued at a slower pace during the 80's and 90's. The graph below gives a comparison between the urban and rural populations in 1981 to the one in 2002.

For Montenegro, the data in table 1.2 suggest that there has been an increase in population between 1990 and 2002¹¹. As in Serbia, however, demographic developments have not been even throughout the Republic. There have been considerable population movements towards the southern part of the Republic, especially to Podgorica, mainly due to employment and economic opportunities (figure 1.6.)

The new census also points to a substantial change in the ethnic structure of the population since 1991. The percentage of people describing themselves as Montenegrins fell from 61.9 per cent in 1991 to 40.6 per cent in 2003 while the number of people describing themselves as Serbs rose from 9.3 per cent to 30.0 per cent. According to the first results of the 2003 census Bosniaks

and Muslims account for 13.7 per cent, Albanians for 7 per cent, Croats for 1.1 per cent and Roma for 0.4 per cent¹².

D. Overview of main housing developments and reforms

The last decade has brought considerable challenges to the housing sector, due to the elimination of state/enterprise subsidies alongside the overall difficult economic situation of the country and the influx of refugees and IDPs. There have been, however, few developments with regard to policy or legislative changes to address these challenges. The growing need for adequate housing, in the absence of a strong legislative framework regulating new private initiatives in the sector, has led to immense illegal construction resulting in a great number of new unplanned settlements (see chapter II p. 21 for further details). At the same time, the withdrawal of the State from maintenance and management of the existing housing stock, in particular the multi-unit stock, has led to a continuous deterioration of this stock, due to lack of investment in refurbishing or upgrading.

The Government of *Serbia*, in recent years, has started to take measures to tackle the challenges brought by the period of economic and political transition. The main challenges identified by the government are:

- Lack of a housing strategy, which makes the planning and coordination of different activities, including the attraction of assistance from international organizations, difficult;
- Inadequacy of the existing legal framework, particularly the *Housing Law of 1992*, in the new situation where a large part of the housing stock, including multi-unit housing, is privately owned;

¹¹ First results of the Census of Population, Households and Dwellings, conducted in 2003, indicate that the population of Montenegro in 2003 has risen to 617,740 as compared to 591,269 in 1991. These data differ from the one of the Federal Statistical Office, most likely due to changes in measurement, however they confirm an increasing population.

¹² The Economist Intelligence Unit, *Country Profile 2004 - Serbia and Montenegro* (London, 2004).

- Uncertainties with regard to the institutional framework for the housing sector, especially concerning the division of responsibilities between the different levels of government;
- Deteriorating quality of the housing stock, and absence of adequate mechanisms for the management and maintenance of the multi-unit buildings;
- Lack of affordable housing for socially weak population groups, such as refugees and internally displaced persons, poor households, young couples and families, other vulnerable groups;
- Absence of a consolidated *housing fund*, which could provide stable and predictable financial means for investment in housing;
- Need to modernize the current spatial planning system with an emphasis on

measures addressing the problem of illegal settlements, unresolved property rights and incomplete property registration.

To address these challenges, the Republic of Serbia adopted an outline for a National Housing Policy in 2002, including an action plan for drafting this Policy. The aim is to provide a comprehensive basis for addressing the main challenges within the housing sector of the Republic of Serbia. The development of the National Housing Policy, however, proved to be a difficult and lengthy process mainly due to funding constraints and frequent changes in government. It has received a new impetus in the second half of 2004 when, under the leading role of the Ministry for Capital Investments, working groups were established to develop the different aspects of the Policy.

Figure 1.5. Urban – Rural Population developments, Serbia

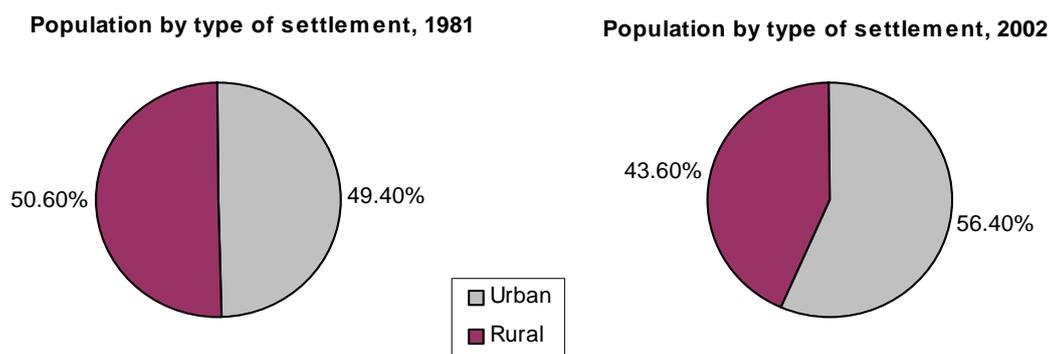


Figure 1.6. Growth and fall of population by municipalities, Montenegro

Source: *Census of Population, Households and Dwellings 2003, First Results. Podgorica 2003.*

Despite some difficulties with regard to financial and human resources, the Government has taken a number of steps to address the most pressing concerns within the housing sector. This is the adoption of the *National Strategy for Resolving the Problems of Refugees and Internally Displaced People* in 2002. The Strategy focuses on ensuring the conditions for repatriation of refugees and IDPs as well as for providing conditions for local integration. The strategy also recommends the development of “social housing”, in the form of public rental units for the most vulnerable households, as well as the provision of “affordable housing”, in the form of owner-occupied units. Realizing that the provision of adequate housing is a concern not only for refugees and IDPs but also for other vulnerable population groups, which have been affected by the adverse economic and social conditions in the past decade, the Government of Serbia has also initiated the development of a law on “social housing” (please see chapters IV and VI for additional information).

The law on “social housing” also includes provisions for the establishment of a “housing fund” as well as regional/municipal funds, whose function will be to provide resources for housing programmes, to supervise and control the use of money for these programs, to provide expert and technical assistance to carry out housing programmes, and to propose regulations to improve housing finance (please refer to chapters IV p. 44-45 and V).

As in Serbia, when large-scale privatisation and the dissolution of the traditional system for housing management and maintenance and for housing provision to socially weaker population groups came to pass in *Montenegro*, it was not accompanied by the establishment of efficient new structures. The situation was aggravated by a period of considerable economic difficulties for the majority of the population. Consequently, many of the Republic’s inhabitants were unable to adequately meet their housing needs.

In this context the Government decided, in 2004, to prepare a *Housing Policy Action Plan* (HPAP) to address the key challenges for Montenegro's housing sector. Among the key challenges identified in the HPAP are:

- Uneven housing stock distribution in Montenegro, resulting in severe shortages in some areas;
- Deterioration of the housing stock, particularly the multi-unit stock, and the current inadequate system of maintenance of this stock;
- Lack of affordable housing and lack of access to financing;
- Need to provide adequate housing to vulnerable population groups, in particular refugees;
- Illegal constructions and informal settlements;
- Inadequate infrastructure and deficiencies in land management and spatial planning.

In tackling these challenges, the HPAP stresses the importance of:

- Creating the conditions for the financial sector to work effectively in support of housing investments;
- Increasing housing options for low-income households, in particular through the development of public rental housing;
- Encouraging private initiative in the production, maintenance and management of housing;
- Regulating market forces through rent control, taxes and other fees.

The HPAP was initiated by the Ministry for Environmental Protection and Urban Planning in 2004 and has been developed through

a consultative process with the main national stakeholders in the housing sector, including representatives from banks and housing associations, as well as with international organizations active in Montenegro's housing sector. The process was supported by the Stability Pact for South East Europe. The HPAP includes a plan for the realization of the projected activities, as well as monitoring benchmarks for activities to be implemented in pursuit of the specified objectives. The government expects the HPAP to be adopted in 2005 and is seeking technical and financial assistance from abroad to implement its plan.

In conclusion, meeting basic housing needs is essential for an individual's physical and psychological well-being. Furthermore, housing is often an individual's biggest asset and an important component of an efficiently functioning economy. Problems within the housing sector, therefore, need to be addressed in a comprehensive manner, involving different ministries, local governments, non-governmental, private and international organizations. This process has been initiated and led in *Serbia* by the Ministry of Capital Investments. The Ministry should continue to encourage the dialogue on housing policy. Similarly, in *Montenegro* the development of the *Housing Action Plan (2005)* demonstrates a commitment to an integrated approach to solving housing problems. The Ministry of Environmental Protection and Physical Planning needs to ensure effective support of other stakeholders, including international institutions, for its implementation.

In both republics, the development of housing policies needs to be accompanied by a number of changes in the legal and financial framework as well as by capacity building for a more efficient operation of housing sector institutions.

EXISTING HOUSING STOCK AND NEW CONSTRUCTION

Republic of Serbia

A. The existing housing stock

1. Housing stock and housing consumption

According to the preliminary results of the 2002 census, the Republic of Serbia relied on a total housing stock of 2.96 million

dwellings, of which, however, only 2.74 million were for permanent living.

Table 2.1. Housing stock and population, in thousands

	2002	1991	Increase
Total housing stock	2,956.5	2,735.3	8.1%
Urban	1,592.6	1,445.1	10.2%
Rural	1,363.9	1,290.2	5.7%

Source: Serbia and Montenegro Statistical Office, Census 2002.

Compared with other ex-socialist countries, the size of Serbia's housing stock seems adequate, though per capita housing

consumption is still far from that of Western European countries (see table 2.2).

Table 2.2. Size of the housing stock: international comparison

Ex-socialist countries	units/1000 inhabitants		Western Europe
Bulgaria	471	503	France
Estonia	457	502	Portugal
Latvia	411	499	Finland
MONTENEGRO	410	499	Switzerland
SERBIA	394	484	Sweden
Slovenia	393	472	Denmark
Lithuania	374	472	Germany
Romania	373	436	Norway
Republic of Moldova	357	418	Netherlands
Slovakia	321	354	Ireland
Poland	308		

Source: UNECE, *Human Settlements Databases*; Serbia and Montenegro Statistical Office, Census 2002; Republican Statistical Office of Montenegro, Census 2003, first results.

It should be noted that figures for the total housing stock include 'dwellings for permanent living'¹³, villas and other premises for temporary use. They do not include 'occupied business spaces' and 'improvised units', which amount

to 17,921 units and shelter 54,169 people. If one considers only the occupied units 'for permanent living' (2,409 thousands), the average statistical consumption would be even lower (see table 2.3).

¹³ Terminology used by the Serbia and Montenegro Statistical Office.

Table 2.3. Types of housing and occupancy rate

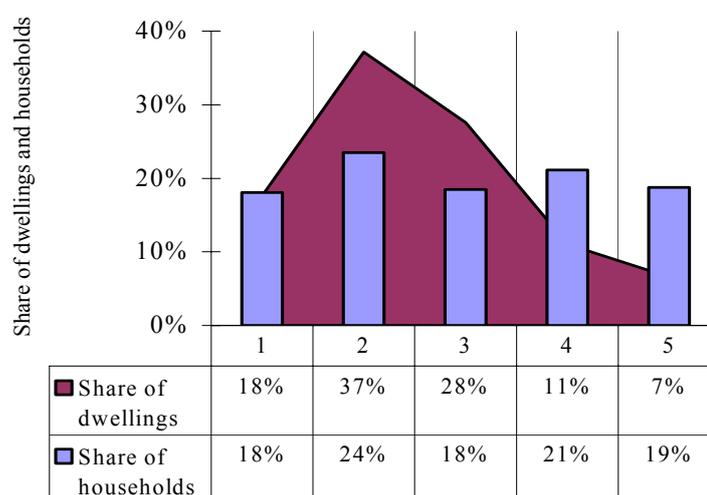
Dwellings	Number	Units/1000	m ² /person
Total number	2,956.5	394	25.1
For permanent living: total	2,744.0	366	23.8
- occupied	2,409.0	321	21.2
- unoccupied	335.0	-	-
For temporary residence	201.0	-	-
Other (unidentified)	11.5	-	-

Source: Serbia and Montenegro Statistical Office, Census 2002.

The data above reveal an occupancy rate of 81.5 per cent with 11.3 per cent (335,000) unoccupied units. Though rather high, in a fully operating market economy, such a figure might be considered desirable to facilitate housing mobility. However, this is not the case in the Republic of Serbia, since most of those units are located in rural areas (191,000) where there is low housing demand and in many cases vacant dwellings are run-down and abandoned (about 57,000).

Apart from the general statistical indicator 'units/1000 occupants', housing consumption is measured by the number of persons per room and useful floor space per person. These

characteristics relate directly not only to current consumption standards and adequacy of distribution of housing, but also to the ability of the stock to meet future household needs. Figure 2.1 illustrates the statistical relevance between the size of dwellings by number of rooms and the size of households by number of persons (the numbers 1-5 in figure 2.1 refer to the number of rooms, i.e. one-room apartment, two-room apartment, etc). There is a good correlation between small dwellings and households and well expressed statistical deficit of large units. The preliminary assessment would be that Serbian dwellings are too small to secure adequate consumption of households even if adequately distributed.

Figure 2.1. Statistical relevance between size of dwellings and households

Source: Serbia and Montenegro Statistical Office, Census 2002, expert calculations.

When looking at housing consumption measured by number of persons per room, 36 per cent of occupants (2,720,627) have a 'standard'¹⁴ consumption, 46 per cent (3,504,728 residents) have 'normal' consumption (1.1-2 persons per

room), while 18 per cent (about 1,346,000) live in overcrowded accommodation. There are many dwellings with more than three occupants per room (about 590,000 occupants in just 120,000 dwellings).

¹⁴ The accepted standard is 1 person/room.

Table 2.4. Occupancy standards (person/room)

Occupancy standards	Occupants	Dwellings
Standard: 1 or less persons per room	2,720,627	1,251,204
Normal: 2 or less persons per room (but more than 1)	3,504,728	873,894
Overcrowded: more than 2 persons per room	1,345,666	283,865
Extremely overcrowded: more than 3 persons per room	587,272	120,873
Substandard dwellings	54,169	17,921

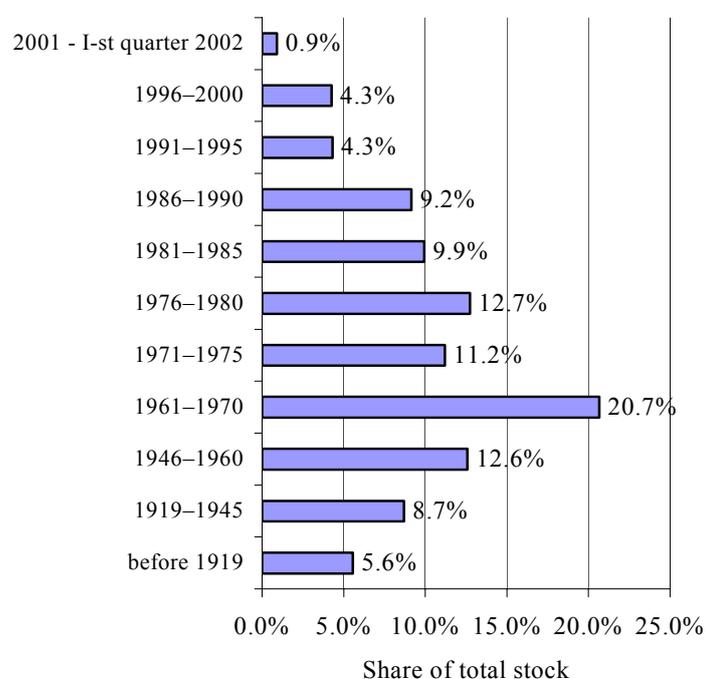
Source: Serbia and Montenegro Statistical Office, Census 2002.

Another substantial aspect of housing consumption is the useful floor space per person. Measured by the accepted EU standard of over 25 m² useful space per person, only 38 per cent (923,936 units) of the occupied stock would qualify. Another 32 per cent (767,391 units) could be considered acceptable, with 15-25m² useful space per person. The remaining 30 per cent has an extremely low standard of space consumption. As a whole, the statistical housing consumption in Serbia is comparable to neighbouring countries, but is much lower than EU standards. Furthermore, the aggregate fit between housing supply and demand does not reveal actual shortages and can be misleading for both researchers and politicians.

2. Quality of the housing stock

When assessing housing conditions and quality, the key factors to be taken into consideration are the *age* of the stock, its *construction type*, *amenities*, and *maintenance*.

The Republic of Serbia's housing stock is relatively new in comparison to that of many EU countries. The oldest part of the stock, (pre-1919), constitutes only about 5.6 per cent of the total against the EU average of about 18 per cent percent. Roughly two thirds of all dwellings were built during the socialist era (see Figure 2.2). The most productive decade (1971-1980) contributed a share of 24 per cent. After 1990, a share of about 9 per cent was added to the current stock.

Figure 2.2. Age structure of the housing stock

Source: Serbia and Montenegro Statistical Office, Census 2002, expert calculations.

According to the national statistics, there are only two types of residential building, defined by the material of their external walls – ‘hard’ (representing 80 per cent of all buildings and 85 per cent of all dwellings) and ‘weak’. This classification does not provide sufficient information for the assessment of the structural reliability of the stock. In the absence of systematic assessments of housing quality and data on the structural types of residential building, anecdotal evidence suggests that some of the multi-unit buildings might need substantial investment to be brought up to standards. Experts indicate that the problem might be significant in large urban areas.¹⁵ Another 17 per cent of residential buildings are considered ‘illegal’ and might not meet construction standards.

Amenities are another key factor of housing quality. Though new construction has improved access to basic amenities, the provision of piped water and sewer should be a priority for housing policy in the Republic of Serbia. As of 2002, only two per cent of urban housing (30,000 units) has remained without piped water indoors, yet the relevant figure for rural housing is nine times higher. Gas supply and central heating are underdeveloped. About one per cent (over 28,000 units) has no auxiliary facilities and basic amenities and 40 per cent of rural housing has no flush toilet or shower. In terms of regional disparities, figure 2.3 illustrates how rural areas lag behind urban ones in access to piped water, fixed bath or flush toilet. As everywhere in the Balkans, development of rural areas has obviously been neglected over a long period of time. Still contrasts are much smaller than in Romania¹⁶, for example.

However, disparities in service levels exist among cities. Belgrade is in a better position than other towns with respect to most basic utilities. Still the upgrading of obsolete infrastructure in old parts of cities and the provision of infrastructure in many informal settlements should be treated as a priority.

Statistics on availability of amenities provide an incomplete picture of the situation. Far more significant is the quality, reliability and cost of the services provided to residents. Informal interviews indicate that the price and reliability of some networks (water and electricity supply in particular) aggravate the living conditions in much of the housing stock.

B. Management and maintenance

1. Tenure structure

Serbia, like most countries in transition, has a high share of homeownership and an insignificant portion of public housing (see table 2.5).

The Statistical Office identifies 16 different types of tenure. Neither homeownership nor rental tenure follow the usual patterns. Housing shortages, aggravated by flows of refugees and IDP’s, have led to various housing arrangements. Homeowners’ units are often shared with tenants, sub-tenants or relatives. The same is true of rental units. The tenure structure as of 2002 shows that about 86 per cent of dwellings (2.1 million) are occupied by their owners, including nearly 100,000 co-owned units; another six per cent (144,865 units) are privately owned, but sheltering owners’ relatives. Rental units form a modest share of about seven per cent, including both public (50,093) and private dwellings. The remaining 0.5 per cent are either with “mixed tenure” or unidentified.

The privatization took place during the period 1991-2000. 77 per cent of dwellings were already privately owned before the privatization. In 1991 the number of public rental units was about 700,000. After 10 years of privatization, there are only 58,130¹⁷ public units left – about 2.1 per cent of the total stock. The *Law on Use of Apartments* introduced the ‘right to buy’. Public rental units, or socially owned housing, were sold to sitting tenants at below-market prices, determined on the basis of current average monthly salaries in the economy.

¹⁵ Prof. Ksenija Petovar and Arch. Zlata Vuksanović.

¹⁶ UNECE, *Country Profiles of the Housing Sector – Romania*.

¹⁷ Serbia and Montenegro Statistical Office, Census 2002.

2. Management of multi-apartment housing

Though explicitly regulated since 1995¹⁸, management and maintenance of the housing stock is still one of the priority issues of the housing sector. Management of apartment buildings is regulated by the *Law on Maintenance of Residential Buildings*. Management is treated as a series of decisions and activities securing adequate maintenance, funds and use of common spaces. An apartment building is a legal entity; the decision-making body is the 'building assembly' (for buildings with over 10 units) or the 'building council' (for smaller buildings). Establishment of the legal entity requires a quorum of 51 per cent of all owners, while decisions on 'investment maintenance' requires the consent of members owning over 50 per cent of the total building space. The assembly/council is free to decide on the organisation of maintenance (whether to assign it to a professional company or take care of it itself), but should communicate its decision to the local administration within 15 days. In cases of poor performance, a building inspector may ask a maintenance company to carry out necessary repair work at the expense of the homeowners. Thus performance of maintenance is an obligation of owners' associations under the supervision of local administration. Distribution of maintenance costs is proportional to the relevant owner's space in the building. A draft amendment to the maintenance law intends to introduce again a compulsory monthly fee for emergency repair work¹⁹. (See also chapters III p. 31 and IV p. 45-47.).

Public maintenance companies still dominate the market in all major cities. A survey conducted by the Business Association of Public

Companies of Serbia in June 2004, reveals that 62 per cent of the total number of apartments in the 11 major cities are clients of public maintenance companies (see table 2.7). The share varies from 95 per cent in Uzice to 33 per cent in Raska and Loznica.

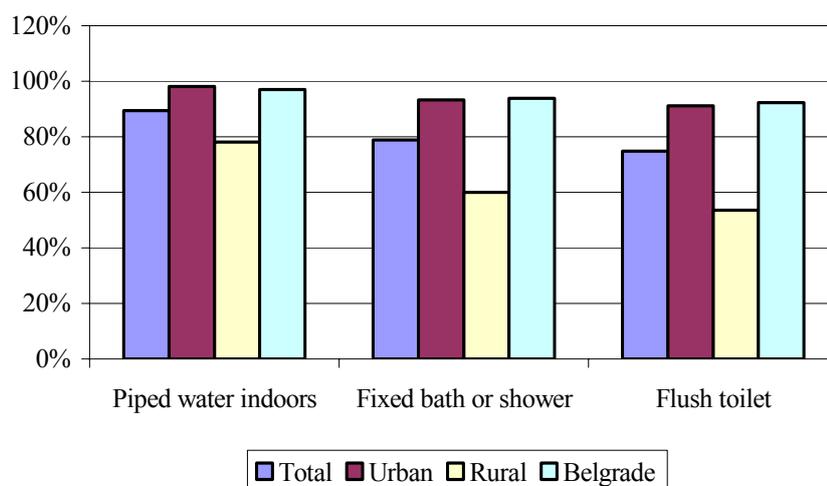
Today a substantial share of apartment buildings have neither established the envisaged legal entity, nor concluded a contract with a maintenance company. The stock as a whole suffers from continuous insufficient investment in maintenance and depreciates in value. Though enforced, legal regulations prove to be insufficient and inefficient. Administrative rules, restrictions and penalties (the 'stick') should be accompanied by incentive and support measures (the 'carrot') to create solvency alternatives and raise awareness and commitment of occupants.

3. Cost of utilities

Utility services are still performed by municipal/public utility companies. The lack of market competitiveness, scarce investment and low paying capacity of consumers are serious obstacles for the radical improvement of service standards. A good example of improved accountability and convenience in payment of utility bills is the system for 'Integrated housing-related payments', introduced by INFOSTAN in Belgrade. Apart from utilities, the 'integrated bills' include all other housing-related payments (maintenance, environmental fees, insurance, etc.), with the exception of individual electricity consumption. The average amount per customer for October 2004 was about EUR 55 (nearly 22 per cent of an average household income). Table 2.7 below provides an example of housing-related payments in the owner-occupied sector. Heating and hot water represent the largest share, at over 63 per cent.

¹⁸ The *Law on Maintenance of residential buildings*, SG 44/1995, last amended in SG 1/2001.

¹⁹ Suggested fee for a 65m² apartment in a building with a lift would be EUR 4,8 or about 2 EUR in a building without lift.

Figure 2.3. Housing amenities: regional disparities

Source: Serbia and Montenegro Statistical Office, Census 2002, expert calculations.

Table 2.5. Ownership structure of the housing stock

Ownership structure	Total	Public	Private
Total number of dwellings for permanent living	2,743,996	2,1%	97,9%
Occupied units	2,409,002	2,1%	97,9%
Unoccupied units	334,994	2,4%	97,6%

Table 2.6. Tenure structure of the housing stock

Tenure structure	Units occupied by		
	1 household	2 households	3 households
Homeowners (1)	1,962,338	92,098	7,749
Equivalent to homeowners (2)	141,746	2,896	223
Tenants (public and private) (3)	163,872	4,725	274
Mixed tenure (owners and tenants)	0	10,790	1,118
Other	134	3,791	828

Source: Serbia and Montenegro Statistical Office, Census 2002.

Notes: (1) Including co-ownership (99847 units) and sheltered relatives or 'other persons' (7669 units);
 (2) A specific, officially identified tenure form, where homeowners place their spare units at their relatives' disposal informally, i.e. without any contract, rent or any form of transaction;
 (3) Public and private units are not distinguished by the Statistical Office.

Table 2.7. Dwellings in apartment buildings maintained by public companies

City	Number of dwellings in apartment buildings	Number of apartments	Share of all apartments
Belgrade	Not surveyed	254,854	-
Novi Sad	62,000	48,053	72%
Nis	Not surveyed	30,923	-
Kagujevac	14,818	4,157	28%
Uzice	7,007	6,635	95%
Leskovac	7,550	4,858	64%
Zajecar	5,234	4,224	81%
Raska	1,564	518	33%
Bor	11,628	7,260	62%
Loznica	4,562	1,500	33%

Source: Business Association of Public Companies of Serbia; Survey 2004.

Table 2.8. A typical monthly bill for a 76 m² owner-occupied apartment in Belgrade

Items	EUR
Land lease	1,08
Solid waste	2,30
Central heating	23,07
Cold water	3,96
Hot water - quantity of water to be heated	5,57
Hot water - energy for heating	5,18
Flood prevention	0,11
Common electricity consumption	3,39
Environmental protection	0,30
Maintenance	4,16
Cleaning (common parts)	0,66
Default interest	2,73
TOTAL	52,51

Source: Infostan, Personal bill, October 2004.

The main problem is heating. It requires special attention for at least two reasons: the cost of energy, which places a heavy burden on households, and energy efficiency²⁰ in the context of the sustainable development of the country as a whole. Consideration here is restricted to the type of heating used in residential buildings. Central heating is available only in bigger cities (28 per cent) and in 49 per cent of the stock in Belgrade. Electric heating is still widely used in urban areas

in spite of the recent sharp increase in prices. The USAID *Serbia Heating and Energy Efficiency Program* (2001-2002) resulted in a substantial reduction in electricity consumption (about 10 per cent of households switched to another source of heat) and increased public awareness of energy efficiency measures through a publicity campaign. Gas supply is restricted to about 8 per cent of households). The main type of heating (especially in rural areas) is solid fuel.

²⁰ EU assessment: "Compared to other countries in Western and Eastern Europe, Serbia has one of the lowest energy efficiency ratings".

Despite efforts of the Serbian Energy Efficiency Agency and its four regional centres in Novi Sad, Belgrade, Kragyjevaca and Nis, improvements in housing energy efficiency have so far been limited. Energy conservation measures are still limited to window insulation. The potential to save up to 45 per cent of heating energy through thermal insulation of whole buildings is not yet used. Governmental support is needed in initiation, development and implementation of large-scale energy efficiency/renewal programmes particularly in multi-unit housing.

C. New housing construction

The current amount of new construction is insufficient for replacing the obsolete stock and meeting urgent housing needs in a reasonable period of time. After an annual output of 20-40 thousand units in the early 1990s, new construction has dropped to 10-11 thousand since 1998. This is a rate of 1.4 units per 1,000 people or 0.4 new units per 100 existing dwellings. Compared to EU countries (with an average of 5 units/1,000 people), the rate of new construction in Serbia is rather low.

1. Trends

In Serbia, even in the late 1980s, private provision of new housing was dominant. Starting with a share of 72 per cent in 1989, it reached 83 per cent in 2002 (see Figure 2.4). Following the experience of other countries in transition, it may be expected that public output will soon drop to below 10 per cent.

The prevailing pattern of large-scale housing construction in the past is replaced now by small-scale new developments scattered from city cores to suburbs. Medium height apartment buildings in separate plots are the typical projects downtown, while houses for one to three families prevail in the outskirts along with business facilities in modern complexes. The average size of new units gradually increased from 72 m² in 1989 to 80 m² in 1999 before dropping to 78 m² in 2001. This can be explained by the polarisation of new output – a relative increase of smaller units (for mass demand) along with large/luxury apartments/houses for wealthy clients. In terms of numbers, both sectors are almost equal.

As construction loans are expensive (see chapter V p. 52), most new construction is pre-sold and financed by the future owners. The main flow of cash-investment comes from the savings of 'economic migrants' abroad. Rough estimates show that housing mortgages cover only one per cent of total housing investments. The average cost of a new construction is EUR 325 per square metre. A breakdown of construction costs (see Table 2.9) reveals a massive use of traditional technologies, where on-site labour represents a relatively high share – about 30 per cent.

Regarding the price of new construction, it seems prohibitive for most households, being two to three times higher than the cost (EUR 650 – 1,000 per square metre). Thus an average-income household (with EUR 3000 /year) would need 22 yearly incomes to cover the price of a 65 m² apartment or about EUR 65,000. As many newly completed units wait for a first-time buyer, contractors/entrepreneurs²¹ tend to decrease prices, but they still maintain a very substantial profit. The overall higher quality of new construction is supported by standard connections to basic infrastructure and auxiliary installations like gas, central heating and communication systems. As expected, new housing as a rule has above-average occupation standards.

Unlike the maintenance sector, where public companies prevail, the construction sector relies mostly on private companies. These are small and middle-size enterprises, relying on motivated human resources and modern equipment unlike public ones, which are clumsy, use obsolete equipment and have restricted capacity to adapt to a dynamic and competitive market environment.

The main concerns of private contractors/entrepreneurs²² are related to:

- Availability of construction loans – the principal barrier to the development of construction companies;
- Disloyal competition – dumping through informal labour and illegal construction;

²¹ The typical construction entrepreneur is not yet identified on the market, as construction companies are still highly dependent on their clients' financing throughout the whole construction process.

²² Shared opinions during the study tour.

- Availability of construction land and infrastructure – scarce, expensive, delayed urban development plans.

A large part of construction labour, comes from the ‘grey economy’, as construction companies have no incentives to appoint workers given the 75 per cent taxation of their turnover. The Belgrade association of private developers has prepared a proposal pleading for more favourable tax conditions.

2. Informal construction

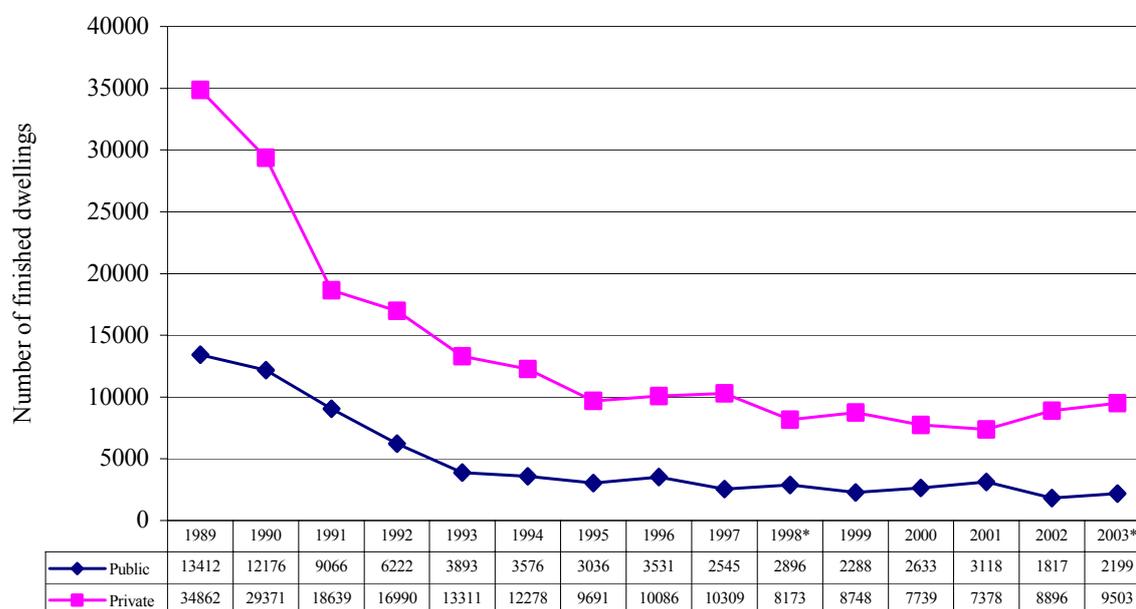
Informal settlements have been a dominant feature of urbanisation²³ in Serbia during the last four decades. Resulting from illegal construction on both regulated and non regulated land, informal settlements vary in terms of standard (from slums to luxury residences), location (from suburbs to city cores and protected areas) and size (from several small units to over 50,000

residential settlements). The flow of refugees (1992-1997) and IDPs (since 1999) has significantly contributed to the increase in illegal construction, concentrated in the suburbs of larger cities. Apart from addressing urgent housing needs, illegal investments in real estate have been used by many households as a ‘shield’ against instability and hyper-inflation at that time.

So far, all attempts by the authorities to counter illegal construction by introducing restrictive measures have failed. The key reasons for continuing illegal construction are:

- Housing needs once caused by industrial urbanisation (1970-1990) and aggravated by the large flow of refugees and IDPs (over 10 percent of the current population);
- Lack of adequate housing policy and targeted public funds;

Figure 2.4. New housing construction by investors



Source: Serbia and Montenegro Statistical Office, Census 2002.

²³ Milic V.M., Petovar K. and Colic R. National Perspective on Informal Settlements (paper presented at the Ministerial Conference on Informal Settlements in SEE, Vienna, 28 September – 01 October 2004), 2004.

Table 2.9. Cost of new housing construction (EUR/m²)

Type of works	Labour	Materials	Total cost
Rough construction work	46.8	70.2	117.0
Craft work	31.7	95.1	126.8
Installation work	16.3	65.0	81.3
TOTAL	94.7	230.3	325.0

Source: Information from local experts, 2004.

- Lack of adequate housing policy and targeted public funds;
- Obsolete, inflexible system of urban planning, lagging far behind the dynamic needs of transition and unable to adapt to the emerging market environment;
- Limited supply and unaffordable prices of construction land; extensive and costly procedures for obtaining building permits;
- Persistent economic crisis, high unemployment and mass impoverishment;
- Substantial share of 'grey economy', corruption and monopoly in the administration and public utility companies;
- Political tolerance of illegal construction as an informal tool of social policy since 1990.

Estimates suggest that the number of illegally constructed dwellings could reach a million. During the last campaign for the legalization of buildings,²⁴ more than 400,000 applications were submitted by the end of 2003. Considering that a single application often relates to a multi-unit building, the actual number of dwellings would be much higher. Moreover, rural housing has traditionally developed without building permits, as no zoning or other spatial development plans exist in most small rural settlements. Very few applications therefore can be expected from rural areas.

The complexity and scale of illegal construction would require more political attention, resources and wider social involvement. Administrative restrictions and penalties should be combined with incentives and alternatives for those whose shelter cannot be legalized and has to be demolished. The balance of public and private participatory approach.

The government of Serbia, along with the government of Montenegro, signed the Vienna Declaration on Informal Settlements in South-East Europe, supported by the Stability Pact for South East Europe, committing itself to a number of measures aimed at tackling the current problems informal settlements.

Republic of Montenegro

A. Housing conditions

Montenegro still lacks the statistical data for a comprehensive analysis and assessment of the housing stock and new construction. The preliminary results of the 2003 census contain only data on the number of dwellings, inhabitants and households. The size of residential units, types of building, amenities and other substantial characteristics remain unknown.

²⁴ Pursuant to Planning and Construction Law, 2003 (see chapter IV p. 42).

Table 2.10. Housing stock and population

	2003	1991	Increase 1991-2003
Total housing stock (thousands)	253,1	203,7	24,3%
- Urban	140,1	107,0	31,0%
- Other	113,0	96,7	16,9%
Units/1000 people	410	344	18,9%
- Urban	366	305	20,0%
- Other	481	402	19,6%

Source: Republican Statistical Office of Montenegro, Census 2003, first results.

According to the preliminary results of the 2003 census, the population of the Republic of Montenegro (617,740) relied on a total housing stock of 253,135 dwellings – an average of 410 units per 1,000 people (see table 2.10). Compared with other ex-socialist countries, the average housing consumption in Montenegro is above average, though still far behind that of the old EC member states (see table 2.2). As of 2003, the total number of dwellings exceeded that of households (191,047) by over 62,000 (about 32 per cent). Another aspect pointing to a reasonable volume of housing is the continued increase in the stock (24.3 per cent over the 1991–2003 period), at a time when the population has increased by only 4.5 per cent.

Single-family houses are predominant in Montenegro as they are in Serbia. According to the data obtained during the pre-mission meetings with the municipality of Podgorica²⁵, the share of units in multi-apartment buildings is about 30 per cent (18,000 units). Apartment buildings are generally considered to be problematic in terms of management and maintenance.

Data on the group in the poorest living conditions is obtained from surveys²⁶ on refugees and Roma people. Over 6000 households, many of which are Roma, live in substandard dwellings (slums). Vulnerable groups, represented by

refugees and poor local households, consume less than 14 m² per person, while the national average consumption is about 26 m² per person.

In the assessment of housing conditions, key factors are the age of the stock, its construction type, amenities, and maintenance. The data on housing in Montenegro are scarce. Most of the housing stock was built in the last 40 years, with close to 20 per cent built since 1991. However,²⁷ many buildings, especially multi-apartment structures are run down due to poor maintenance. In addition, 30 per cent of buildings in Montenegro have been constructed without construction licenses²⁸

Amenities are another key factor of housing quality. The lack of basic amenities should be one of the priorities housing in Montenegro. As reported in several issue papers²⁹, water supply, capacity and condition of communal networks are of general concern, especially in coastal areas and the northern part of Montenegro. The situation is more serious in spontaneously expanding cities like Podgorica, where illegal construction creates planning, legal, financial and physical constraints for adequate network connections. The national aspirations for an 'ecological state' should be supported (along with other programmes) by priority investments in water supply and sewer systems.

²⁵ UNECE mission: meeting notes by Sasha Tsenkova, Podgorica, May 28.

²⁶ Institute for Strategic Studies and Prognoses, survey on local communities, 'Development of a National Strategy Resolving Issues of Refugees and Internally Displaced Persons in Montenegro,' September, 2004; available at http://vulnerability.undp.sk/files/serbia_montenegro.pdf, visited on January 20, 2005.

²⁷ Stankovic S. and Popovic V. Previous Housing Trends and Housing Policy (issue paper within the Housing Policy Action Plan Montenegro, 22 September 2004).

²⁸ Republic of Montenegro, Ministry of Environmental Protection and Urban Planning, Ministry Perspective (paper presented at Ministerial Conference on Informal Settlements in South; Eastern Europe, Podgorica, September 2004).

²⁹ Stankovic S. and Popovic V. Previous Housing Trends and Housing Policy (issue paper within the Housing Policy Action Plan, Montenegro, 22 September 2004). Zoric M., Issues Related to land Infrastructure and Urban Planning (issue paper, within the Housing Policy Action Plan, Montenegro, 22 October 2004).

B. Management and maintenance

Though explicitly regulated since 1995³⁰, management and maintenance of the housing stock is still a major challenge for the housing sector of Montenegro. Reluctance to assume responsibility for maintenance in privatized buildings and financial constraints are seen as the main reasons for the continuous deterioration of both the housing stock and common parts of apartment buildings.

Privatization in Montenegro increased the high share of private ownership in housing - more than 95 per cent of dwellings are privately owned. However, housing shortages in large cities, further aggravated by flows of refugees and IDP's, have led to a variety of housing arrangements. Many homeowners' units are shared with tenants, sub-tenants or relatives³¹ (at least 3,500).

Management of apartment buildings is regulated by the Law on Housing Property (see also chapter IV p. 47). An apartment building is a legal entity (owners' association), whose responsibilities are confined to maintenance and use of the building. The decision-making body is the 'building assembly'. When a building contains more than four units, a building manager should be appointed. The owners' association should open a bank account for maintenance funds (from obligatory monthly fees of all owners). Establishment of an association and election of an administrator are mandatory, but in practice the law is not systematically implemented. For example, out of 2,200 buildings in Podgorica³², expected to form an association and chose a manager, only 500 have done so. As reported to the UNECE mission, collection of maintenance fees is poor (10-14 per cent of owners). Often, in case of emergency repairs, the municipalities have to finance the difference. In fact, the annual deficit in Podgorica for the 20,000 apartments covered by the municipality is EUR 300,000.

³⁰ Law on Floor Property = Law on Housing Property, Official Gazette of the Republic of Montenegro, No 21/95, 23/95, 12/97 and 21/98.

³¹ Institute for Strategic Studies and Prognoses, survey on local government, 'Development of a National Strategy Resolving Issues of Refugees and Internally Displaced Persons in Montenegro,' September, 2004.

³² UNECE mission: meeting notes by Sasha Tsenkova, Podgorica, May 28.

Utility services are still performed by municipal/public utility companies. The lack of market competitiveness, scarce investment resources and the low paying capacity of consumers are serious obstacles to the radical improvement of service standards. Unlike maintenance fees, the collection rates for utility bills (which are much higher than maintenance fees) are in the range of 60 to 70 per cent.

C. New housing construction

The rate of new construction in Montenegro is relatively high - an average annual output of 4,000 units for the period 1991-2003³³. This amounts to 6.7 units per 1,000 people or 1.6 new units per 100 existing dwellings, which is four times higher than the average for Serbia.³⁴ Table 2.11 below gives an overview of the number of apartments and on the total floor space constructed between 1997 and 2001.

Most of the new housing is illegally constructed. Informal settlements in Montenegro are a dominant feature of urban development³⁵. Resulting from illegal construction on both regulated and non-urbanized land, informal settlements vary in terms of standard (from slums to luxury residences), location (from suburbs to city cores and protected areas) and size (from several small units to over 70 ha settlements). The pressure of illegal construction is greatest in Podgorica and coastal areas. Podgorica, for example, has four large informal settlements, covering a total area of 211ha and containing 1591 buildings³⁶.

The flow of refugees (1992-1997) and IDPs (since 1999) has significantly contributed to the increase in illegal construction, concentrated in the central and southern parts of the Republic. Apart from addressing urgent housing needs, illegal investments in real estates were used by many households as a 'shield' against instability and hyperinflation at that time.

³³ Republican Statistical Office of Montenegro, Census '2003, first results, December, 2003.

³⁴ These rates are higher than the average in EU countries (5 units/1,000 people).

³⁵ Republic of Montenegro, Ministry of Environmental Protection and Urban Planning, Ministry Perspective (paper presented at the Ministerial Conference on Informal Settlements in South-Eastern Europe, Podgorica, September 2004).

³⁶ Presentation by the Municipality of Podgorica at the Ministerial Conference on Informal Settlements in South-Eastern Europe, September 2004.

The *Law on Construction of Buildings* (passed in December 2000) enables local authorities to register illegal buildings and find ways of incorporating them into new re-development plans, thus legalizing them. Demolition of incompatible buildings is also envisaged. A two-year period is provided for surveying, registration, planning and legalization. After a period of inefficient centralised supervision/control of illegal construction (1995-2001), the Ministry of Environmental Protection and Urban Planning delegated these functions

back to local authorities. Detailed spatial planning, construction permits and appropriate control measures are prerequisites for improved co-ordination and efficiency. A reduction in illegal construction has been observed since then. It is expected that the signing by the government of Montenegro of the Vienna Declaration on Illegal Settlements in South-East Europe, supported by the Stability Pact for South-East Europe, will result in further actions to tackle the problems connected with illegal settlements.

Table 2.11. New construction

Year	Total finished apartments		Types of apartment				
	No	m ²	Studio and 1 BR*	2 BR	3 BR	4 BR	5 BR and more
1997	1870	138747	301	555	696	250	68
1998	2027	144579	362	695	686	204	80
1999	2087	152663	340	789	653	230	75
2000	2360	174868	331	832	862	281	54
2001	1916	138228	339	703	606	204	64

*bed room

Source: Statistical Yearbook, Republic of Montenegro, 2003.

INSTITUTIONAL FRAMEWORK

This chapter analyses the current institutional framework and identifies key changes needed to improve the housing sector. After a brief description of the main competencies at the State Union level, the institutional frameworks for the housing sector are described separately for Serbia and Montenegro.

A. State Union of Serbia and Montenegro

The State Union of Serbia and Montenegro, proclaimed on 4 February 2003, is based on the equality, of the two member States. The State Union's highest legal act is . the Constitutional Charter, under which the Union Assembly exercises legislative power. The Assembly is made up of 126 members, 91 from Serbia and 35 from Montenegro. The Assembly elects a

Union President. Executive power is vested in the President, who chairs a Council of Ministers. They represent five Ministries Foreign Affairs, International Economic Relations, Human and Minority Rights, Internal Economic Relations, and Defence. Judicial power is vested in the Court of Serbia and Montenegro, which can invalidate laws that are contrary to the Constitutional Charter. Human and Minority Rights, Internal Economic Relations, and Defence. Judicial power is vested in the Court of Serbia and Montenegro, which can invalidate laws that are contrary to the Constitutional Charter.

B. Republic of Serbia

The principal institutions concerned with housing in Serbia are summarised in Box 3.1

Box 3.1. Principal institutions in the housing sector – Republic of Serbia

	Public	Civil Society	Private		
National	Sections of key Ministries, including Housing Affairs Section of the Ministry of Capital Investments	Commissariat for Refugees National Corporation for Housing Credit Insurance Cadastral Agency	Professional bodies Universities Faculties of Architecture	Association of Housing Coops Tenant Association	Banks Chamber of Trade Large Construction Companies
Local	Standing Conference of Municipalities Municipalities - regulate building - provide housing	Public Companies - construction - maintenance Municipal Housing Agencies Cadastral offices	Housing Co-operatives Homeowners' associations	Estate Agents Small building firms	

At the State Union level there are no institutions responsible for housing. Some activities relevant to housing are determined either through State Union laws, or by international relations, which are channelled through State Union ministries. The State Union is a member of the United Nations, and international co-operation starts with a framework agreement at State Union level. The public housing stock previously owned by the Federal Republic of Yugoslavia became the property of the member Republics in 1996.

1. Public sector institutions

Central level

The separation between the legislative and executive functions of government was eroded during the 1990s, but since 2000 reforms have been underway to ensure proper safeguards. The Serbian Parliament consists of 250 members. From 1990 the Republic gradually transferred its housing responsibilities, including housing vulnerable households, to the local authorities. Housing legislation expects the government to take measures designed to create favorable conditions for housing construction and to ensure that the housing needs of socially vulnerable people are met. Thus the Republican government has adopted an enabling rather than a providing role.

The structure of ministries has changed since the 2000 elections. In addition to the offices of Prime Minister and Deputy Prime Minister, there are now 17 ministries, of which the following are the most relevant to the housing sector:

- *Ministry of Capital Investments.* The Ministry has three sections: telecommunication, communication and construction, and urban planning. The last section is divided into two units: urban and spatial planning, and construction, investment projects and housing affairs. The housing affairs group has taken the lead in the preparation of the legal framework for housing and in work related to international housing projects for refugees. It currently consists of three people but is expected to increase to 16. Whilst this is the lead ministry for housing policy, housing represents a small part of the Ministry's overall work.
- *Ministry of Finance.* This Ministry has responsibility for budgeting, and for tax regulations affecting new housing construction.
- *Ministry of Labour, Employment and Social Policy.* This Ministry is responsible for the elderly and invalids. At municipal level, the Centers for Social Work, under the authority of the Ministry, run homes which provide care for the elderly.
- *Ministry of Public Administration and Local Self-Government.* This Ministry is responsible for the training of civil servants, the territorial organization of the Republic, and for local self-government and territorial autonomy.
- *Ministry of Economy.* This Ministry has certain functions relating to construction, including construction materials.

Other Republic level governmental institutions relevant to housing are:

- *The National Housing Credit Insurance Corporation,* which was established to insure mortgage loans issued by commercial banks in order to obtain lower interest rates. It is also expected to provide incentives for a secondary housing market. The Corporation will be supervised by the Ministry of Finance. (See also chapter V p. 53.)
- *The Commission for refugees,* which is concerned with the construction of housing for refugees, mainly as humanitarian projects, and has co-ordinated the process of selecting beneficiaries.
- *The Directorate for Property of the Republic,* which is currently responsible for all public/state property and decides on the use of housing or property following transfer.

- *The Building Institute of Serbia*, which is responsible for completing large housing projects started since 1999.
- *The Geodetic Authority*, which undertakes work relating to cadastral records. It has ten centres which coordinate local cadastral offices. The Land Cadastre covers 5,826 cadastral communities, organized in 178 districts. Cadastral offices are in charge of surveying, and until admitting private surveying companies, they undertook all surveying work.

A *Social Housing Law* has been drafted. It will define the housing responsibilities at the republic and municipal levels, and establish a new National Housing Agency. It will also recognize local municipal housing agencies and other non-profit housing organizations.³⁷ (See chapter IV p. 44-45 and chapter VI for further details.)

Provincial and district levels

There are two autonomous provinces of Serbia, Kosovo/ Metohija and Vojvodina. Vojvodina has a provincial Parliament and government. While this government can issue regulations under federal/republican legislation, it has yet to issue any that relate to housing.

In 1992, the Government of Serbia decided that the administrative affairs of the Republic should be dealt with by the appropriate ministries, through regional centres each covering a district. Though not part of the legislation on territorial organization, the Republic of Serbia is divided into 24 regions or districts plus Belgrade City. Districts usually cover three to ten municipalities with the largest acting as district centre. Each centre is headed by a Prefect with limited powers. The creation of districts was an attempt at regionalization which has not been developed. Some statistics, such as those from the 2002 census and economic data kept by the Republic Development Bureau, are available at district level.

Local level

Laws on Territorial Organization and Local Self-Government were adopted in 1991 and 2002. These make the municipality the basic

territorial unit for local self-government. Each municipality has a directly elected Assembly, and an elected President (or Mayor, if it is a City). The President appoints the head of the administration, which should also include a Chief Architect.³⁸ Assembly elections are based on a proportional representation system, which has produced a coalition for most municipalities.

There are a total of 161 municipalities³⁹. The City of Belgrade includes 16 municipalities and the City of Nis has two. Based on the 2002 census population figures, municipalities range from 235,000 (Nis) to less than 3,000 (Crna Trava) inhabitants. A total of 18 municipalities had a population of more than 100,000, including six municipalities within the City of Belgrade. Just over half of all municipalities had a population of less than 30,000.⁴⁰

The functions of local municipalities include: making decisions concerning development programmes, urban plans, programmes for maintaining building land, protection of the environment, and budgeting, maintenance and development of communal activities. They plan and regulate the use of building land and adopt development and zoning plans. Other functions may also be delegated to them by the Republic.

Municipalities are entitled to raise loans and to collect several Republican taxes, a portion of which is redistributed back to them. They also receive subsidies from central government. Despite this, their financial autonomy is limited and they have little incentive to improve their financial management systems.

Seven municipalities were included in UN HABITAT SIRP (Settlement and Integration of Refugees Programme), when data about their organization and housing sector were collected in 2004.⁴¹ The structure of one of the largest municipalities and that of the smallest included in this programme are shown in the boxes below.

The seven SIRP municipalities employed of 2,300 staff, representing 2.4 staff per 1,000 residents. Although municipalities were organized in different ways, approximately 30 % of all

³⁷ Draft Social Housing Law, October 2004.

³⁸ Law on Local Self-Government, June 2001.

³⁹ Excluding Kosovo/Metohija.

⁴⁰ Final results of the 2002 Census.

⁴¹ SIRP Project Document and Appendices.

municipal staff were employed in departments concerned with housing construction or urban planning. (See also chapter VI p. 60 and 61.)

The role of local government in housing

Ever since the socialist era municipalities have played an important role in mobilizing public funds for housing, and in organizing the provision and maintenance of public housing stock. Mandatory solidarity funds were collected until mid 2004, when they were finally abolished. Solidarity housing projects were usually contracted to municipal public companies, mostly dealing with housing maintenance. The Fund and other statutory bodies participating in it decided the allocation of housing units to those enterprises which contributed to the fund for their employees.

Accommodation was usually privately owned, funded by a mortgage backed scheme, with conditions set by the municipality. This usually resulted in very favorable long-term loans without interest payments.

In recent years this system has produced around one flat per 10,000 people a year, with around EUR 20 million collected throughout Serbia in 2003, mostly in the bigger municipalities. The system is now being phased out, but the agencies involved may form part of a new social housing system (see chapters IV, V and VI for more details).

The Settlement and Integration of Refugees Programme (SIRP) has played an important role in the development of the national housing reform process that started in 2003. At national level, it has provided experience that has helped to develop new housing instruments. At local level, SIRP has worked with three municipalities, Kragujevac, Niš and Valjevo, to establish new housing agencies, based on solidarity fund principles, and to provide a new institutional framework for social housing. Combined with the programme's municipal capacity-building, this approach will be extended to other municipalities.

Municipalities have powers to deal with illegal housing construction, but they do not apply them consistently. They are aware of the scale of illegal housing but lack the resources or finance to manage the process of legalization. (See also chapter II p. 21).

There is a Standing Conference of Towns and Municipalities, which was founded in 1953 and represents Local Government. It holds an annual conference, and has ten committees dealing with specific issues, including housing. The Standing Committee commented on drafts of the new social housing legislation.

Public enterprises

Utility services, such as water and power supply, heating, and waste collection are organized by municipal public enterprises. The production and distribution of water and power are the responsibility of Republican public enterprises. The surface telephone network and service also belong to a Republican public company.

Public companies undertake the maintenance of former public housing stock, though most of the stock is now privately owned, and carry out urban planning work, land management and public works.

2. Private sector

Prior to 2000, the private sector environment in Serbia and Montenegro was not business-friendly due to lack of regulatory legislation and access to credit; non-transparent tax systems with a high level of corruption in state administration; loss of foreign markets due to international sanctions; and poor physical infrastructure. Reforms have been carried out to reduce these factors. Companies and enterprises are now represented mainly through the Chamber of Commerce of Serbia. Within this structure there are six regional chambers plus one in Belgrade. They all have boards for the construction industry and the housing sector.

Box 3.2. Kragujevac Municipality

Kragujevac, with a population of 175,000, has a City Parliament of 91 elected members who chooses President. The Parliament includes an Executive Board, made up of ten members, one of whom becomes President of the Board.

The City employs 510 staff divided into 14 Secretariats. These include:

- *Urban planning and construction;*
- *Property and housing services;*
- *Budget and finances;*
- *Infrastructure and communal affairs.*

There are also 11 municipal companies and four funds, which are not directly managed by the City Council but work with it. Two of the companies deal with urban planning and construction and one of the funds focus on social housing. This Fund has been transformed into the first public Municipal Housing Agency in Serbia, completing around 50 new dwellings a year.

Box 3.3. Stara Pazova Municipality

Stara Pazova, with a population of 67,500, has Municipal Parliament of 48 elected members who choose a President. The Parliament includes an Executive Board, made up of 10 members, one of whom becomes President of the Board.

The City employs just over 120 staff divided into 5 Departments:

- *General management and community affairs;*
- *Community activities, urban planning and construction;*
- *Finance and economy;*
- *Public affairs and*
- *Parliament and Executive Board.*

There are also five municipal enterprises which are not directly managed by the Council, but work with it. Two of the enterprises are concerned with urban planning and construction.

Construction industry

Construction accounts for around five to six per cent of the domestic product. Government statistics show that in June 2003 there were 7,584 enterprises operating in the construction sector. A total of 6,039, i.e. around 80%, were privately owned, and over half of them were limited joint companies. Of the remainder, 597 were socially owned, 569 cooperative owned, and 70 state owned. Around two per cent of the enterprises had capital that originated wholly or partly from foreign sources.⁴²

In 2002 around 77,700 people were employed in the construction sector, down 6,700 on the previous year. Government statistics for 2002 show that these workers earnings averaged 8,610 dinars, but most construction workers are in the informal economy, earning around EUR 300-1,500. As a proportion of all employed Serbs, the construction sector accounted for around five per cent of employees and of total earnings. The average construction enterprise in 2002-2003 would have employed around ten people. Larger companies can employ several thousand people and build several hundred dwellings a year.

⁴² Serbia in Figures 2003.

According to Government data, the construction sector had the capacity to complete around 8,250 new dwellings during 2002, or 11 for every 10,000 people. There were marked variations at municipality level with 114 dwellings per 10,000 people in the tourist area of Cajetina and 69 per 10,000 in the Belgrade municipality of Obrenovac.⁴³ The employment and completion figures will not fully reflect the contribution of the informal sector. In six of the SIRP municipalities, 128 construction companies were reported, with the number relative to population varying greatly between municipalities.

Private maintenance companies

Private maintenance companies are active in larger towns. A small but growing number of those undertake a range of work, while others specialize in repairing installations and equipment, such as water and sewage, electric installations, and lifts. In the SIRP municipalities, 42 per cent of privatised apartment blocks were maintained by private companies. The collection of fees for this work can be poor, and financial management systems are often inadequate. Housing maintenance, especially minor work, is largely done by the informal sector.

Financial Institutions

There are 46 banks in Serbia: less than ten are foreign owned, and around 15 have the State as a major shareholder. Mortgage lending for housing is still limited but it will be encouraged by the National Housing Credit Insurance Corporation (see chapters IV and V for more details).

Real estate agents

No license is needed to practice as an estate agent and several hundred companies and individuals provide this service. Some agents are well organized and able to provide listings of available property to buy or let. The usual fee for matching a buyer and seller is 3% of the sale price. Some agents also match landlords with tenants but without providing a management service after letting. There is currently no association of estate agents.

In total, 122 real estate agents were reported to be operating in five of the SIRP municipalities, 59 of whom were concentrated in one municipality. If the other four areas are typical, there could be around 0.2 agents for every 1,000 people, with hundreds of agents in the urban areas of Serbia.

Housing Cooperatives

Housing cooperatives have existed in Serbia since 1870, starting as savings/credit organizations, and legislation dealing with housing co-operatives has existed since 1920. In the 1950s housing cooperative activity increased, and then declined after economic reforms in 1965, with only 52 cooperatives remaining in 1975. There was a further revival of co-operatives, which lasted until 1990, and there are now around 130 registered housing cooperatives, most of which are not active. In four of the SIRP municipalities, 13 registered housing cooperatives were found to be in operation.

Currently, Federal law governs housing cooperatives, and this is effective at the Republic level. Cooperative property is recognized by the Constitution of the Republic as a form of property on a par with others. Cooperative Law allows housing cooperatives to act as investors and contractors, to organize construction and maintenance, and to build and maintain apartments, houses and office space for their members. They may use the finances and work of the cooperative's members and of other legal bodies. With the introduction of VAT, in 2005, they will no longer enjoy fiscal advantages and are unlikely to continue as cooperatives. (See also chapter IV p. 43.)

There is an Association of Housing Cooperatives, which provides support on matters such as legal issues and acts as a representative body.

3. Civil Society

Training and education

In the former Yugoslavia housing was traditionally the domain of technicians, engineers, architects, and urban planners. The system

⁴³ Figures from www.serbstat.se

produced professionals able to build mass housing, in a centrally planned economy rather than in a market with modern management techniques. The knowledge of public sector employees educated under the previous system may be less suited to the drafting and implementation of legislation and policies for a democratic system and market. There may be limited understanding of the functioning of the housing sector in transition and in market economies, and of the potential role of public institutions in the context of democratization, civil society participation and decentralization. Isolation has hampered the appreciation of international experience and of new technologies and standards.

At both national and local level, there has been a reliance on urban and spatial planners, who are by training architects or engineers, for knowledge about policy making, real estate, economics, and law. Consequently, national and local strategies and plans about housing are made in the framework of physical planning.

Architectural training is offered at the Universities of Belgrade, Nis and Novi Sad, with planning also available at Belgrade University. This provides high quality technical education in specialized disciplines, though perhaps not always meeting the latest international standards. Students can qualify in planning, which is part of architecture, not a separate subject. There are no university departments or specific courses for housing studies, housing economics, housing law, or planning and management of housing.

Research in housing and related subjects is undertaken in the schools of Philosophy (Urban Sociology), Economy (Urban Economy) and Geography (Spatial Planning).

Training in public administration, policy making, and local administration is generally lacking. The opportunity to develop the capacity and competence in the area of public administration has been provided through short-term projects funded by international donor organizations.

Professional organisations

A number of professional associations are relevant to the housing sector. The Serbian Associations of Engineers and Technicians has branches in larger cities. The Serbian Association

of Architects includes the Belgrade Architects Society and there is also a Serbian Association of Urban Planners, an Association of Spatial Planners and a Serbian Association of Geodetic Engineers and Geodesists.

The Serbian Chamber of Engineers includes civil, electric, and machine engineers, architects, urban and spatial planners. Under the *Planning and Construction Law* it issues individual licenses for design and execution of work. There are associations of public companies, including some representing those engaged in housing maintenance.

Owners' associations

As prescribed by the Law on Maintenance of Residential Buildings (see also chapters II p. 17 and IV p. 41 and p. 45), multi-unit buildings are legal entities. An assembly of owners is established for buildings with more than ten apartments, and buildings with less than ten owners have a building council. The assembly or council consists of all the owners. The president of the assembly, elected by majority vote, manages its work, represents the owners in dealings with third parties, proposes an annual building maintenance schedule, and sees that it is carried out. The law requires that decisions about regular building maintenance are taken by the majority of the assembly members present, and that decisions about investments must have the consent of at least half of all the owners. In practice, a very small proportion of buildings apply to the legal requirements.

In Serbia, there is a long established tradition of people building and financing the construction of their own houses. Often this is undertaken on a gradual basis, with the help of wider family members, and as funding becomes available. Many houses, especially in rural areas and in the outskirts of cities, have been built in this way, to a variety of standards and often without permit.

NGOs involved in the housing sector

There are around 3,000 non-governmental organizations in Serbia and Montenegro, many of which played an active role in supporting political change and assisting vulnerable groups. Their support base is weak and only a small proportion of the population is actively engaged in their activities.

HABITAT the Association of tenants, representing tenants and owners, has recently been established and, though its membership is still small, it is recognized by the International Union of Tenants. HABITAT is currently setting up a Tenants' Information Centre.

4. International organizations

A number of foreign donor organizations have helped in dealing with the large influx of refugees and internally displaced persons. In the 1990s UNHCR assisted the Serbian Government with integration, including funding for housing programmes combined with socio-economic support. The Swiss Disaster Relief and the Norwegian Refugee Council provided some 3,000 housing units, with another 1,000 funded by the Serbian Government, some including an element of self-help. Due to the extent of the problem of refugees, a National Strategy for Solving the Problems of Refugees and IDPs was drafted with the intention of using the provision of housing for refugees as a catalyst for wider housing reforms.

A key project is the Settlement and Integration of Refugees Programme (SIRP), implemented by UN-Habitat and supported by the Government of Italy. The objectives of the programme are: to provide low-income housing, to integrate vulnerable people into labour markets, and to strengthen municipal capacity. It will achieve this by developing the institutional framework and the systems to finance and deliver social housing. SIRP has supported the national housing reform since 2003, has established Municipal Housing Agencies in Nis, Kragujevac and Valjevo, and has worked with four other, mostly very large, municipalities. The intention is to build capacities at municipal and central levels that can be replicated and scaled up. The Council of Europe Development Bank made use of the experience and achievements of SIRP during a feasibility study for a major loan.

Since 2000 a number of other international organizations have supported capacity-building programmes at central and local level, such as UNDP through its Capacity Building Facility for 2001-2004.

USAID works with communities on local infrastructure and employment issues and assists the process of local government reforms. The European Bank for Reconstruction and Development has established a number of capital projects since 2001. These include infrastructure programmes with Belgrade City, and with Kragujevac, Nis and Novi Sad municipalities, and a district heating scheme in Belgrade.

C. Republic of Montenegro

This section looks primarily at the key public sector organizations, at the Republic and municipal level in Montenegro.

1. Public sector

Central level

There is a President and a Parliament consisting of 75 members. No one party has overall control. The executive is headed by a Prime Minister, assisted by four Deputy Prime Ministers.

Housing policy is developed by the Ministry of Environment Protection and Physical Planning. Responsibilities related to housing are handled by the Department for Utilities and Housing, led by a Deputy Minister. The Ministry co-ordinates the development of a comprehensive Housing Action Plan that is being drawn up by four Housing Task Groups. To support this process the Ministry established a housing policy secretariat in June 2004. The development of the Housing Action Plan has been supported by the Stability Pact for South-Eastern Europe.

The functions of land and rights registration are the responsibility of the Directorate for Immovable Property with 21 district offices.

Box 3.4. Ministries of the Republic of Montenegro

The central government ministries are:

- *Environment Protection and Physical Planning*
- *Economics*
- *Finance*
- *Foreign Affairs*
- *Culture and Media*
- *Agriculture, Forestry and Transportation*
- *Justice*
- *Education and Science*
- *Labour and Social Welfare*
- *Tourism*
- *Interior Affairs*
- *International Economic Relations and European Integration*
- *National Minorities and Ethnic Groups*
- *Health*

Local level

In 2003 the Parliament of Montenegro adopted laws on local self-government and financing of local authorities. These laws provided for the appointment of municipal Assemblies and Mayors through direct elections. The government intends to adopt the necessary legislation to regulate the decentralization process and to reform local government and the Ministries of Finance and Justice are key ministries in supporting this change.

There are 21 Municipalities at the local level. The 2003 census showed big differences in the sizes of population served. The largest is Podgorica, with a population of nearly 170,000, followed by Niksic with around 75,000. Five municipalities have a population of less than 10,000, with the smallest, Savnik, having less than 3,000.⁴⁴ (See also chapter I.)

Podgorica has a City Assembly of 54 members elected by proportional representation. The Assembly elects a President and there is a cabinet consisting of four Vice-Presidents. The executive consists of an elected Mayor and nine secretariats of which the following are concerned with the housing sector:

- *Urban Land Policy and Construction.* This secretariat is responsible for urban planning; decisions on location for construction; reconstruction; spatial arrangement of buildings; urban technical conditions; approval for performance of spatial arrangement work on buildings; compensation concerning illegal developments, and approval for temporary structures.
- *Public Utility, Housing and Environmental Protection.* This Secretariat is responsible for the spatial arrangement of buildings, apartment conversion, maintenance of the exterior of housing, and tenant's rules.
- *Labour, Health and Social Welfare.* This secretariat is responsible for the accommodation of vulnerable people, and the use of the apartments granted to them.
- *Finance.* There is a Public Housing Enterprise, whose work includes housing maintenance. This has a Management Board of five, four of whom are appointed by the Municipal Assembly. Its work is monitored by one member of the secretariat responsible for housing.

⁴⁴ Census of Population First Results. Dec. 2003.

With external assistance, Podgorica Municipality drew up a comprehensive plan to manage the process of formalizing illegal developments (see chapter II p 23). Subsequent work has recognised the need to develop housing management expertise.

2. Private and civil sector

In Montenegro there are now many private and civil organizations, but as in Serbia, they are still evolving towards the expectations of a market economy. Due to factors already noted for Serbia prior to 2000, the private sector environment was not business-friendly.

The construction sector employed nearly 7,900 people in 2004, which represents a slightly higher proportion of the population than that for Serbia in 2002. The sector completed 276 houses in 2003 and 860 in 2002, around 75% of them in Podgorica.⁴⁵

There are ten active banks in Montenegro, one of which offers loans for housing. Though a number of housing finance proposals have been discussed by the Housing Task Groups, there is no equivalent of the Serbian housing credit insurance arrangements (see chapter IV and V for more details).

The number of housing co-operatives has declined from over 100 in 1992 to around 10 at present. Representatives of the co-operative movement attending Housing Task Group meetings have advocated a greater role for co-operatives and financial incentives to achieve this.

The University of Montenegro, based in Podgorica, has a School of Civil Engineering, which includes a Department of building, urban planning and descriptive geometry.

As in Serbia, civil society organizations are developing. Some, such as the professional body representing architects, have been involved in the Housing Task Groups. At local level, Municipality of Bar is an example of a local authority seeking the help of the civil sector solve the problems connected with informal housing. The municipality wishes to achieve this through

public debates about city planning documentation.

D. Evaluation of the institutional framework

Although both Serbia and Montenegro have started to reform their institutional frameworks, they both share many of the same problems.

1. Public sector

The key public sector institutions for housing are the governments and municipalities of the two republics. Many reports have pointed to their inadequate capacity. The World Bank Progress Report on Structural Reforms (November 2003) concluded that *“In both republics, the need to improve the efficiency and transparency of the public sector is a high priority. A decade of politicization and centralization of authority, combined with economic collapse and the outflow of educated and skilled people have left most public institutions in a very poor state. Frequent changes in regulations and institutions through non-transparent processes, little strategic planning, widespread corruption, and misuse of state institutions for political purposes all made public administration highly inefficient and a serious impediment to private sector growth.”*⁴⁶

A UNDP report⁴⁷ also identified governance and government concerns with respect to human rights issues, and noted that all assessments of the public administration pointed to weak organization, inadequate structure, and limited policy-making and implementation capacity.

Current inefficiency in public institutions is at least partly the result of the capacities, practices and culture of the old authoritarian regimes. Despite a variety of new challenges, they still have not acquired the appropriate human, organizational or financial capacities.

The political system in Serbia has produced coalition governments, and policy-making remains fragmented. The practice is to divide

⁴⁵ Figures from www.monstat.cg.yu

⁴⁶ World Bank, Serbia and Montenegro - Recent Progress on Structural Reforms, November 2003.

⁴⁷ UNDP, Country Assessment for Serbia and Montenegro, October 2003.

ministries among coalition partners, with a new minister bringing in new officials, and this makes continuity in policy development difficult to achieve. There is a tendency for ministries to address their own concerns, to the extent that co-ordination and co-operation within Government becomes difficult. Although the Government of Serbia is committed to reforms, the legacy of the former socialist and more recently the Milosevic government persist throughout the public sector.

In Serbia, the Housing Affairs section of the Ministry of Capital Investments is the key driving force in housing policy at Central Government level, but it must work with a number of other ministries to achieve real change. The development of a social housing policy means that there is a much clearer vision, but implementation will need both stability and priority within Government. The nature of the political system means that it may be difficult to achieve stability, and the current concern for social housing may not be found should a different party provide a future Minister. In the overall priorities of the Republic, an enabling approach was adopted in the 1990s, and since 2000 housing has appeared largely as a consequence of refugee resettlement. The recognition of a need for social housing is quite recent. The proposal to create a separate National Housing Agency has the potential to introduce stability into housing policy, it needs long-term support from a number of key ministries.

The work of SIRP has proved to be a valuable catalyst in the development of a framework for social housing at national level and in seven municipalities.

Because of Montenegro's small size, it is crucial to improve the efficiency of public administration, as a large civil service would be unaffordable. A public administration reform strategy was adopted in 2003, including a legal framework allowing far reaching reforms. The development of a Montenegro Housing Action Plan represents a clear attempt to create a housing strategy together with an implementation plan which supported by international assistance, brings knowledge of housing practice in western Europe.

The development of new housing policies in both republics has involved the participation of stakeholders and the four housing working groups in Montenegro have included representatives from the private and civil sectors.

Structures and capacity issues also apply to local government. Municipalities, especially in Serbia, are led by coalitions, with a tendency to share secretariats along party lines. Legislation on decentralisation, which was introduced earlier in Serbia, cannot be effectively implemented due to the limited capacity of the municipal administration. Many municipalities have poor equipment and outdated methods of work.

In both Serbia and Montenegro, local government is a one-tier structure with the exception of Belgrade and Nis, which have two-tier municipal structures. The average municipality serves a population of around 45,000 in Serbia and 30,000 in Montenegro, but very few are close to this average. Local government must seek to be responsive to local needs, which is easier in smaller municipalities, but it is easier to achieve economies of scale and employ specialist staff in larger municipalities. The SIRP project has concluded that the administration of larger Serbian municipalities was better developed than that of small municipalities, with some of the latter having difficulty exercising all their legal responsibilities. Larger municipalities also use information and communication technologies, GIS and E-government linkages, but generally these activities are not supported by the appropriate organizational structures or regulations, and they are not well co-ordinated.

The issue of funding is particularly critical for local governments, with the scale of demands exceeding current resources. Reliance on donor-funded projects makes the need for sustainable local funding more important. Humanitarian assistance projects are being phased out, as are many which focus on capacity development. The Municipal Housing Agencies that are being developed by SIRP have the potential to play a crucial role in the process of housing reform in Serbia and could be examples of innovation and good practice. The delivery of many services,

such as apartment maintenance, is carried out by enterprises that are working for, but not directly controlled by, municipalities. Though a directly elected municipality can expect to be criticised for poor performance, the system and number of people available for monitoring the activities of these enterprises are often inadequate.

The cadastral service is a problem in both Republics. The compilation of complete cadastral information is hampered by lack of financial resources and inadequate education and training of personnel (see chapter VII).

2. Private sector

The legacy of a centrally planned economy is not conducive to a functioning private sector, but there are many organizations with the potential to adapt to a market approach. There are many companies with the capacity and expertise to undertake construction projects, including large firms which are currently building apartment blocks. Despite international isolation during the 1990s, some are able to compete for projects abroad.

Construction accounts for a significant proportion of employment. The completion of new dwellings per head of population in Serbia is low compared to that of most EU countries, and an increase would have a significant multiplier effect on the economy and employment. The maintenance sector now includes a range of local maintenance companies, with the proportion of the work undertaken by private sector companies varying considerably between different locations. Real estate agents have become established to meet a market need but a significant number of them are found in the informal sector. This is likely to continue while regulations are lacking.

There are mixed views within Government about the potential of the cooperative housing sector to meet future housing needs. In both Serbia and Montenegro housing cooperatives have a well-established record for organizing the production of new housing, though usually not for those in the greatest need. Existing housing cooperatives have the expertise and capacity to construct new housing but they are losing tax and other advantages and feel that they will not be able to compete with the private sector.

3. Civil Society

Professional training

The education system, with its links to professional societies, has a history of providing a high standard of training for architecture, engineering and allied professions, but it has yet to complete the transition from a centrally planned to a market economy. Urban planning remains an adjunct of architecture and may therefore still rely on construction type skills rather than those more suited to an enabling approach.

Government skills, such as the use of modern financial management, which ensures continuous improvement, or working with stakeholders and the private sector, are poorly developed.

There is little recognition of the need for training or the development of professional standards in housing management. The new Serbian law on social housing anticipates the introduction of non-profit housing organizations. These will require both efficient delivery of a housing service and sound financial management.

NGOs and owners

NGOs in Serbia and Montenegro are at an early stage of development and require support to act as effective intermediaries between the public sector and civil society. They are generally limited in capacity and rely on international donors for funding.

Owners' associations in privatized apartment blocks appear to be widespread in Serbia and have the potential for influencing decisions about their housing services. Some may currently be involved in decisions concerning maintenance, but as the buildings age, they will have to plan also for the organization and funding of major investment. There seems to be no systematic approach to training residents in the exercising of their responsibilities.

Representative bodies of owners or tenants at Republic, or even city, level, are few, though there have been some attempts to involve NGOs in the development of a national housing policy. Owners have been, and will

remain, important in the construction and upgrading of housing, especially in rural areas. While the housing mortgage system remains poorly developed, and public confidence in banks is low, households will rely on informal methods of raising funds for housing investment.

Managing the process of legalization will require effective working relationships between municipalities and the owners of illegal housing and any NGOs working on their behalf. Residents, and the organizations they work with,

would benefit from capacity building and an approach that values their contribution.

4. International organisations

Though many international donor organizations have been active in Serbia and Montenegro since 1999, few of their activities have focused on housing as a primary aim. SIRP has made a valuable contribution to the housing sector, but the wider replication of the experience requires more extensive donor support.

THE LEGAL FRAMEWORK FOR HOUSING

The State Union of Serbia and Montenegro is governed by a Constitutional Charter adopted in February 2003. In accordance with article 64, the legislation passed during the Federal Republic of Yugoslavia (FRY) remains effective as long as it is not invalidated by one of the Member States of the Federation. In this sense the provisions of the Constitution of Serbia, from 1990, and the Constitution of Montenegro, from 1992, remain applicable.

As a consequence there is a considerable similarity in the regulation of the housing sector in both Serbia and Montenegro. In this chapter the majority of the issues identified in relation to Serbia are equally pertinent for Montenegro. Thus section B largely restricts itself to commenting specifically on issues related to Montenegro.

A. Republic of Serbia

1. The role of local and central government

The Constitution of Serbia of 1990 provides that all construction land is to be categorised as 'state property' i.e. in the ownership of the Republic of Serbia. This was reinforced by the clauses of the *Law on Resources in Ownership of the Republic of Serbia of 1996* (as amended in 1997 and 2001) which in effect transferred ownership of land from the municipalities to the State. As will be demonstrated in the different sections of this chapter this has had a number of detrimental consequences, both in respect of the ability of municipal governments to facilitate and finance the provision of social housing, and for constructors and future home owners to access credit for the construction of privately owned housing. The situation is further complicated by the fact that 'state' property has not, in practice, been registered either before or after the passage of this law.

The functions of the municipal government were loosely defined in the *Law on Territorial Organisation and Local Self Government, 1991*, as including developing programmes for: planning and regulating the use of construction land; adopting plans and regulations and budgeting for and developing of social housing. Indeed, as will be discussed in greater detail, until recently municipal governments played an important role in the administration of Funds for Solidarity Housing Construction, and for organising the maintenance of the public housing stock. The manner in which this was done, however, illustrates the lack of sustainability in this system of public housing construction. The implementation of solidarity housing projects was usually contracted with municipal public companies as constructors. The municipal body administering the Fund itself decided upon the distribution of housing units to the enterprises contributing towards the Fund. The social housing that was provided was usually self-owned, funded by a mortgage backed scheme, which was heavily subsidised by the municipal government itself.

The obligation to contribute funds towards solidarity housing construction lasted until 1 July 2001. The continued provision of public housing is now neither regulated in legislation nor adequately defined by proposed legislative acts, such as the *Draft Law on Social Housing*. As will be detailed, further on, the draft law merely describes basic responsibilities at the central / republic and local / municipal levels i.e. the establishment of the National Housing Fund and local Municipal Housing Agencies. Municipal governments have the right to allocate land for construction purposes, yet whether or not such a decision is made is arbitrary, as the procedure remains unregulated. Although improvements have been introduced into other relevant legislation, i.e. the *Planning and Construction Law of 2003* provides a procedure for constructed buildings to be held as private property,

fundamental problems remain due to the state ownership of all construction land. As the title to a building does not arise legally until the construction is complete, this hinders the secure finance for the construction.

Furthermore, the *Law on Local Self Government* (2002) which came into force in September 2004, was accompanied by fiscal and budgetary changes that aim to transfer more power and responsibilities to the local level. Although municipal governments do now have limited fiscal powers, as well as the expectation (created by the *Draft Law on Social Housing*) of receiving subsidies from central government, their ability to sustain a social housing policy is limited and they have little incentive to improve their financial management systems to achieve such a goal.

Indeed, since the passage of *the Housing Law* in 1992, when public provision was replaced by the market provision of housing, there has been deregulation and a subsequent virtual disintegration of state responsibility. Article 2 stipulates a mere rhetorical obligation, that, 'the State overtakes measures for the creation of favourable conditions for housing construction and ensures conditions for solving housing needs of socially vulnerable persons according to the Law.' Articles 16⁴⁸, 19 and 20 of the *Housing Law* effectively allowed for the privatisation of flats owned by the State: the occupier was awarded the right to buy the title to his flat at a fraction of the flat's market value, a percentage of the proceeds contributing towards the provision of social housing for vulnerable groups as identified in article 28. The provisions of this law, embodying the direction of those contained in other laws are, however, to a large extent restricted to the enactment of privatisation and its expected aftermath. In 2003 the Government of the Republic of Serbia introduced a Regulation for Solving Housing Needs of elected, appointed and other persons employed in public service. The Regulation concerns state agencies at the republic and local levels, all institutions financed from the budget as well as public enterprises established by the Republic or local authorities, and affects about 40% of all employees in Serbia.

According to the Regulation the apartments can only be used up to a limit of 5 years, with the possibility to purchase the apartment – subject to certain conditions on the basis of the market price under convenient conditions: participation 10 per cent, pay-off deadline 40 years, interest rate 1 per cent per year (see also chapter VI).

As will be maintained throughout this chapter, amendments are required to regulate post privatisation relationships. As an example, with regard to the registration of the right of ownership article 18 of the above law simply states 'the purchase contract for an apartment must be made in a written form and the signatures of the parties must be notarised in a court.' Article 25 states 'the seller of the apartment is obliged, within 30 days from the day the contract for apartment purchase was concluded, to submit the request to register the right of ownership and the mortgage in the Land Cadastre or the appropriate public registry.'

2. The regulation of property in law

In the absence of a Civil Code, property ownership is regulated by separate legislative acts, the primary one being the *Law on Basic Elements of the Property Rights*, which was initially adopted in 1980 but substantially amended in 1996. Other laws that regulate different aspects of the acquisition, ownership, possession and use of immovable property are: the *Law on Obligations*, 1978; the *Housing Law of 1992* (as amended in 2001); the *Law on Restitution of Agricultural Land* of 1991; the *Law on Transactions in Real Estate*, 1998; the *Law on State Survey, Cadastre and Registration of Rights on Real Property of 1992*; ("Official Gazete RS, 83/92, 15/96); the *Law on Changes and Amendments to the Law on State Survey, Cadastre and Registration of Rights on Real Property of 2002*; the *Planning and Construction Law, 2003*⁴⁹, *The Law on Deed Books of 1930/;* and *The Law on the Maintenance of Residential Buildings of 1995* (amended in 1998 and 2001). (See also chapter VII.)

Before detailing the articles of these laws, it should be noted that there are three absences.

⁴⁸ Article 16 stipulates that a landlord is under an obligation to allow the tenant to purchase the apartment he is using 'under the conditions prescribed by this law.' Article 19 provides that the purchase is to be paid for over the course of 40 years, article 20 providing a method for the calculation of the purchase price.

⁴⁹ With the adoption of this law the following laws became outdated: the Law On Building Land of 1995; the Urban Planning and Development Law ("Official Gazete RS", nos. 44/95,23/96,16/97,46/98; the Law On Construction; and the Law On the Conditions for Issuing Construction and Use Permits of 1997.

Firstly, there is no *Law on mortgages*.⁵⁰ At present mortgaging is inadequately regulated by just a handful of articles in the *Law on Basic Elements of the Property Rights*. Article 61 identifies that ‘a right of pledge is established by legal transaction, court ruling and law.’ Article 63 then details the function of a pledge: ‘a surety for a particular debt on immovable property may be encumbered by the right of pledge in favour of the pledgee who shall be entitled, in the manner prescribed by law, to demand settlement of his claim from the value of such immovable property in precedence over other pledges that do not hold a mortgage, as well as other pledges who acquire the mortgage subsequently, regardless of any change of ownership over the encumbered immovable property.’

The lack of detail in these articles, in conjunction with the clauses of the *Law on Enforcement Procedure, 2000* has not allowed for the development of foreclosure as a means for a secured creditor to retrieve a loan. Mortgage lenders cannot initiate foreclosure, the execution of the procedure requiring a favourable court ruling in a declaratory process.

A second absence, of significance given the partial nature of real estate registration, is a *Law on Bona Fide Purchasers*. Indeed, there are no clauses in the *Law on State Survey, Cadastre and Registration of Rights on Real Property* which regulate the position of bona fide purchasers. The court tends not to view registration as creating a legally valid and indisputable title if there has been a problem with a previous transaction. Such a purchase, even if registered, would be cancelled as invalid and a bona fide purchaser would be left with neither a right nor a remedy.

Finally, although article 12 of the *Law on Basic Elements of the Property Rights* and article 24 of the *Law on Maintenance* both establish the responsibility of the co-owners of a residential building to maintain the building, in reality such buildings are not maintained. This can to a large extent be attributed to the absence of a comprehensive *Law on Condominiums* where the obligations of co-owners, and a mechanism for their execution, is clearly established. Furthermore condominium ownership is not formally recognised and the consequent inability to register such ownership reduces the ability of

homeowner associations to raise financing for building maintenance. (See also p. 45-47 and chapters II p. 17, III p. 31.)

3. The registration of immovable property and the real estate cadastre

The implementation of an effective cadastre and system for the registration of immovable property is necessary for the creation of legal certainty with regard to rights held over a particular object, and as a consequence is integral for the development of a real estate market and mortgage / construction financing. It also provides a source of data on land and real estate that allows for the imposition of a fair level of taxation, as well as the development of a coherent land administration and planning policy.

The transformation of the dual system of identifying title holders, through land books and the Land Cadastre, into the new unified Real Estate Cadastre, therefore unifies both the factual status of land and immovable property, i.e. a physical description of the land parcel with constructions upon it, and the rights held over it in one register was initiated by the introduction of the *Law on Surveying and Cadaster and Registration of Real Estate*. The transfer of title to immovable property is only complete upon its registration.

At present, however, the law has not been fully implemented and the Real Estate Cadastre covers only 55% of the territory. This lack of implementation can be largely explained by the initial absence of documentation for the state ownership of immovable property and the consequent lack of documentation for transactions in which the property object has only been a part since privatisation in 1992. As will be emphasised below, however, this implementation will remain incomplete until the issue of the legalisation of ‘illegal constructions’ is resolved. Finally, the absence of a system of public notaries, who could efficiently provide the registry with the necessary documents, ensures that property transactions are not completed quickly and are thus unattractive to finance.

4. Construction

The problems that have plagued the construction of new housing are manifold. The primary problem of the state monopoly over the ownership of urban, i.e. building land, has already

⁵⁰ The law on National Corporation for the Insurance of Housing Credits, 2004, does not regulate the relationship between creditor and borrower.

been addressed. However, the number of illegal constructions, especially on the periphery of urban settlements, testify to the lack of legislative regulation for the transferral of agricultural land into building land, the failure to develop a coherent and comprehensive urban planning and zoning policy, and the failure to establish transparent consistent procedures for the auctioning of building land and the issuance of the necessary construction permits.

The *Planning and Construction Law* from 2003 covers construction on public building land. Public building land is defined as land where public objects of general interest have been, or may be, constructed. Article 70 of the *Planning and Construction Law* states that public construction land is to be leased by the local government ‘in accordance with this law and the Urban Plan.’ Article 81 states that public building land upon which nothing is constructed can be leased out for a definite time for the construction of a building ‘through public bidding or a gathering of offers through public advertising.’⁵¹ Finally, article 77 states that the fee for the use of developed construction land is paid by the owner of the object, whilst payment for the use of public land that has not been used for construction is made by the user.

These articles represent a considerable improvement upon those previously contained within separate legislative acts. As article 70 reveals, however, the efficacy of the provisions is largely dependent upon the implementation of an Urban Plan. Furthermore, the provisions contained in article 81 emphasise the continued lack of total transparency as the law fails to identify the nature of either a public bidding or gathering of offers. Finally, although the law simplifies the procedure for the issuance of a building permit, other regulations issued by both central and local government with regard to the technical rules and standards for construction still exist.

It should also be noted that there are other types of land which can be used for construction: land that was defined as construction land in the local plans but was not used for construction and cannot therefore be categorised as publicly owned construction land. The former owner of this land,

before the nationalisation of buildings and land in 1958, may request that the title to this land be transferred back to him.

The *Planning and Construction Law* also regulates the legalisation procedure for buildings constructed without a permit. An illegal construction can include a building constructed without specific permission for that type of construction, or built on state land without permission for the use of land. It is difficult to legalise all buildings as so many were built in violation of urban planning regulations. Although urban planning regulations prescribe the purpose land can be used for, they do not adequately state development regulations.

The law, however, establishes a legalisation process on a case-by-case basis. Article 160 states that ‘the owner of an object constructed or reconstructed without a building permit is obliged to report to the city administration the said object whose construction was completed without a building permit within 6 months from the day this law came into force. After the expiration of the deadline the city administration, within a timeframe no longer than 60 days, shall inform the owner of the structure on the conditions required for issuing a construction approval.’⁵²

Article 163 details a method for the calculation of the fee owners have to pay for a remedial registration.⁵³ Where as article 162 states that ‘if the owner of a structure that has been constructed or reconstructed without a construction permit does not report the structure prior to the prescribed deadline or does not apply for the construction approval within the timeframe referred to the relevant city administration shall make a decision to demolish the structure.’ This creates a potential legal problem as an illegal construction may be registered in the cadastre, and thus has property rights. This does not mean that it will automatically be awarded a construction permit.

⁵¹ Article 91 lists the documentation that should be submitted together with the application to construct.

⁵² Article 161 lists the documentation that the owner of a construction constructed without a building permit must submit within 60 days of receiving the notice referred to in article 160.

⁵³ If the owner of a structure that has been constructed or reconstructed without a construction permit does not obtain construction approval within 30 days from the deadline referred to, he shall pay an amount equal to one hundredfold the fee prescribed by the act for the use of the construction land had it had a construction permit, and the ownership right registered in the public book.’

If the building contravenes construction regulations and has to be destroyed than the owner will receive ownership rights. This then raises the question of whether the owner must be compensated. So this issue needs to be clarified.

Finally, until 1 January 2005 there was no tax on housing construction. On 1 January the *Law on Value Added Taxation* introduced an 18 per cent tax on construction. There are no incentives in tax legislation for construction i.e. there is no possibility to deduct the interest rate on a loan. Therefore the way in which credit is obtained to cover the cost of construction materials does not affect the level of taxation charged. This should be amended.

5. Housing and construction financing

A considerable percentage of housing and construction financing was provided in the past by housing co-operatives (see chapter III p.30). This was in spite of the lack of specialised legislation regulating the activity of housing co-operatives. Parts of the *Law on Cooperatives*, the federal law from 1996, deal with the operation of housing / construction co-operatives as both investors and contractors.⁵⁴ A construction / housing co-operative can be registered as a legal entity: on this basis it can obtain a lease for land, construct flats and sell them. Essentially, the co-operative provides a savings scheme for construction where credits are given to members for the purchase of apartments.

The law does not, however, adequately regulate the relationship between members of the co-operatives. After contributing money towards the construction of new housing the member of a co-operative has a contract for the purchase of a flat, but no legal title. The only security is for the future flat owner to register this contract of purchase in a court. In reality, the savings of co-operatives have been poorly regulated. Furthermore, contracts signed by co-operatives for the construction of apartments have been ineffectually implemented. Finally, as non-profit housing organisations the co-operatives do not

have any particular incentives, especially after the recent introduction of VAT 1 January 2005.

If a sufficient volume of housing is to be constructed, however, a system of house and construction financing based on secured credit has to be implemented. At present such a system is in its infancy.

Article 64 of the *Law on Basic Elements of the Property Rights* states that a mortgage can only be secured when the title to the real estate object is registered.⁵⁵ A construction can be registered only when it is complete. Legislation should be amended to allow for a building under construction to be registered and acquire legal title. Only a real estate object may be used as collateral and not the land itself as all urban land is held in state ownership. There is therefore no mechanism for the bank to take a security over the constructor aside from a state guarantee of the individual constructor.

In contrast, house financing is restricted due to the inability of the creditor to effectively foreclose on the collateral secured. This problem not only stems from the absence of a comprehensive Law on Mortgages (only draft mortgage law exists), but mainly results from the problems associated with registering real estate, and the ineffective nature of the enforcement procedure.

A mortgage loan will typically only be issued by a bank if a first-ranked mortgage can be taken on a real estate object that is already registered. The mortgage agreement must then be registered at both court and the State Registry for Real Estate, a process that takes about two months. Contracts registered in court, however, often undervalue the value of an apartment. Upon foreclosure the court will ask an independent expert to value the property and have their estimate registered in court. The actual value of the collateral is therefore based in practice on the authorised court assessment. The existence of both an official and unofficial price, however, heightens the insecurity felt by creditors.

The *Law on Enforcement Procedure*, however, allows for the court to prolong the period before the forced sale. This should be amended so that a public auction can quickly

⁵⁴ The Law on Cooperatives defines, 'Housing cooperatives, acting as investors and contractors, they organize construction and maintenance and build and maintain apartments, housing buildings and office space for members of a cooperative through engagement of finances and work of the cooperative's members and other physical and legal bodies.'

⁵⁵ 'Based on a legal transaction or court decision, a mortgage shall be instituted by entry into a public register or by some other adequate mode as provided by law.'

follow foreclosure. Eviction is permitted upon foreclosure. But in practice does not happen as there is no obligation on the local government to provide reserve housing for evicted creditors. (See also chapter V.)

6. Social housing

Under the system of the Funds for Solidarity Housing Construction public companies act as developers who utilise public money in accordance with the regulations set out in the legislation. The amendments introduced to the *Housing Law* of 1 June 2001 radically altered the way in which the Funds for Solidarity Housing Construction were financed. At the same time resources for the solidarity housing funds were defined by the *Salary and Wage Fund Tax Law* in article 4 which secured the direction of finances for social housing construction. It established that the municipal authority define the tax rate and the way of using the financial resources in accordance with the obligation that 0.3 to 1.0 per cent of the resources collected be directed towards solidarity housing construction. The law did not, however, define how the resources should be disposed, i.e. the criteria, the conditions for the granting and returning of resources. Furthermore, there was no legislative control of the use of the financial resources raised.

The *Draft Law on Social Housing* replaces this arrangement with municipal housing agencies which are responsible for the construction of social housing. The central plank of the draft law, contained in article 5, is the establishment of a national housing fund. However, the municipal housing agencies, at the local level are seen as the instrument of public policy, responsible for the implementation of the new social housing policy. So as to perform their responsibilities, municipalities are, for instance, obliged, in accordance with article 24 of the draft law, to formulate the municipal housing strategy, and facilitate the provision of social housing through the implementation of adequate land and urban policies and by the provision of local funding. Crucially, they are not only responsible for obtaining central funds but also for raising additional funds from commercial banks.

The system of financing that has been proposed in the draft law in many ways suggests the future replication of the problems witnessed in the previous system. This point is highlighted by

the somewhat convoluted definition of the use of the housing fund in article 8 of the draft law, 'to provide long term credit approval to non-profit housing organisations in order to provide dwellings for social housing; long term credit approval to persons and legal entities in order to provide dwellings for social housing; stimulating long term housing savings; stimulating different forms of providing housing for social housing as an own property or tenancy; stimulating the partnership of private and public sector in the field of social housing.'

The overall idea of the *Draft Law on Social Housing* is to create a 'private / public' partnership. The construction of social housing will be implemented at the local level. Municipal housing agencies, licensed by the State, will request funds from the Central State which will be combined with funds obtained from commercial banks. Private constructors will be contracted and the resultant housing will be sold or leased to groups who are identified as being in need of social housing. As was noted in the previous paragraph the role of the municipal housing agency in relation to the financing of the construction of social housing is ill-defined. Article 28 of the draft law states, 'the activities of the Municipal Housing Agency shall include: project management of dwelling construction for social housing for specific period of tenancy with the possibility of purchasing as a private property; managing and maintaining of public housing fund for social tenancy housing; reimbursement of mortgage loans for the final beneficiaries who acquire dwellings as a private property by purchase (collection of annuity and transfer of funds according to financial sources)'. Finally, the policy cannot be implemented effectively without a coherent system of urban planning.

In the *Draft Law on Social Housing* it is envisaged that public rental housing is to be made available to the most vulnerable social groups. The problem is that the purchase of such flats, as well as the cost of their maintenance, will have to be subsidised. It is envisaged that the purchase of such housing will be through favourable credit issued by the banks. Housing agencies are expected to identify which creditors and construction companies are eligible for loans. The law only implies, and does not defines, that there should be a special contract whereby the commercial banks offer favourable interest rates to the housing agencies. The subsidisation of homeowners with insufficient income is a

question that tax legislation should resolve. The *Value Added Tax Law* states that all types of construction are taxed in the same way. It was considered to exempt some categories of housing from VAT but this proposal was not accepted. Tax legislation should be amended to provide incentives for the construction of social housing by introducing differentiated tax rates.

With regard to maintenance, the *Draft Law on Social Housing* suggests that the municipal housing agency, as the owner of the leased housing will be responsible for maintenance work. In contrast, the social housing that is sold will be maintained in accordance with the *Law on the Maintenance of Residential Buildings*.

Furthermore, the law will have to prohibit the resale of such flats i.e. the provisions of the *Housing Law* compelling the landlord to accept an application by the tenant to privatise should either be removed or made non-applicable. Another option would be to impose a condition in a mortgage issued for the purchase of social housing that the mortgage cannot be assigned by the mortgagor. The fundamental problem with the provision of social housing is its unpopularity when it is in the midst of rented housing. As a consequence, the draft law only provides a loose definition for those who will receive housing under a lease agreement.

A number of sub-legislative acts are required to provide details to the policy aims introduced in the draft law. The draft law identifies various categories of applicants for social housing. The precise criteria for placing people in these groups needs to be detailed in sub-legislative acts as the groups are difficult to define in practice; and regulations cannot afford to be too strict in their categorisation as the income of the majority of the population remains unaccounted for. It is this discrepancy between official and unofficial earnings which represents the greatest hurdle to the development of an effective policy.

The enactment of the *Draft Law on Social Housing* is of crucial importance with regard to resolving many of the social issues which result from over ten years of civil war. Two years after the introduction of the National Strategy for Resolving the Problems of Refugees and IDPs there is no implemented legislation for identifying the beneficiaries of social housing, establishing selection criteria, and laying down the procedures

for the involvement of construction. At present it is the Municipal Urban Land Bureau that allocates land. Money is then disbursed by the Commissariat for Refugees which is responsible for allocating temporary housing to refugees. A recent decision of the Constitutional Court, when it ruled that the allocation procedure is not sufficiently clear or developed recognised that the system is unsatisfactory. Furthermore, the contracts concluded with refugees and IDPs are not often signed, and the ones that are signed are not properly authorised by a court. (Please see also chapter VI.)

7. Maintenance

The maintenance of residential buildings is regulated by the *Law on the Maintenance of Residential Buildings*. Its articles regulate the use and repair of the building and common areas, as well as establishing mechanisms for making decisions about the provision and use of finance for the purpose of building maintenance. Article 11 of the law states that ‘a residential building has the status of a legal entity in legal transactions which refer to the maintenance and use of a residential building.’

In accordance with article 12 of the law, ‘an assembly is formed in a residential building and it consists of the owners of all the apartments.’ The president of the assembly manages its work and he/she is elected by a majority of the votes. He/she represents the building in dealings with any third party, as well as proposing the annual building maintenance schedule and overseeing its implementation. The list of decisions which it is empowered to take is detailed in article 14. The decision-making procedure detailed in article 17 states: ‘the Assembly of the building may validly make decisions in case more than half of the members are present. The Assembly of the building makes decisions concerning the current maintenance of the building by a majority of votes of the members present at the Assembly. The Assembly of the building, with the consent of members of the Assembly to whom more than half of the total surface of the apartments belongs, makes decisions concerning the investment maintenance of the building.’

In many municipalities a significant number of the buildings have not established the above mentioned assembly, and have neglected to maintain the building as a consequence. In such

cases, in accordance with article 29 of the law, a competent municipal body is empowered to entrust the maintenance work to a public enterprise.⁵⁶ Article 24 of the law states that in this, as with any other maintenance work undertaken, 'the maintenance costs are born by the owners of the apartments, in proportion to the share of their apartment surfaces i.e. surfaces of other separate parts of the building in the total surface of all apartments and other separate parts of the building.' As the obligation of the building in such cases is to cover all the maintenance costs, and that in the case of default the payment must be enforced by a court, which is a long process, the competent municipal body often does not make such a decision.

In a related issue, the original *Law on the Maintenance of Residential Buildings*, 1995 defined the maintenance works necessary for the residents' safety, particular articles making it possible for municipalities to impose special fees on flat owners when it became necessary to carry out the works defined as 'building maintenance for the purposes of safeguarding lives.' The Constitutional Court of the Republic of Serbia made this regulation ineffective in 2001 by ruling against the imposition of this fee, and removing this clause from the law in its 2001 version.

Draft amendments to the law have attempted to provide a resolution to the problems caused by making it mandatory for residents to pay the costs of the building maintenance in cases of emergency, their respective contribution being based on an average rent amount that they pay on an indefinite time basis per square meter of useful housing unit area. As private flat owners cannot afford to pay any maintenance fees, any amendment is therefore unlikely in reality to provide a solution to the problem.

⁵⁶ In case the residential building does not secure the execution of maintenance works for the residential building as stipulated by article 6 (i.e. keep the structure safe) the person performing the supervision of the execution of the regulations of this law shall order to the competent body of the community to secure the execution of such works by public enterprise for apartment services. In this case the residential building shall compensate the costs for the executed maintenance works to the community within the time and in the manner as determined by the community...In the case that the residential building does not pay the community in time the compensation of costs for the executed maintenance works on the residential building, the community may realise its right to compensation on the basis of the invoice of then paid works which has the power of a valid document.'

Finally, the *Law on the Maintenance of Residential Buildings* was introduced with the intention to facilitate the development of management bodies i.e. home owner associations. As a consequence, the law states that in a condominium property, the owners are under obligation, in accordance with article 12, to form an assembly. They are not, however, under a direct obligation to maintain the building. Crucially, the common space of the building is stated as being in the use of the individual flat owners.

In contrast, the *Law on Basic Elements of the Property Rights* places the whole of a residential building in condominium property, the common space of the building stated as being in shared ownership. It is not possible; however, to register condominium property as the Registry of Real Estate and its Ownership (Land Cadastre) does not contain the classification 'condominium property.' The land is not owned by the homeowners as it is only deemed to be in 'use' by the State. At present, therefore, condominium property cannot develop within the scope stated in the *Law on Maintenance* or the *Law on Basic Elements of the Property Rights*. Until it develops, allowing home owner associations to raise financing against the title they hold to the land, home owners will continue to lack the resources to maintain their residential buildings. (See also chapters II p.17 and III p.31.)

B. Republic of Montenegro

As was stated in the introduction, the problems witnessed in Montenegro very much replicate those of Serbia. This section will focus on issues where there is a significant difference between the two republics. The analysis is limited to the main legislative texts. As demonstrated in the chapters on land administration, on financing, and on social housing, there is a general concern regarding the lack of legal regulation, or the ineffectiveness of its implementation, with regard to issues that fall within the parameters of these chapters.

The articles of the *Law on Floor Property* of 1995 (as amended in 1998) both compare with, and contradict, those described above in Serbian legislation. Reiterating the right to privatise contained in the *Law on Housing Relations* of 1991, article 56 of the *Law on Floor Property*

states, 'the request for the purchase of the apartment shall be submitted to the holder of the right of disposal. The apartment owner shall be obliged to make possible for the person purchasing the apartment to conclude on the purchase within 30 days after the request for the apartment purchase was submitted. The apartment shall be purchased in accordance with the contract concluded between the applicant and the apartment owner.' The mechanism for working out the purchase price, at minimal cost, is detailed in article 58. The vast majority of former tenants have taken advantage of the opportunity to purchase.

In contrast to the situation in Serbia, however, where no time limit has been placed upon privatisation, article 69 of the *Law on Floor Property*, in contradiction to the Constitution, effectively makes it impossible for the tenant to purchase the apartment within two years of the law coming into force. Article 69 states that, 'if the contract on apartment purchase is not concluded within two years as of this law entering into force, the tenancy title holder, upon the expiration of this period, shall continue to use his apartment on the basis of the apartment tenancy for an indefinite period.' The retention of such an article is of crucial importance for the development of further legislation i.e. defining who holds responsibility for the maintenance of buildings. However, such legislation has so far been undeveloped.

In a further contrast to the situation in Serbia, the owners of buildings constructed on private land have been awarded common indivisible ownership of both the building and the land. Article 15 of the *Law on Floor Property* states that, 'if a construction land on which a building was built is in private property, the owners of separate parts of the building shall be entitled to common indivisible property over such land. If a building was built on a construction land in public or state property, the owners of the separate parts of such a building shall be entitled to permanent use of the land on which it was built.' As the majority of land is held in public or state ownership, the effect of this provision has been limited. As with article 69, however, it does provide a basis for the development of further legislation i.e. on condominium ownership. Again, such legislation has not so far been developed.

As with Serbia, the law fails to impose in reality an obligation on residents to take responsibility for the building in which they live. Furthermore, legislation fails to clearly elaborate upon the circumstances when public finance from municipal government is to be provided.

Article 3 of the *Law on Housing Property* states that 'a housing block is a legal person for the purposes of maintenance' thus attempting to establish a form of home owner association. In accordance with article 21 of the law, 'owners are obliged to form management bodies for managing blocks of flats.' The list of decisions which it is empowered to take are listed in articles 36 and 37, the decision-making procedure detailed in article 27.⁵⁷ As in Serbia, buildings remain in a state of ill-repair. Although article 41 of the *Law on Housing Property* states that, 'the costs of regular maintenance, emergency and necessary works shall be borne by owners proportionately to their respective share by the surface of separate parts of block of flats in the total surface of separate parts', there is no mechanism, however, to ensure that the residents of a building comply with these payment obligations.

The articles of the *Law on Housing Property* appear to some extent to be repeated within, and to some extent contradicted by, the articles of the *Law on Floor Property*. Indeed, contradictions also appear in the same law itself. Thus, article 20 of the *Law on Floor Property* asserts, in apparent contradiction to those of article 15, that 'any owner shall have the right to use common parts of a building according to the needs of his apartment.' The law then goes on to stipulate that, 'the owners shall be in obligation to participate in sharing expenses for the maintenance of the common part of their residential building.' A point refined in article 33 that, 'the owners bear the costs of the regular maintenance of the building.' Yet in the subsequent articles of the law, there is a failure of elaboration which could in reality secure the clauses obligations to contribute towards the cost of the building maintenance.

⁵⁷ 'The assembly of the building may validly make decisions in case more than half of the members are present. Decisions related to the regular keeping of the block of flats and emergency works shall be rendered by the majority votes present. The assembly renders decisions which exceeds the scope of regular maintenance after consent given by members of the assembly who together have more than half of the total surface of separate parts of the block of flats.'

Regular maintenance is implemented through article 28, which states that the owner's assembly is responsible for taking decisions on maintenance (article 30 detailing that decisions are to be taken by a majority of votes of the owners present.) Such decisions have in reality not been taken. With regard to irregular investment in maintenance, article 34 states that, 'investment maintenance of the common parts of the building (...) shall be of public interest,' and article 35 states that, 'the performing of public interest shall be ensured by the executive authority of the municipal government.'

How exactly both this investment is in practice financed is not specified, the law only suggesting the combination of private and public funds. Article 37 states that, 'accounts are established by owners for maintenance, and the competent authority of the municipal government shall account for it separately for each building. The municipal government unit can participate in providing funds for the investment maintenance and works referred to under article 34 of the law.'

Article 39 identifies that, 'the funds received by the payment of the fee referred to under article 37 shall belong to the building owners who paid them and can be used for investment maintenance of other residential buildings as credit funds under conditions prescribed by the regulation of the municipal government body.'

The new *Law on Floor Property*, which was adopted in 2004, has attempted to provide a resolution to these and other problems by making it mandatory for the residents to pay for the costs of the building maintenance in cases of emergency (e.g. failure of mechanical, electrical and heating systems in the building). The respective contribution is based on an average rent amount that they pay on a monthly basis per square meter of useful housing unit area. As private flat owners cannot afford to pay maintenance fees, this amendment is therefore unlikely in reality to provide a solution to the problem.

FINANCIAL FRAMEWORK**A. Overview of housing finance issues in the Republic of Serbia****1. Investment in housing**

As has been shown in chapter IV, based on the laws “on Housing Relations” (1990) and “on Housing” (1992), tenants/users of the public owned flats had the possibility to privatise the flats at prices far below the market value in the early 1990s.⁵⁸ Investment in new housing in the Republic of Serbia has decreased in the last decade. The withdrawal of public funding from housing construction has not been matched by private investment. For example, close to 9,000 units were financed by the public sector in 1991, and this declined to 1,817 units in 2002. Similarly, the economic recession has affected residential investment by the private sector (see table 5.1). Production of new housing declined from 250,000 units in the period from 1985 to 1990 to 115,439 units in the period from 1991 to 1995. It should be noted that this indicator is not very reliable given the amount of illegal housing construction in most large urban areas.

Table 5.1. Dwelling units completed

	1991	2002
public sector ⁵⁹	9.066	1.817
Private sector	18.639	8.896

Source: Republic of Serbia Statistical Office: Serbia in Figures 2003, p. 17.

In most cases a developer sells the units before he starts to build. Prices are paid on a cash basis. As reported for 2004 there have been frequent cases where investors had not sold all the flats even 6 months after completion of the building. The returns in this business are still

high, despite the fact that the ratio between invested money and return decreased from 1:3 to 1:2 in 2004.

The risk of default or abuse by the developer remains with the investor/buyer of the flat. Mortgage lending is still in its infancy.

2. Public expenditure on housing

In the past the Government of Yugoslavia, later Serbia, had a system of state/public housing. *The Housing Law 1992* stipulated the establishment of the Solidarity Housing Fund, to which employers contributed. Enterprises, institutions and state bodies were obliged by law to set aside funds of 1.3 per cent of gross salaries for providing housing to employees who did not possess their own housing units. A part of the fund was aimed at meeting the housing needs of war invalids and other disabled and their families. The Solidarity Housing Fund was decentralized and deregulated. Units were produced by municipalities based on their own criteria and funding.⁶⁰

Article 4 in the *Salary and Wage Fund Tax Law in 2001* replaced article 44 from the *Housing Law*, which regulated resources for financing the system of solidarity housing funds (one of the main social housing elements in the *Housing Law*) in the Republic of Serbia. This tax was set between 0.3-1 per cent of salary by the self-government units (possible by law: up to 3.5 per cent). The assembly of municipality defined the tax rate and the allocation of revenues for the housing construction. The legislation neither defined conditions for disposal of the resources (criteria, target groups, conditions for granting and returning the resources, etc.), nor enacted other by-laws or a monitoring system. This tax was abolished in July 2004. The Solidarity Housing Fund resulted in an approximate distribution of 1 flat per 10,000 inhabitants. Due to the favourable selling conditions, this fund functioned mainly as the delivery mechanism of highly subsidized owner-occupied housing for middle-income households.⁶¹

⁵⁸ In Belgrade e. g. 65 m² for 100 DEM (50 EUR), see: Milicevic, Goran: Characteristics of the real estate market in Serbia, lecture for “Workshop on Real Estate Research and Education”, Budapest, February 18th – 20th 2005, pt. 2) a).

⁵⁹ Public sector including public, state, mixed and co-operative sector.

⁶⁰ Petovar, 2004.

⁶¹ UN-HABITAT, 2003.

The program of building 100,000 flats during ten years (10,000 a year) for young couples, army and police was announced by the Government of the Republic of Serbia in 1999. The local authorities were expected to give the land free of charge as their way of contributing to the program. Construction started in 121 locations and the Republic Construction Directorate run the program. In the middle of 2000, the first 1,000 flats were allocated, without defined quotas for the specific target groups and the program was terminated after the change of government later in this year.

In addition, there have been a number of other central and municipal programs for the provision of housing in the last decade. The funding allocated is unknown. An example is the housing program for University lecturers and scientists which started in 1995 with the construction of 1,000 apartments in Belgrade. It was administered by the Foundation of Housing for Young Scientists and Artists of the Belgrade University. The land was granted by the City of Belgrade, and the main financial source was the Government of Serbia with the provision of housing loans at favourable terms. Since 2000 the Foundation is supervised by the Ministry of Science, Technology and Development. The first allocation of the Foundation consisted of 387 flats. There have been more applicants and therefore also complaints have been lodged concerning the slow delivery mechanism.

A new policy instrument has been launched, the State Insurance of Mortgage Credits, which is based on central budget funding. Another – the establishment of a National Housing Fund as well as regional/municipal funds – is under discussion.⁶²

Property taxes are charged on the basis of the area of housing in m². Typical tax is 8,000

CSD per year. In 2003, the state earned CSD⁶³ 13.204 million from property taxes, compared to the CSD 18.942 million in 2002⁶⁴. The property taxation so far was not based on market value of real estate and the mechanisms for taxation remain unclear.⁶⁵ Recent changes in the Property Tax Law, effective January 2005, indicate that in accordance with Article 5 the base of property tax shall be the market value of real estate of the year preceding the year for which property tax is levied and paid.⁶⁶ The real estate market value shall be determined by the tax office. In the absence of information on market prices of housing/apartments in different locations and the incomplete cadastre system of real estate registration, the practical implementation of the new legislation will be particularly challenging.

The cost of land lease for residential land is based on (six) categories of land and typically is Euro 50/m²/year. Construction requires a one-time fee of (typically) Euro 4,000 for an 80m² housing unit. Fees for infrastructure connection and public utilities differ on a regional basis but remaining an important share of housing costs. Legalization of buildings in most cases is easier, faster and cheaper than obtaining a building permit in advance.

3. Trends in the housing market

Market transactions are on the rise in Belgrade and have reached 100,000 as shown in the table below.

Table 5.2. Sale of housing units in Belgrade

Year	Number of transactions
2001	25,000
2002	37,000
2003	59,000
2004 (estimated)	100,000

⁶³ CSD = Serbian Dinar; 1 CSD = 0,0124 EUR or 0,0166 USD; 80,6449 CSD = 1 EUR; 60,3404 CSD = 1 USD (National Bank of Serbia, March 16th 2005)

⁶⁴ Statistical Yearbook of Serbia and Montenegro 2004, tab. 4.11, p. 94.

⁶⁵ USAID/ Urban Institute: An Assessment of the Mortgage Market in Serbia (prepared by Merrill, Sally / Rabenhorst, Carol / Butler, Stephen B.), March 2004, p. 21.

⁶⁶ Article 6 states that the market value of any real estate shall be determined by applying the basic elements: 1) useful area; 2) average market price per square meters of corresponding real estate in the territory of the municipality concerned, and adjusting elements such as location of real estate, its quality and other elements affecting the market value of real estate.

⁶² Proposed in the draft law "On social housing":
The tasks of the National Housing Fund will be (Art. 6 of the draft law):

- To prepare a Fund programme,
- To prepare sources for housing programmes,
- Supervising and controlling the use of money for housing programmes,
- Providing expert and technical assistance to realize housing programmes,
- Research and proposing of regulations to improve housing finance.

Purchase prices in the secondary market vary widely depending on location and the condition of the property. Interviews with real estate agencies in November 2004 indicate that the purchase price of a typical 80 m² flat in Be (Source: *Real Estate Agencies Belgrade, Interview data, 25 November 2004.* location) it ranges between Euro 50,000 and 75,000. At the high end, these are mostly newly built units and/or completely renovated, with garage, telephone, and in an attractive location. Another overview of purchase prices in a more systematic order is presented in table 5.3.

Market prices in provincial towns are influenced by much lower activities and are therefore lower, as the example of Kragujevac shows. Kragujevac has a population of 175,000, of which 145,000 are urban. The urban population lives in about 60,000 housing units and average house prices in the secondary market are in the range of Euro 500-1,000 / m². In Niš or Novi Sad the prices are around Euro 900 – 1000 /m².

4. Affordability of housing

As reported, the average annual household income in Serbia in 2002 was 206,000 CSD. Only

less than three per cent of the households earned more than 500,000 CSD, while 22 per cent of all households had an average annual income below 84,000 CSD. With an unemployment rate of 29 per cent and large scale underemployment (employees kept on payroll waiting the privatization of public enterprises), one might expect low purchasing power in the housing market. Despite these trends, the above sporadic statistics on housing prices demonstrate clearly that the housing market reflects the size of the grey economy, which is estimated to be in the range of 30 – 50 per cent of the official economy.

A World Bank report presents available data on housing costs in the rental and owner-occupied housing for Serbia. Owners and public sector tenants spent close to 10 per cent of their income on housing, while in the private rental sector the share is as high as 27 per cent. It is reported, that the rent for public rental apartments is not made or collected, only for utility and maintenance costs.⁶⁷

Table 5.3. Market prices for housing in Belgrade (in Euro per m²)

Zone	New construction	Resale	Luxury
“Extra” zone	1900 – 2000	1800 – 2000	3000
First zone	1600 – 1700	1300 – 1500	-
Second zone	1200 – 1300	1000 – 1100	-
Third zone	900 – 1000	700 – 800	-
Fourth zone	650 – 700	600	-

Source: Real estate agencies in Belgrade, November 2004.

Notes: The “zones” are just concentric rings around the centre of the City of Belgrade

⁶⁷ Duebel, Brzeski, Hamilton, 2005, chapter 3.3.3.

5. The housing finance system

Banking sector

In Serbia there are 46 banks⁶⁸, less than 10 of them are foreign owned with a strong position of Austrian banking groups (HVB-BA, RZB, Volksbank, Hypo Alpe Adria); 10 – 15 banks still have the State as a significant stakeholder. The National Bank of Serbia has banking supervision authority.⁶⁹ The total balance sheet of all banks at end of June 2004 was CSD 401 bn.

Mortgage lending is just emerging with initial offerings by Raiffeisen bank, and HypoAlpeAdria Bank. Official statistics on the volume of mortgage loans given by Serbian banks are not available. In the first half of 2004 so called “housing loans”⁷⁰ rose by 42 per cent while retail loans rose by 82 per cent. Interviewed banks named mortgage lending as a growing business.

Mortgage credits are mainly funded by deposits or credit lines of International Financial Institutions or – for foreign owned banks – by credit lines of the holding bank. It is reported that the same banks are starting to propose savings schemes with the purpose of obtaining a flat. Table 5.5 presents current mortgage lending conditions.

Main problems in mortgage lending are:

The mortgage as a credit security is only cursory regulated in the existing laws (see chapter IV p. 43). A new law on mortgage is under discussion;

- Many properties are not registered;
- Registration of a mortgage, as well as foreclosure, takes a long time;
- Taxes and fees on mortgage lending and home purchase.⁷¹

Table 5.4. Long term^a loans from December 2003 to June 2004

	Total volume of long term loans ^b	Housing loans	Retail loans
December 2003	17,1 bn CSD	4,4 bn CSD	5,1 bn CSD
June 2004	25,7 bn CSD	6,3 bn CSD	9,3 bn CSD

Source: National Bank of Serbia.

Table 5.5. Mortgage loan conditions of Serbian banks

Amount (min)	10,000 EUR
Loan to value ratio (LTV)	70 % - 100 %
Monthly part of salaries to pay the loan	Up to 50 %
Interest rate	8.5 – 10.5 floating
Maturity	Up to 20 years
Guarantors	0 – 2
Property insurance	Yes
Life insurance	No
Currency clause	Yes
Acknowledgement of indebtedness	Yes
Registration of the real estate	Not in all banks, but then only with guarantors
Prepayment	Possible, fee up to 2 % of the loan amount
Collateral	First ranking mortgage

Source: Interview data, Belgrade, November 2004.

⁶⁸ As of November 2004.

⁶⁹ www.nbs.yu

⁷⁰ Loans for housing purpose, mainly – but not necessarily – using a mortgage as credit security.

⁷¹ Taxes and fees include: (1) profit tax on interest income, (2) origination fee, (3) property transfer tax, (4) registration costs, (5) credit insurance on cash loans. (More detailed: USAid / Urban Institute: Assessment of the Mortgage Market in Serbia, p. 16.)

^a Long term under Serbian circumstances means longer than 12 months.

^b Including also agricultural and commercial loans.

National Corporation for Insurance of Housing Credits

A credit bureau *National Corporation for Insurance of Housing Credits (Nacionalna korporacija za osiguranje stambenih kredita - NKOSK)* was established in 2004 to improve the situation on the mortgage market. NKOSK is modelled after Canada Mortgage and Housing Corporation,⁷² which insures mortgage credits and issues securities. NKOSK is a public enterprise with an implicit state guarantee. The original capital is Euro 10 mln (Art. 4 NKOSK law) from the State budget. Maximum exposure is 16 times the capital. The supervision is provided by the Ministry of Finance (Art. 21 NKOSK law), with the obligation to report annually to the government and correspondingly to Parliament. The risk weighting of the NKOSK will be – as far as known today – zero per cent. NKOSK does not need a licence as do an insurance or a bank. Its board members will be appointed by the Ministry of Finance and it can be reorganized as a joint stock company in the future.

The NKOSK will insure mortgage credits given by banks up to an amount of 80 % of the value of the real estate. In the case of default on a mortgage when the bank has to foreclose, a loss will be covered by the insurance. The premium for the insurance will be 1 – 4.5 per cent, depending on loan amount, borrower, real estate and credit terms. If a bank will have a general contract with NKOSK, it is obliged to propose all mortgage credits for insurance with NKOSK. It is up to the NKOSK to decide, if it will insure or not. The banks will be obliged to lower the interest rate for the credit by at least on per cent. At a later point the NKOSK intends to securitize mortgages following standardization of mortgage credits. NKOSK plans to work as a profit organization, but the Ministry of Finance will use it as housing policy instrument.

Capital market

The Belgrade Stock Exchange (BSE) – closed after the Second World War – was reopened in 1990. The only debt instruments traded on the BSE are so called fx-bonds of the Republic of Serbia, based on shares (issued through the process of privatisation of the companies), frozen foreign currency deposits and some bills of the National Bank. Banks and Enterprises have not issued debt instruments yet and only shares of some banks are available. Possible investors for bonds are banks and insurance companies.⁷³ The National Bank supervises the insurance companies.

The pension system is still looking forward to a reform. Today some state-owned and some private funds are active. State-owned funds in the legal form of a public enterprise are:

- State Fund for employees (2.2 million insured persons);
- Fund for farmers (200,000 insured persons);
- Military Fund (80,000);
- Fund for small entrepreneurs (40,000).

As reported, these funds are based on an assessment system and lack a sufficient capital base.

Pension funds in private legal forms are DDOR (Novi Sad) and Dunav (Belgrade), both state owned.

B. Overview of housing finance issues in the Republic of Montenegro

The economy of Montenegro is small compared to Serbia. Montenegro introduced the Euro as its currency following a period with a dual currency system of Dinar and Euro.

⁷² www.cmhc.ca, www.schl.ca.

⁷³ As reported some foreign investors are also interested in shares and fx bonds.

1. Trends in the housing market

As demonstrated in chapter II, the housing situation in Montenegro is characterized by some interesting statistics: in particular, the number of dwellings is higher than the number of households. This is mainly explained with a large number of seasonal coastal houses in Bar, Budvar and Kotor. It is also interesting to note that the number of dwellings grew much faster than the number of households and population.

Unfortunately no statistics on the financing of the dwellings are available. It is reported, that in many cases public enterprises or the State give credits directly to persons for housing construction. As reported, in many cases these credits are pre-paid under very favourable conditions for the borrower (and losses for the State or state enterprise). A legal basis is e.g. Article. 61 of the *Law on Housing Property*: firms, legal persons or other entities shall provide funds for addressing housing needs of employees; including the right to sell flats to employees under favourable conditions.

The number of legal transactions in Montenegro in general and in the capital Podgorica is rather low. The data on prices in the housing market are scarce. As an example, typical rents in Podgorica are between Euro 100 to 300 (average Euro 150) for a small apartment, although the average monthly income is only Euro 200. The purchase of a housing unit would require the payment up-front of the total purchase price of Euro 50,000 to 150,000 to the real estate developer (with a huge amount of risk involved) in the case of new construction, or to the owner in the case of real estate transaction in the secondary housing market.

Typical offers for a house with adjacent land in Podgorica are for Euro 65-150,000. Apartments appear to be priced similarly (see Table 5.7). Given the lack of crediting for the purchase of residential properties and the official income data, prices in the housing market reflect the size of the grey economy and the lack of any other opportunities for investment.

Table 5.7. Housing market data Podgorica, 2004

	Price (Euro)
Houses (size & land)	
80m ² / 1050 m ²	65,000 Euro
250m ² / 640 m ²	150,000 Euro
Apartments (size)	
62 m ²	57,000 Euro
76 m ²	70,000 Euro

Source: Real estate agencies, Podgorica, November 2004.

2. Banking system

Montenegro has 10 active banks supervised by the Central Bank of Montenegro. A Deposit Insurance Fund is created, financed by the banks without a State guarantee. The following banks have foreign shareholders:

- Montenegrobanka: Shareholder Nova Ljubljanska Banka (Slovenia);
- Crnogorska komercijalna banka (CKB)⁷⁴: Shareholder German Development Company DEG⁷⁵ and Netherlands Development Finance Company FMO⁷⁶;
- Euromarketbanka⁷⁷: Shareholders Soros Economic Development Fund, EBRD, German Development Company, Raiffeisenbank Sarajevo;
- Podgorička banka⁷⁸: Minority shareholder IFC;
- Opportunity Bank⁷⁹: Shareholder Opportunity International and Rabobank group.

As reported, only Montenegrobanka is offering housing loans, using housing as collateral. Mortgage loans are given for a maturity of 10 – 12 years, loan-to-value ratio of 40 per cent, interest rate 9.5 per cent floating, down-payment of 20 per cent. Loans are only given for renovation, not for buying a flat. A land registration system is under development. Many properties are not registered. As in Serbia the number of illegal constructions is high. A credit bureau does not exist.

Hipotekarna Banka is only using the name, but is not engaged in the mortgage business. A

new *Mortgage Law*⁸⁰, adopted in August 2004, provides a reliable basis for mortgage lending.

Capital market⁸¹ Montenegro has two stock exchanges: Montenegroberza (Montenegro Stock Exchange) and NEX Montenegro; both are taking part in the informal platform of SEE stock exchanges.⁸² The main debt instruments are – as in Serbia – fx-bonds of the government, based on frozen fx-deposits. Euro-denominated short-term government bonds (earlier 1 – 2 month, today 6 months) are traded only between banks. The investors are private investors and privatisation funds. Privatisation funds were introduced in 2003 to invest (only) in privatisation vouchers, however since July 2005 they will be reorganized as investment funds with the right to invest in all kinds of assets in accordance with the *Investment Fund Law*.

Some broker firms are active, and organized in to the Association of Brokers of Montenegro. Four insurance companies exist, but so far they are not engaged in life or car insurance. A pension reform is planned for the future. Today only the state pension fund exists (60 per cent is funded by pension revenues, 40 per cent by the State budget).

Housing Policy Action Plan For working groups, supported by the Stability Pact for South East Europe of the Ministry of Environmental Protection and Physical Planning have been discussing a housing policy action plan for Montenegro for some months. One of the results of the working group for financial issues is a proposal for a tax subsidised Bauspar system. Other proposals as introducing covered bonds have been discussed.

⁷⁴ www.ckb.cg.yu

⁷⁵ Deutsche Entwicklungsgesellschaft (German Development Company), www.deginvest.de

⁷⁶ Netherlands Development Finance Company (Nederlands Financierings-Maatschappij voor Ontwikkelingslanden, www.fmo.nl).

⁷⁷ www.euromarketbanka.cg.yu

⁷⁸ www.pbanka.com

⁷⁹ www.opportunitybank.cg.yu

⁸⁰ Text with introduction (German): Jessel-Holst, Christel: Republik Montenegro: Hypothekengesetz; WiRO 2004, 337 – 343.

⁸¹ Detailed information: Asocijacija Brokera Crne Gore (Association of Brokers of Montenegro): Vodič za akcionare – Shareholders Guide – Das Aktionärshandbuch, Podgorica 2003.

⁸² Stock Exchange Monitor (www.sem-on.net). Other participating stock exchanges are: Banja Luka, Belgrade, Ljubljana, Skopje, Sarajevo, Varazdin.

In Serbia and Montenegro, like in most other countries in transition, social housing activities are almost non-existent. The privatization of the public housing stock left very few units at the disposal of public sector to accommodate the needs of both the very poor and vulnerable social groups. The difference, compared to other countries in transition, is that the owner-occupancy of housing units was high already during the socialist period. The special feature in Serbia and Montenegro which greatly affects the social housing needs and priorities at present, and will do so in the near future is the high number of refugees and internally displaced people (IDPs) who came from former Yugoslav republics and from Kosovo and Metohija.

Republic of Serbia

A. Social housing needs

The social housing needs in Serbia relate to the housing situation of poor and vulnerable families and individuals living in unsafe, unhealthy and insecure housing conditions who do not by themselves have access to adequate housing. These people include local poor people affected by the economic depression, unemployment and other factors, and the influx of refugees and internally displaced people, mainly from Croatia, Bosnia-Herzegovina and Kosovo, as well as many young couples and families who do not have access to affordable housing.

25-30 per cent of the population of Serbia lives a precarious and vulnerable existence⁸³. This does not include refugees, IDPs, Roma and those living in collective centres. The social assistance is limited and favouring small families. It mainly covers those with poor educational background, the unemployed and people with disabilities⁸⁴. Housing expenses were never sufficiently taken into account in the design of social assistance.

In 2004 there are 377,131 refugees, 74,849 war affected people and 208,391 IDPs from Kosovo and Metohija in Serbia⁸⁵. In November 2004 about 7,000 refugees and IDPs still lived in collective centres⁸⁶. They were mostly elderly, single-parent families, families with handicapped family members and very poor families and individuals who were not able to find any other accommodation. Other substandard housing conditions in which refugees and IDPs live are slums and places, such as corridors, garrets, garages, single rooms without amenities and even caves.

There are great differences among municipalities in connection to the number of refugees and IDPs. For instance, in Kraljevo, which has the highest concentration of IDPs, the share of IDPs and refugees (21,000 persons) forms 17 per cent of the total population. As a consequence, Kraljevo has large collective centres. Stara Pazova also has a high number of refugees, about 15 per cent of the population. Half of them live in rented apartments, a quarter own their accommodation and almost the same amount stay with relatives or friends, only five per cent live in collective centres⁸⁷. This difference is explained by the fact that the refugees have had longer time to find proper accommodation, but the situation of the IDPs is totally different due to the unresolved situation in Kosovo.

⁸³ UN, 2003.

⁸⁴ Republic of Serbia, 2003.

⁸⁵ The Commissariat for the Refugees of the Republic of Serbia. According to the last census held in cooperation with UNHCR in 2001, there are 377,131 refugees and 74,849 so called war affected people. Further registration of refugees was carried out in 2004 but there isn't reliable and official information of the current total number of refugees. About 110,000 refugees have become the citizens of the Republic of Serbia until today. In March 2000 the Commissariat for the Refugees organized in cooperation with UNHCR census for IDP's from Kosovo and Metohija, at that time there were 187,129 registered IDPs, but during the period 2000-2005 there are about 20,000 new IDP's, which gives 208,391 IDPs now.

⁸⁶ UNHCR, 2004.

⁸⁷ UN-HABITAT, 2003.

Roma enclaves are mostly illegal, have insufficient infrastructure and polluted environments. 80 per cent of those declared as Roma in the population census live in very poorly built houses, made mainly from adobe, cardboard, metal and plastic sheets⁸⁸. Besides these, their settlements area is very overcrowded as the Roma families are usually large, but the size of housing units is typically very small. The population census 2002 shows that there are about 108,000 Roma living in Serbia. It is, however, very difficult to estimate realistically their number, and a more likely estimate is around 150-160,000.

In large and expanding cities there are vast illegal and uninhabitable settlements where the poorest segment of society lives. For instance, in the territory of the City of Belgrade there are estimated to be 29 slums and 64 settlements, which do not meet minimum hygienic standards, with approximately 25,000 people living in these locations⁸⁹.

Overcrowding is one vital component of housing problem in Serbia. Over 15 per cent of housing stock is overcrowded i.e. there is less than 10 sq m space per person⁹⁰. It has been estimated that 120,000 households are doubled-up i.e. two households live in same housing units, and in 11,000 dwellings there are three households⁹¹. Often many young couples are in this situation and live with parents or other relatives.

The vulnerable groups often need financial support for the management of existing housing, such as the maintenance, service costs and utility bills. Assistance for the large refurbishment of apartments and residential buildings is also needed. For the legalization of illegal structures, exemptions from payment for construction permits or legalization fees are needed by the poorest and most vulnerable households. This kind of measure has already been introduced in Belgrade and Novi Sad. When legalisation and the upgrading of an existing unit is not possible, or more often, when a vulnerable household does not own or have secure and affordable rental agreement, the support for relocation through social rental housing is then only option. Based on the inventory of poor settlements in Belgrade,

a number of them are at risk, since the city has planned to use the land for the construction of roads, commercial centres or other purposes. These locations can also be dangerous and otherwise unsafe.

B. State, municipal and international programmes and activities related to public/social housing

Based on the *Housing Act 1992*, the central government and local authorities maintained the right of provision of public housing for their employees and other target groups. The State also enabled tenants to purchase State-owned flats. The criteria for use of financial resources collected from the sale of State and municipally-owned apartments relates to five target groups: 1) soldiers, invalids and "family members of the killed person in war after 17th August 1990, who are not employed", 2) protected tenants in the private property flats due for restitution, 3) persons in unhealthy and damaged flats, 4) social support beneficiaries, 5) young scientists and artists, as well as experts in undeveloped regions⁹². At the moment the number of these municipal rental units is small.

The Solidarity Housing Fund as an instrument for public/social housing provision resulted in approximately 1 flat per 10,000 inhabitants. Information from municipalities shows the following⁹³:

- There were great differences in using the financial resources, buying flats on the market and granting loans for enterprises which contributed.
- The number of flats granted from the Solidarity Housing Funds was very small e.g. 36 flats were built in Cacak in 2000 and in 2002 35 flats were built in Pancevo and 39 flats in Kragujevac
- There is no data on whom the flats were granted to (no details, such as socio-economic, demographic, ownership or other characteristics of households), since the Fund had links only to companies and organizations which participated in the financing.

⁸⁸ UNDP, 2004.

⁸⁹ Urban Planning Institute of Belgrade, 2003.

⁹⁰ UN-HABITAT, 2003.

⁹¹ Milic, 2004.

⁹² Petovar, 2004.

⁹³ Petovar, 2004.

- Only employed persons could apply for flats, which meant that a large proportion of the economically most vulnerable unemployed population was excluded.

Previous state/public housing programmes have in general aimed at providing housing for workers of factories and other companies, as well as for civil servants. Also the main target group with the Solidarity Housing Fund was the workers and other employed, with only a small fraction of allocation for disabled and other vulnerable households. On the basis of existing data it is not possible to ascertain the amount of funds which has been spent on social housing in Serbia in the last 14 years. Reasons for this are the lack of a defined concept of social housing, specific budget allocations for this purpose and institutional responsibility⁹⁴.

1. National Strategy for Resolving the Problems of Refugees and Internally Displaced People

In 2002 the Government of Serbia adopted the *National Strategy for Resolving the Problems of Refugees and Internally Displaced People*. It focuses on ensuring the conditions for repatriation of refugees and IDPs and activities for providing conditions for local integration. The strategy also includes the closure of collective centres by end of 2005. For this reason resettlement and local integration activities are much needed. The strategy recommends the development of both public rental units (termed ‘social housing’ in the strategy) for the most vulnerable households and owner-occupied units (termed ‘affordable housing’) for other households. Due to the culture of domination of owner-occupancy of housing in Serbia, accessing housing property is seen as an effective tool for the integration of refugees.

The main options proposed for local integration under the housing programmes for privately owned apartments are:

- Construction of apartments in residential buildings situated in urban areas of suburbs and towns;
- Self-help construction of individual, semi-detached and other buildings (‘growing’ house) in villages and towns;

- Combined construction (hired labour and self-help) of apartments in residential buildings to accommodate several families and individual buildings in all residential areas;
- Purchase of old houses with gardens located in de-populated areas and smaller towns and assistance for construction materials;
- Assistance in construction of houses that the owners began to build but interrupted due to lack of funds;
- Acquisition of housing space (gardens and agricultural land) through contracts on life sustenance.

The main options proposed for local integration under the accommodation in institutions of medical and social welfare are:

- Construction of lower category, social (State) apartments in less urbanized areas of suburbs and towns;
- Reconstruction of collective centres or other vacant public buildings into temporary or permanent homes for the elderly;
- Extension of the existing social welfare institutions for the most vulnerable and the handicapped;
- Extension of the existing health care institutions for the medically most vulnerable individuals or the handicapped.

The strategy also recommends establishment of the Fund for Social and Affordable Housing. Some collective centres have already been refurbished into homes for elderly, e.g. in Kucevo and Uzice, or for other special use.

The question of social cohesion is critical in many aspects. The strategy proposes purchase of old houses in depopulated areas and provision of building materials. The intention behind this is to have cheaper options and also give a chance to small-scale farming and livelihood. Another reason is to release the population pressure in highly urbanised areas and to give input for local

⁹⁴ Petovar, 2004.

development in depressed rural and less urban areas. This approach is also dangerous if the most vulnerable sectors of the population are concentrated in impoverished rural areas which lack both basic facilities and other income/generation activities besides subsistence farming⁹⁵. This is an important consideration, as the sustainability of this approach is also questionable because people will most probably move to the urban centres.

2. Recent activities in social housing

At the moment in Serbia there is neither a policy of social housing to support the vulnerable social groups, nor an approach to use social housing as an instrument for development. A critical question in social housing policy is how to define social housing. Under the *Draft Law on Social Housing* (see also chapter IV p. 44-45), social housing is defined as housing with adequate standards provided by the assistance of the State for the households that are not in a position to provide a dwelling under market conditions due to social, economic or other reasons. The tenure options proposed for social housing are owner-occupancy and rental accommodation. The draft also defines establishment and duties of the National Housing Fund and identifies sources for its financial base. The proposed sources are, for example the state budget allocations, donations, loans from domestic and foreign sources, revenues from the Fund investments, repayments from loans issued by the Fund and the revenues from sales of State-owned dwellings.

It is expected that the Social Housing Strategy, which defines the main components of the social housing programme, will be implemented by the Ministry of Capital Investments. It will define in more detail the targets, contents and mechanism for the provision of social housing. The Settlement and Integration of Refugees in Serbia (SIRP) project of UN-HABITAT will support this activity. Other laws and regulations will also be needed.

Recent social housing activities of the government of Serbia have roots in integration programmes for the refugees and IDPs. From 1996-2003 the Commissariat for Refugees and UNHCR, together with other partners such as Swiss Disaster Relief and Norwegian Refugee

Council, provided resettlement assistance for more than 2,400 households. Other agencies and international NGOs involved are ECHO and several NGOs, such as Technisches Hilfswerke (THW), Arbeiter-Samariter-Bund Deutschland (ASB) and HELP.

The Swiss Agency for Development and Co-operation (SDC) has assisted the construction of over 2,600 housing units in Serbia. The main components have been local settlements assistance through full construction, self-help or partial self-help. Another important part has been rehabilitation and maintenance of the collective centres. Other support for the housing sector consists of the reconstruction and extension of the home for mentally disabled children and youth and the rehabilitation home for the elderly.

The social housing programme of SDC, which started in 2002, has reached 648 beneficiaries. Through this programme new buildings for social rental housing have been built in 19 municipalities for the residents of the collective centres. Also the local vulnerable families and individuals have benefited, as 20 per cent of units have been targeted for them, e.g. families with disabled persons or elderly households. Housing units range from 22 sq m per one person up to 55 sq m for a larger family. The rent is based on the income of a household. The running costs are shared by the municipality, Ministry of the Social Welfare and UNHCR. The beneficiary selection is done by the multi-professional team including representatives from the Centre of Social Welfare, UNHCR, Commissariat for Refugees and SDC. Generally, the role of the Centre of Social Welfare is important, besides the selection process, in providing other necessary support. The host family, living in the same building and looking after the maintenance and provision of support for residents, has been important. The project was completed, and SDC closed its office in Belgrade at the end of 2004.

In 2003 the City of Belgrade initiated the programme of construction of 5,000 housing units for the population living in the most vulnerable conditions in unsafe settlements and slums. The targeted beneficiaries are Roma residing in Belgrade and the Roma refugees and IDPs registered in Belgrade. The programme includes the provision of standard, but low-cost, and small

⁹⁵ The Institute of Urban Economics, 2004.

housing units with basic infrastructure, which are located in low-rise buildings within the built-up areas in peripheral zones of Belgrade. Besides the housing component, the planned integrated approach includes education and employment components. The City government has allocated 11.5 million euros for this activity. So far five locations have been selected for relocation purposes⁹⁶. The implementation of construction activities has not so far been started.

The question of location is critical in all relocation activities. The selection of relocation sites for Roma settlements would be based on the following criteria: State ownership of land, the vicinity of schools and public transport, safe environment and the existing residential structure⁹⁷. The information, however, portrays that locations are far from the city centre and therefore less attractive for incoming settlers. Segregation of the settlement may also ensue. The programme will only help those who are officially registered as citizens or permanent residents of Belgrade so inclusion, a critical aspect of social cohesion, has been left out of the equation. As a result, conditions of illegal settlers will be ignored and illegal settlements will continue growing.

The rehabilitation programmes targeted at slums and other substandard settlements have been supported by the international organizations or the local authorities. Mostly they have focused on Roma settlements. In general, these are integrated programmes including education, employment and health aspects.

With support from the Italian Government, UN-HABITAT has launched the SIRP project. This will include construction of 670 housing units in the municipalities of Stara Pazova, Pancevo, Karagujevac, Cacak, Karljevo, Nis and Krusevac. 20 per cent of the target group will include local vulnerable families and individuals. The selection criteria for both refugees and IDPs and the local vulnerable people are the same: single-parent headed families, households with a handicapped member, multi-member families with children under the age of 18 and elderly households who do not own property in Serbia-Montenegro, or elsewhere. The priority will be given to those living in the collective centres. Tenure options will be subsidized rental housing (40 per cent) and property-transfer option (40 per

cent), the remaining 20 per cent will be decided on the basis of local surveys on needs and capacities. Units range from 32-42 sq m in multi-unit buildings. Also a temporary housing benefit system will be introduced. The loan terms are planned to be at a 2.5 per cent interest rate with a repayment period of 15 years.

Each beneficiary household will also receive support for economic integration, and assistance such as in-kind support and vocational training will be given to start up micro-businesses or self-employment. The capacity building of municipalities in social housing activities is also an important part, as well as the establishment of municipal housing agencies. The bulk of the units are assumed to be built through the municipal housing agencies or municipal housing departments, but 20 per cent is planned to be built through innovative partnerships schemes within the non-profit sector. (See also chapter III p. 27, 35, 37.)

3. Local governments in social housing

The Solidarity Housing Fund places emphasis on the capacity of municipalities to deal with housing activities. Currently the local governments have the main responsibility for implementing social housing in their jurisdiction and it is expected that the *Social Housing Act* will strengthen this. To perform their responsibilities, municipalities are, for instance, obliged to formulate the Municipal Housing Strategy, enabling social housing by adequate land and urban policies and by the provision of local funding. One or several municipalities are advised to establish a Municipal Housing Agency to carry out most tasks related to social housing, particularly the project management of social housing. Also non-profit organizations are defined in the Act, and they can be housing co-operatives and non-governmental organizations, expected to perform various activities in social housing, starting with construction and the maintenance of housing stock.

For instance, Kragujevac municipality has been active with three social housing projects. One project consists of the construction of 102 apartments for households currently living in poor conditions in the area in wooden barracks. The second project targets refugees and IDPs and the

⁹⁶ Urban Planning Institute of Belgrade, 2003.

⁹⁷ Institute of Urban Economics, 2004.

third is planned for SIRP implementation and will contain nine semi-detached units. Belgrade municipality initiated the construction of 1,100 apartments in the city in 2003. 1,000 of these flats are intended for sale on very affordable loan terms (own savings 20 per cent of the cost, the loan repayment period 20 years with the interest rate at 0.5% per cent) for those persons and households who do not own a dwelling.⁹⁸ One hundred flats are intended for households with dire social needs. The tenancy of rental flats is limited to two years, with the possibility of contract renewal.

The Local Self-Government Law (2002) sets as the responsibility of local governments to give social assistance for the housing maintenance costs of households living under the poverty line. At the moment only Belgrade, Nis and Subotica are in a position to do this. In Belgrade this assistance covers about 25 per cent of service fees, excluding the electricity costs. The Centre of Social Welfare in Kragujevac surveyed those vulnerable families who are not able to pay service and maintenance fees. The City Assembly will decide upon possible subsidies for this group.

However, for the implementation of social housing projects, a solid foundation of Central Government support should be established. The Government of Serbia has allocated 15 million Euros, in addition to a potential loan for 20 million Euros from the Council of Europe Development Bank. Based on preliminary estimates, this loan would allow the construction of between 1,700 and 2,300 rental dwellings for 4,800 to 6,000 persons on the basis of a local contribution of 30 per cent of the total investment costs. This contribution could be by the provision of land and infrastructure/services, finance from the central or local governments as well as financial and self-help inputs by the beneficiaries themselves.⁹⁹

⁹⁸ However, the definition "person without a flat" is limited to non possessing property in the territory of the city of Belgrade, i.e. an applicant household can own or hire dwelling(s) somewhere else. Other criteria are also size of family, health conditions and employment period, and the main target group is civil servants.

⁹⁹ UNHCR, 2004.

Republic of Montenegro

A. Existing situation and target groups for social housing

The economic changes and particularly the privatisation process during the last decade deepened the gap between owners of housing units and non-owners in Montenegro. During that time no real social housing activities were pursued. At the moment there is no social housing policy or programme, only activities directly related to this concerning the resettlement of refugees and IDPs implemented by international agencies and some other donors through international NGOs.

1. Target groups for social housing

As discussed in chapter I poverty affects about 9.4 per cent of the population. Moreover, according to the *Poverty Reduction Strategy* of 2003, more than one third of the population is classified as economically vulnerable, as their income is less than or close to the poverty line. In this context, Montenegro's *Housing Action Plan*¹⁰⁰ deals with tenure options for social housing and proposes either owner-occupancy with affordable, subsidized loans or social rental housing. The target groups identified for social housing are family welfare beneficiaries, pensioners, Roma, refugees and IDPs, young people and individuals with ongoing housing problems. Over 10,000 families in Montenegro are welfare beneficiaries, 2,400 of which are in Podgorica. The welfare benefit is applied to individuals without any source of income and who are incapable to work and to other persons who have no means for living. There are 92,000 pensioners, some without their own accommodation, although they had contributed to the Solidarity Housing Fund. However, this group benefits from old age, family or disabled pensions.

¹⁰⁰ Background working papers for the development of the Housing Actions Plan by Ademovic and Vucinic, 2004.

At present it is estimated that there are around 20,000 Roma in Montenegro. The domestic Roma population is assessed to be around 3,200. 13,300 are refugees from former Yugoslav states and 5,000 IDPs from Kosovo. Very often they live in very poor and cramped living conditions in the illegally built locations on the outskirts of urban areas¹⁰¹. There were approximately 13,500 refugees and 29,400 internally displaced people from Kosovo in Montenegro in 2003¹⁰². IDPs do not have the right to legal employment, neither are they covered by the social assistance schemes. The only support they receive is in the form of sporadic humanitarian aid¹⁰³. Currently in Montenegro there are only three official collective centres where accommodation and utility costs are covered by UNHCR through the Commissioner for Displaced Persons. Many of the buildings used for collective centre accommodation are still occupied by refugees and IDPs, but are considered unofficial.

The Roma IDPs live mainly in Podgorica. There are two Roma camps: Konik Camp 1 contains about 1,400 persons, while Konik Camp 2 about 350 people. Konik Camp 1 was constructed as a temporary shelter for Roma IDPs. The camp consists of 43 wooden barracks, some of which are in danger of collapsing at any time. Also there is a very high risk of fire. An average of 8.1 persons live in 16 sq m housing unit. The biggest share of humanitarian assistance is targeted at the camps. However, since the international assistance decreased, assistance has been rather symbolic. For instance, the German NGO Help constructed a building with 22 apartments and has planned another. Also some other municipalities have large Roma IDP settlements. Due to lack of municipal assistance and government commitment, UNHCR is forced to deal with these camps on ad hoc basis¹⁰⁴.

2. Activities in relation to social housing

Under the *Law on Floor Property, 1998*, it is stipulated that enterprises shall provide funds for solving the housing needs of their employees. The funds for the housing of pensioners and disabled persons shall be provided by the Fund for Pension and Disability Insurance. The funds

for the housing of poor persons shall be provided by both central and local governments. The Ministry of Labour, Health and Social Welfare administers housing units for temporary use due to social needs and vulnerability. The number is small – only 65 units in Podgorica, for instance.

Local governments are responsible for providing housing for the most vulnerable people, but the obligation to use one per cent of the budget for this purpose is difficult for most of the municipalities. The city of Podgorica has done so, and has 100 apartments in its use for allocation to the most needy households, such as disabled, single mothers, refugees and the poorest families.

UNCHR and SDC have provided 230 housing units for new family settlements for refugees and IDPs in six locations, reaching 1,050 beneficiaries. Besides this, the self-help program through delivery of construction materials for new housing, or an extension of the existing unit, has targeted 145 families. Part of SDC activities has included rehabilitation and maintenance of the collective centres, as well as rehabilitation of schools, social and health institutions. Following the closure of SDC's office at the end of 2004, UNHCR plans to continue shelter activities with local NGO "HPA", which was formed by SDC's former local staff. The survey on refugees and IDPs¹⁰⁵ shows that one of the most frequently stated problems is accommodation. Approximately 54 per cent of refugees and 23 per cent of IDPs are interested in local integration, the departure to third countries is the most desirable option for 26 per cent of refugees and half of the IDPs, while the least appealing option is to return to their place of origin. The non-regulated legal status of refugees and IDPs is a key problem for the realisation of local integration.

B. Future policies and activities related to social housing

The government has proposed a municipal housing programme consisting of 1,000 units, of which the municipality of Podgorica would have the main portion. The negotiation concerning the loan for this purpose from the Council of Europe Bank (CEB) is on-going. Also the possibility to combine to this

¹⁰¹ Government of the Republic of Montenegro, 2003.

¹⁰² UN, 2003.

¹⁰³ UNHCR, 15 November, 2004.

¹⁰⁴ UNCHR, 2004.

¹⁰⁵ ISSP, 2004.

activity with the informal settlement upgrading and legalization of the area in Zagorice-Zlatica is under consideration. The feasibility study for the upgrading proposal was done in 2002 by German NGO, HELP.

1. National Strategy for Resolving the Issues of Refugees and IDP's

The National Strategy for Resolving the Issues of Refugees and IDPs in Montenegro (2004) reflects the political will to find an acceptable solution for problems with respect to economic possibilities of the country and its population, as well as the desires of displaced people.

Three options are introduced:

- Initiation of the repatriation process by providing the conditions for return, such as safety and legal protection and enforcement of property and other rights;
- Creating conditions for local integration: accommodation, employment, adequate health care and education, legal, property and other rights, and inclusion in social life;
- Living in third countries. Although UNHCR terminated this programme in 2004, the option was included in the strategy.

The strategy defines three solutions for the provision of housing facilities for 6,700 households:

- Building of owner-occupied units under favourable conditions (target 5,100 households);
- Use and occupancy of houses and land without charges and/or purchase of people's properties (target 400 households);
- Social housing in less urbanised areas for the most vulnerable, adaptation of collective centres/ publicly owned buildings for elderly homes and accommodation in social and medical care institutions (target 1200 households/users).

Basic principles stipulate that each program must involve part of the local population, the concentration of displaced persons in one place will be avoided as much as possible and the government provides the land and a primary infrastructure. The strategy emphasises that local integration does not mean naturalisation (obtaining citizenship). Besides acceptance, local integration requires significant financial resources. The implementation is heavily dependent on international assistance, credits and the target groups' own resources. It is very likely that this will lead to slow implementation.

The New Employment Law (2002) defines an unemployed person as a person who is registered with the Employment Fund and is seeking employment or a person who is either a foreign citizen or without citizenship, but has permission to stay permanently and work in Montenegro. Therefore IDPs cannot be treated as unemployed because they do not have permanent residency. As a result they do not have access to unemployment benefit. Although they can be employed, it is more expensive to hire non-residents, due to government regulation since 2003. Which stipulates the tax for employers hiring non-residents as 2.5 euros per day. Hence many refugees and IDPs lost their jobs, and those in work are working illegally in poorly-paid jobs. This means that there are grave on the extent to what the refugees and IDPs can improve their own living conditions.

According to UNHCR (2004), the highest priority in resettlement and social housing should be given to dismantling the current camps, such as Konik 1 and 2, and relocation of residents to other locations within smaller self-reliant settlements, if the IDPs are not able and willing to return to Kosovo.

2. The Housing Policy Action Plan

The issue paper for the *Housing Policy Action Plan*¹⁰⁶ recommends the formulation of a social housing programme on the basis of rental agreement. The social housing buildings could be owned by the state, municipalities or non-profit and other organisations. Furthermore, it proposes that the rent of the housing units for pensioners and the disabled should be determined on the basis of floor area, standards of apartment and

¹⁰⁶ Stanovik and Gerovic, 2004.

building. The apartments for family welfare beneficiaries are suggested to be free of rent. Besides these it is suggested that the State by itself constructs or, through tax exemptions and subsidies, encourages investors to build apartments for the low-income households. Rents of these units are assumed to cover the cost of investments and maintenance, but to be profit-free.

Concluding comments

Republic of Serbia

In the latest national and municipal housing programmes the targeted beneficiaries have mostly been workers and civil servants. The housing resettlement activities for refugees and IDPs have been funded by UNCHR and international donors. To a small extent the Roma population has also benefited from housing assistance. Still there seems to be a view that the government should support employed people to access owner-occupied housing. The priority of government assistance should, however, be to support the most vulnerable population groups living in poor housing conditions and young, low-income couples and families without access to affordable housing. The new social rental stock should be aimed at these groups.

Slums and substandard settlements represent the worst housing problems in Serbia. The three groups residing in these places are refugees, IDPs and Roma. The implementation of the National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons has been slow due to inadequate funding²⁵. At the moment the government is proceeding with closure of the collective centres, which may leave some former occupants even more vulnerable for an interim period if adequate alternative housing solutions are not provided. International and local assistance has focused exclusively on the occupants in collective centres, while other refugees and IDPs living in private, temporary and often inadequate accommodation have been excluded.

Besides the above mentioned groups of people living in slums and substandard settlements, there is another type of housing

shortage i.e. the hidden homelessness. Many young couples with or without children, who do not own their own apartment, are paying more than half of their monthly income for the rent of a modest apartment. This is particularly a problem in the larger cities such as Belgrade, Nis, and Novi Sad.

The existing situation shows that financial assistance for maintenance and utility costs for vulnerable households is needed. Financial support might be necessary for the upgrading of illegal structures as well as exemptions from fees for their legalization in the case of poor and vulnerable households. When legalization and upgrading is not possible, relocation in social rental housing could be the only option.

The Government's housing policy paper should define the priorities of the central government in housing, and specifically in social housing, and the main mechanisms to address these goals. The social housing strategy should contain a detailed approach for implementing social housing projects and activities. The issues to be considered are, for example, sources and mechanism of housing finance, cost-recovery mechanism, transparent subsidy and assistance schemes, guarantees, minimum housing standards, tenure options, ownership rights, clear eligibility/beneficiary criteria and selection procedure of beneficiaries.

The Local Self-Government Law increased administrative, financial and policy-making powers of local governments together with additional budget transfers²⁶. However, land and property ownership questions between the central and local governments have to be resolved to empower local governments to implement local social housing policies. Generally municipalities have several means to execute social housing, such as land policies (planning, regulation and allocation), legalisation, use of building standards and permits, provision and costing of infrastructure, municipal taxation, use of existing building stock and mobilization of their own housing finance. In general, the greatest social housing needs are in the large cities, such as Belgrade, Novi Sad, Nis, and Kragujevac. These cities are in dire need of social housing programs.

²⁵ UN, 2003.

²⁶ SIRP, 2003.

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The Housing Action Plan contains the redefinition of central and local government support in housing for the socially vulnerable groups, as well as identification of low-income and vulnerable groups requiring special care. Furthermore, it refers to the design of the social housing mechanism for these groups. This is

highly recommended, and the main target group for social rental housing should be the most vulnerable individuals and families. In addition, strengthening capacities of municipalities to plan and implement social housing programmes is important, especially in the growing cities of Podgorica, Niksic, Bar and Herceg Novi. The introduction and development of local solutions and tools for the implementation of social housing activities is very significant.

LAND ADMINISTRATION AND HOUSING MARKET DEVELOPMENT

A. Introduction

This chapter is focusing on the land administration systems in Serbia and Montenegro, which had a common origin, but had been developed in different directions, as well as on property market developments pertinent to housing issues.

The term “land administration” has been defined by the *UNECE Working Party on Land Administration* as a formal system to identify and locate land and real property and to register ownership and other rights as an indispensable tool for a market economy and for sustainable management of land resources. The development and maintenance of housing, a functioning land and real property market and real estate development also are based on such a system.

The land administration system prevailing in Central Europe is based on principles which in general are followed by Serbia and Montenegro, such as:

- The cadastre defines an object, i.e. a land parcel with all improvements (buildings, or parts of buildings permanently fixed on it; this is called the “superficies solo credit principle”.
- The purpose and objective of the cadastre is the collection and processing of data on cadastral plots, buildings and parts of buildings, i.e. the position, shape, area and use of a land parcel, and people claiming rights on it.
- All land parcels are supposed to be registered with their physical data in the cadastre. No difference is made between state or privately owned land as in the eyes of the law, public and private parties have equal rights.
- The acquisition of property rights (purchase/sale, heritage, gift), mortgage rights and other rights, i.e. the “title”) has to be realized through the legal “modus” of registration in the real property

register. The registration has a constitutive character.

Cadastre and real property registration are essential instruments for providing the State and the economy with reliable data on real estate and about real property and its improvements. Such data are not only necessary for the creation of legal certainty with regard to real property, but also serve as an authentic source of information for economic transactions with real property and for each citizen involved in such a transaction. In addition, reliable data on land and real estate guarantee fair taxation and provide the basis for land administration, land use planning and for other areas.

Land use is a core element for economic activities and has to be organized in terms of objectives, laws and regulations and institutions for implementation. The objectives of the determination of land use are to keep a balance between (1) economic development of the land, (2) social, economic, cultural needs of the population affected by the actual or planned use of the land, and (3) the protection of nature and natural resources. To arrive at such balanced sustainable policy decisions, a carefully structured decision-making process based on objectives, reliable information and data that have been prepared by a competent institution is required. An effective control mechanism preventing and correcting misuse or abuse of land and providing feedback for regulatory changes is needed.

Separate developments in Serbia and Montenegro since 2003 make it necessary to address the issues in a three-fold manner: (1) review the aspects common for Serbia *and* Montenegro, and then, separately for (2) Serbia and (3) for Montenegro. It has to be noted, though, that a major emphasis is given to Serbia as the legal and institutional situation there to a certain extent (unless otherwise described) applies also to Montenegro.

B. The land administration system in Serbia and Montenegro

1. Property rights

The cadastral and land registration system of Serbia and Montenegro dates from the 19th century and is based on the system of the Austro-Hungarian Monarchy and the common principles developed at that time. Parts of present Serbia and Montenegro were part of the Austro-Hungarian Monarchy until 1918. The Kingdom of Serbia had a similar land administration system which was continued by the Kingdom of Yugoslavia from 1918 to 1947 (see Annex).

With regard to (1) land administration and (2) real property market and real estate development, the present situation in Serbia and Montenegro can be characterized in a summary way as follows:

Land is categorized into construction (urban) land and agricultural (rural) land. Whereas the first category is still state-owned, the latter category to a large extent was privately owned. Efforts are now underway to create the basis for privatisation of the land.

Property rights. Along with the development of worker's management during *Tito's* regime, State property was reduced and converted into so-called "social property". Socialist self-management did not mean participation of workers in management, but management by workers themselves. This system was applied in all fields of social activity, like business, trade, health, education etc. Social property originally was understood as the property of all citizens. In fact, it meant that means of production (capital or other) were "*socially owned*" and thus belonged to society as a whole, represented in management by workers who operated these means.

In 1946 all private companies engaged in any of 42 specifically enumerated major economic sectors (among them mining, transportation, printing, building, banking, insurance) were nationalized and transformed into government (State) ownership. The property of "national enemies" was nationalized or confiscated, while the property of absent persons was put under sequester. In 1948, private companies were nationalized. In 1958, dwelling houses consisting of three or more apartments, as

well as building lots located within the building areas of cities and settlements (urban building land), were nationalized. By these actions, ownership rights in the former SFRY had mostly been abolished: not only were the assets of companies nationalized, but also many assets were confiscated from "national enemies". Limited private property was recognized in the form of agricultural land (up to 10 ha), and residential buildings with up to 2–3 apartments, which deprived many owners of their property. Apartments and residential buildings exceeding this limit were proclaimed public property and they were used under the same conditions as were new public apartments constructed afterwards. They were allocated to citizens who were the holders only of the occupancy rights.

Business premises and business buildings were confiscated in a similar way to apartments and residential buildings. They remained strictly public property, and after 1990 became the State property of the Republic of Serbia and Montenegro. These business premises are managed and leased to private entities by the State through the local self-management bodies.

Since 1989, restrictions on private property ownership have been abolished.¹⁰⁷ Ownership and other rights over property are guaranteed by the Constitution of the FRY (see Articles 51, 69, 70 and 73) as well as the Constitution of the Republic of Serbia (see Article 72), both to individuals and legal entities. Social property is not mentioned in the 1992 Constitution of the FRY, which just distinguishes between private, state and co-operative ownership.¹⁰⁸ The Constitutional Charter of the Federation of Serbia and Montenegro, adopted in March 2003, does not distinguish between different forms of ownership. Article 11 of the Constitutional Charter states: *Economic relations in Serbia and Montenegro shall be based on market economy that rest on free enterprise,*

¹⁰⁷ Injustices caused after the Second World War were corrected only partially. Under the Law on restitution of land to previous owners, referring to land taken in 1953 and held in social ownership under agricultural land fund (Official Gazette No. 18/1991), the agricultural land was returned. But this Law did not include restitution of land confiscated between 1945 and 1953 within the Agricultural Land Fund. Around 85 per cent of agricultural land in the fund was taken by force.

¹⁰⁸ However, social property is still present in the Constitution of the Republic of Serbia of 1990 (see Article 56 of the Serbian Constitution).

competition, liberal trade policies and the protection of property.

The Law on Basis of Ownership and Proprietary Relations¹⁰⁹ establishes the principles for ownership rights on movable and immovable property and contains regulations on acquisition on rights, types of rights and transactions. Article 24 of this law states: “A person who might erect a building or any other structure on the land which is in another’s ownership shall acquire the right of ownership also on the land on which the building is erected and on the land which is necessary for its use, if that person did not know or could not have known the he/she is building on someone’s else land, or if the owner of the land knew about the constructor’s activities and did not object immediately. The owner of such land has the right to compensation within three years from the day he/she became aware of the finished construction, but at the latest ten years after finished construction and can claim the value of the land in the amount of the sales price valid at the time of issuance of the court decision.”

Articles 25, 26 contain provisions on adverse possession; the right of pledge is dealt with in Article 61, while easement is defined in Article 49.

2. Cadastre and property rights registration institutions and procedures

Traditionally, in the region of South Eastern Europe, courts were competent for the registration of real property rights, whereas administrative authorities had to ascertain the physical status of real property, like location, size and value. The Land Cadastre, together with the land books, was introduced during the times of the Austro-Hungarian Monarchy at the end of the 19th century. Unlike the land books, the land cadastre is comprehensively available for the entire territory.

Until 1988, public records of real estate and title holders on real estate were maintained in land books and in the land cadastre. In 1988, the

Serbian Government decided to transform the then existing dual system into a new unified Real Estate Cadastre.

C. Analysis of the Situation in the Republic of Serbia

1. Land and land use

The actual situation in Serbia is characterized by the lack of a concept for comprehensive spatial planning and land use. There are only basic land use categories established by law as shown below. The law classifies all land into two categories:

Construction land:

- Public construction land;
- Other construction land.

Agricultural land:

- Cultivable (arable);
- Uncultivable.

In the cities public construction land is defined by the master plan. All public construction land is in the ownership of the Republic of Serbia, effectively establishing a State monopoly. One can only acquire the exclusive “right of use” on the urban building land under the following procedures:

First case – no building

The “right of use” of building land is obtained through an open public bidding procedure or through a public tender (for buildings bigger than 10,000m² or in cases where the building site has not been assigned). The price is determined by taking into account the site location and the cost of the infrastructure development. The municipality issues the license for the “right of use” of the building land to the highest bidder.

¹⁰⁹ Zakon o osnovama svojinskopravnih odnosa -- Official Gazette SFRY No. 60/80, 36/90, Official Gazette FRY No. 29/96.

Second case – existing building

Another way to obtain the “right of use” of urban building land is to acquire the building on that land. When acquiring property rights on the building (construction in any stage), the exclusive “right of use” is automatically acquired as well.

2. Legal framework

The main laws governing property rights and/or real property registration in Serbia are the following:

- *Constitution of the Republic of Serbia of 1990;*
- *Constitutional Charter of the State Union of Serbia and Montenegro of 2003;*
- *Federal Law on Basic Elements of the Property Rights 1980;*
- *Federal Law on Obligations of 1978;*
- *Law on Land Books¹¹⁰ of May 18, 1930 (came into force on January 1, 1931) plus the*
- *By-law on keeping the land registers¹¹¹ of 1931;*
- *Housing Law¹¹² of 1992;*
- *Law on Restitution of Agricultural Land¹¹³ of 1991 as amended in 1996;*
- *Law on Assets in the Ownership of the Republic of Serbia¹¹⁴ of 1995;*
- *Law on Basic Elements of the Property Rights;*
- *Law on State Survey, Cadastre and Registration of Rights on Real Property.*

Property relations are mainly regulated by the *Law on Basic Elements of the Property Rights of 1980*, as amended in 1996. This law defines the terms of possession, ownership, the acquisition of possession and ownership on movables and real estate, based on the principle of “title and modus”. It further contains regulations on rights and obligations of the owner, liens, co-ownership, rights of foreigners on movables and real estate, as well as the loss of ownership and possession, respectively. Pursuant to its Article 33, the ownership right on real estate can be acquired only by way of entry into the public book or by way of any other appropriate way provided for by law (see above). This rule, however, has never been “executed” strictly, and real estate used to be sold, rented etc. without prior entry into the land registers. Due to the unreliable status of the land books and the fact that land books were not updated properly after the Second World War, even courts used to protect the “real” holder of the real estate more than the registered owner.

The *Law on Land Books of 1930* is still applicable in Serbia in those cases which have not been regulated by laws enacted later. After 1945, the courts did not apply it directly, but applied its principles such as the principles of registration, trust in the correctness of the land book entries, priority and legality. In addition, the Serbian *Law on State Land Survey, Cadastre, and Registration of Rights on Real Property (SSCR Law) of 1992* has taken over all relevant regulations and conditions of the *Law on Land Books* of 1930. The Real Estate Cadastre established by this law, like the land books, is kept open to the public, so everyone interested in the legal status of a particular parcel of land may inspect the registers and obtain an extract from the land book.

The most important codes are the following:

- *Law on Obligations, which provides regulations of general contract law, commercial contracts, law of torts (damages), unjust enrichment et al., and contains general principles of civil law, which are also well known in the Austrian civil law tradition (e.g. freedom of contract, good faith and fair dealing, prohibition of abuse of rights et al.);*
- *Inheritance Law¹¹⁵ of 1996;*

¹¹⁰ Zakon o zemljišnim knjigama, "Official Gazette of the Kingdom of Yugoslavia" / "Službene novine Kraljevine Jugoslavije" No./ (Kingdom of Yugoslavia) br. 146-LIII/307, 146-LIII/308, 62-XVIII, 62-XVII/105, 64-XIX/120.

¹¹¹ "Official Gazette of the Kingdom of Yugoslavia" / "Službeni glasnik Kraljevine Jugoslavije" No. / (Kingdom of Yugoslavia) br. 64-XIX/102 of March 21, 1931.

¹¹² Zakon o stanovanju, "Official Gazette RS" / "Službeni glasnik RS" No./ br. 50/92, 76/92, 84/92, 33/93, 53/93, 67/93, 46/94, 47/94, 48/94, 44/95, 49/95, 16/97, 46/98, 26/01.

¹¹³ Zakon o povratku obradivog poljoprivrednog zemljišta, "Official Gazette RS" / Službeni glasnik RS" No./ br. 18/91, 20/92.

¹¹⁴ Zakon o sredstvima u svojini Republike Srbije, "Official Gazette RS" / "Službeni glasnik RS" No./ br. 53/95, 3/96, 54/96, 32/97, 44/99.

¹¹⁵ Službeni glasnik RS" No. / br. 46/95.

- *Law on Marriage and Family Relations*¹¹⁶ of 1980;
- *Federal Law on Contentious Procedure*¹¹⁷ of 1977, the republican *Law on Non-contentious procedure*¹¹⁸ of 1982, the federal *Law on Execution Procedure*¹¹⁹ of 2000;
- *Federal Law on Basic Elements of the Property Rights (Property law)*¹²⁰ of 1980.

The main laws governing institutions and/or procedures with respect to real property registration are the following:

- *Law on Interior Settlement, Foundation and Revision of Land Registration of 1930*;
- *Law on Land Registration Division, Depreciations and Ascriptions of 1931*;
- *Law on Conveyance of Real Property*¹²¹ of 1998;
- *Law on Maintenance of Residential Buildings*¹²² of 1995;
- *Law on State Land Survey, Cadastre, and Registration of Rights on Real Property of 1992 (SSCR Law)*;
- *Law on Privatization*¹²³ of 2001, as amended in March 2003;
- *Planning and Construction Law*¹²⁴ of May 2003. This new law combines several former laws into one single law. By its adoption the following laws became invalid:
- *Law on Building land*¹²⁵ of 1995;

- *Law on Planning and Spatial and Settlement Area Regulation*¹²⁶ of 1995;
- *Law on Erection of Constructions*¹²⁷ of 1995;
- *Law on Special Conditions for Issuing Construction Permits and Use Permits, respectively for Particular Property*¹²⁸ of 1997.

In the Republic of Serbia today, the *Law on Obligations*, adopted in 1978 and revised in 1993, is still in force. Until now, **restitution of ownership** has not been resolved, although discussions are under way to resolve this issue.

Real estate and property rights registration

The Land Book System, based on a general cadastral survey of the real estate, was introduced in Serbia by enactment of the Law on Land Books and the Law on Interior Settlement, Foundation and Revision of Land Registration in 1930. Besides these regulations, two further laws were enacted which regulated the division, depreciation and ascription of land parcels in the Kingdom of Yugoslavia. Land books covered about 25–40 per cent of the territory of Serbia¹²⁹. They were well kept in Vojvodina and other parts at the coast in Montenegro, even during the socialist era. However, in Niš, Kragujevac, Priort and Užice, for example, the land books were not established. The land book system is gradually being phased out and replaced by the Real Estate Cadastre.

The Title Deed Book System (“tapija”) is a public record on the owners of real estate. The owners registered with the title book are given a “tapija” (deed) as a proof of the ownership, which states that a certain person is the owner of a house or a real estate. The title deed books were established in the Kingdom of Yugoslavia for those parts of the country respectively (southern

¹¹⁶ Službeni glasnik SRJ" No. / br. 22/80, 11/88, "Official Gazette RS" / "Službeni glasnik RS" No. / br. 22/93, 25/93, 35/94, 46/95.

¹¹⁷ Sl.I. SFRJ" No. / br. 4/77, 36/77, 36/80, 69/82, 58/84, 74/87, 57/89, 20/90, 27/90, 35/91,"Official Gazette FRY" / " Sl.I. SRJ" No. / br. 27/92, 31/93, 24/94, 12/98, 15/98.

¹¹⁸ Službeni glasnik SRS" No. / br. 25/82, 48/88, "Official Gazette RS" / "Službeni glasnik RS" No. / br. 46/95.

¹¹⁹ Službeni glasnik SRJ" No. / br. 28/00, 73/00.

¹²⁰ Sl.I. SFRJ br. 6/80, 36/90, Sl.I. SRJ br. 29/96.

¹²¹ Zakon o prometu nepokretnosti, Službeni glasnik RS br. 42/98.

¹²² Zakon o održavanju stambenih zgrada, Službeni glasnik RS br. 44/95, 46/98, 1/01..

¹²³ Zakon o privatizaciji, Službeni glasnik RS br. 38/01, 18/03.

¹²⁴ Zakon o planiranju i izgradnji, Službeni glasnik RS br. 47/03.

¹²⁵ Zakon o građevinskom zemljištu, Službeni glasnik RS br. 44/95, 16/97, 23/01; Službeni glasnik SRJ br. 16/01.

¹²⁶ Zakon o planiranju i uređenju prostora i naselja, Službeni glasnik RS br. 44/95, 23/96, 16/97, 46/98.

¹²⁷ Zakon o izgradnji objekata, Službeni glasnik RS br. 44/95, 24/96, 16/97.

¹²⁸ Zakon o posebnim uslovima za izdavanje građevinske, odnosno upotrebne dozvole za određene objekte, Službeni glasnik RS br. 16/97.

¹²⁹ The coverage of land books cannot be estimated due to controversial information varying from 25 to 40 per cent, depending on the source of information. According to several Belgrade judges, land books existed in up to 40 per cent of the Serbian territory, taking into account that only the territory of Vojvodina covers about 20 per cent. According to the GGA, land books existed for approximately 25 per cent of the territory of Serbia.

Serbia), that did not have land books. The title book system was inherited by the Turks.

The Land Cadastre was introduced during the times of the Austro-Hungarian Monarchy at the end of the 19th century. Unlike the land books, the land cadastre is comprehensively available for the entire territory. Serbia consists of 5,826 cadastral communities, organized in to 178 cadastral districts with the same number of cadastre offices in charge of surveying. Before admitting private surveying companies, all surveying work was performed by the cadastre offices.

The Land Cadastre contains data about parcels and land objects according to their position, shape, area, and category, more exactly about land cultivation, solvency, class, cadastre income (“fiscal cadastre”) and users. These data are maintained, calculated and recorded on the basis of cadastre parcels, organized by cadastral number and the denomination of the cadastre community in which that parcel is located. The position and shape of all cadastre parcels and objects on them are represented on the maps, while other data are recorded in cadastral registers¹³⁰.

The Real Estate Cadastre

Until 1988, public records of real estate and title holders on real estate were maintained in land books and the land cadastre. For various reasons, among them social and economical changes and new information technology, the Serbian government in 1988 decided to transform the then existing dual system to the new unified Real Estate Cadastre, uniting the maintenance of the factual status and the legal status of real property in one place. By enacting the *Serbian Law on State Land Survey, Cadastre, and Registration of Real Estate Rights (SSCR Law) in 1992*, as amended and extended in 2002, the Governmental Geodetic Authority (GGA) was instructed with the administration and maintenance of the Real Estate Cadastre. The GGA was empowered to perform not only works in the field of geodesy, but also legal tasks, namely to record entries of rights on real

property. Thus, since 1992, the courts are not competent any more to register immovable property of individuals or legal entities.

The Real Estate Cadastre is the public record of real estate objects and the rights established on them. It contains data about cadastral parcels, buildings, apartments and business improvements, separated parts of buildings and other structures, describing their position, shape, the area, kind of use, solvency, cadastre class, cadastral income, actual rights on them and holders of those rights. The Real Estate Cadastre, as a unique recording system of real property in the Republic of Serbia, enables the recording of all data about land, ways of using it, cultivation and class, objects, rights on real property and the holders of these rights in one place. When introduced in a respective cadastre municipality it replaces land registers, deed books and land cadastre documentation.

During the socialist period, the registration of public and State-owned real estate was not considered to be necessary. Land Registers became incomplete, inefficient and were not harmonized with data from the Land Cadastre. “Etagé”¹³¹ owners were not interested in the registration of apartments and other special parts of buildings until 1990. Registration was mainly requested by owners of family residential buildings. With regard to public “etage” property, big investors (public enterprises) had no interest to register neither the buildings nor the appartments. Since the privatization of public appartments was initiated in the 1990s, owners were anxious to register the acquired “etage” property, but were unable to do so since the buildings were not registered.

The current situation of the Real Estate Cadastre on the territory of Serbia is characterized as follows:

- Land Cadastre covers the whole territory;
- Real Estate Cadastre covers 55 per cent of total number of cadastre municipality;
- Land Book covers 19 per cent of the total number of cadastre municipality;

¹³⁰ Vojvodina has both land books and land cadastre; in 23 per cent of the territory the land cadastre is in stereographic projection and measured in a fathom system like the old Austrian fiscal cadastre (Grundsteuerkataster). The maps including this measurement are in bad physical condition.

¹³¹ „Etagé” (the word follows the original legal texts) indicate ownership of an apartment unit. As opposed to the condominium concept where ownership comprises a portion (undivided interest) of land and common areas plus the specific apartment unit, this type of ownership is restricted to the apartment unit whereas the land and common areas remain in the ownership of the state.

- 26 per cent of the cadastre municipalities do not contain data on real estate rights.

The amendments to the *SSCR Law* enacted in May 2002 brought about some significant changes, in particular that the GGA monopoly of geodetic works was abolished: all geodetic works “in the field” (surveying, separation of parcels, shots of the parcels, ways and road network) will be done by private geodetic companies in the future. The evidence of rights on real estate, however, stays with the GGA. Pursuant to Article 5 of the *SSCR Law*, rights on immovable property are acquired, transferred, restricted and deleted by entry into the Real Estate Cadastre. Rights “*in rem*” are ownership, mortgage rights, usufructus, and easements. The rights “*in rem*” referring to each separate parcel of land and the names of the respective beneficiaries appear on the face of the registers (in the respective column), called “real estate sheets”. According to Article 42 of the *SSCR Law*, the real estate sheet contains data on:

- The real estate (parcel of the land) (A sheet);
- The holder of the rights on real estate (B sheet);
- Building, apartment, business improvements as special parts of the building and additional construction property as well as the entity or holder of the rights on those parts (V sheet);
- Restrictions to rights on real estate (encumbrances) (G sheet).

Illegally constructed buildings are noted in the part G as an encumbrance “teret”.

The registration of rights in the Real Estate Cadastre is performed upon a resolution of a qualified lawyer at the GGA. The administrative decision is done by a commission consisting of a lawyer, a surveyor and a person of confidence from the municipality. The lawyer at the GGA only performs a formal review of the underlying documentation, whereby only easily recognizable deficiencies can be detected. The Resolution of the GGA can be appealed in an administrative procedure: first to the municipal cadastre office, second to GGA in Belgrade and third to the court.

The implementation of the Real Estate Cadastre is hampered by lack of financial resources and the inadequate education and

training of personnel. A major project of the World Bank, assisted by the EU and bilateral sponsors, is being prepared and implementation should start in 2005. The challenges are significant. For example, it took four years to complete the Real Estate Cadastre for Stari Grad (Belgrade), a municipality with 100,000 inhabitants, and six years for the cadastral municipality of Rakovica. Belgrade has about 1 million inhabitants who live in 17 municipalities. Related to this process is the legalization of illegal constructions which also result in a formal registration in the Real Estate Cadastre. In Belgrade there have been 45,000 requests for registration under the legalization program so far and 55,000 more are expected.

Urban planning

Problems with illegal construction in Serbia are to some extent perpetuated by the inability of the planning system to cope with rapid changes in the development process. The Planning and Construction Law, adopted in 2003, introduced the following key provisions:

- Clear hierarchy and tasks of different spatial plans;
- Distinction of land ownership – public (which can not be a subject of transactions) and ‘other’ (can be owned by any party and be a subject of transactions);
- Licensing regimes for participants in the planning and construction processes;
- Development of communal infrastructure is an obligation of public utility companies financed by user fees;
- A simplified procedure for issuing construction permits;
- A procedure for legalisation of illegally constructed buildings and extensions; and,
- Strict penalties (e.g. illegal construction is treated as a criminal offence and is subject to imprisonment).

Planning, particularly in urban areas, lags behind the needs of both investors and local communities. For example, many old plans envisaged high-rise development and intensification in the urban periphery. As these plans are neither realised for decades, nor updated, illegal construction has sprawled on formally agricultural land.

D. Analysis of the situation in the Republic of Montenegro

Legal framework

The *Law on State-Performed Surveying, Cadastre and Registration of Real Estate Rights* (Official Gazette No.55/2000) is based on the original *Law on State Land Survey, Cadastre, and Registration of Real Estate Rights* (SSCR Law) of 1984 and 1989 respectively. The main provisions of this law for the Real Estate Cadastre are:

- The term “immovable property” includes land, buildings, apartments and commercial structures.
- The cadastre is considered as the database evidence for the purpose of (1) legal, administrative, economical, scientific, statistical and taxation data, (2) proving of rights on such real property, (3) elaboration of spatial and urban plans, and (4) information for a wide variety of public and private tasks and activities.
- Surveying of real property is the basis for the establishment of physical data and their recording in the cadastre and the establishment of rights on such real property.
- Principles established in this law for the cadastre are: registration (only by registration the rights on an immovable property can be established), publicity and public access to data is given, surveying is a governmental task, but can be delegated to private, licensed and qualified surveyors.
- The cadastre is responsible for the geodetic network.
- The cadastre is organized into territorial units of cadastral municipalities and cadastral districts. Cadastral municipalities are identical with (administrative) municipalities.
- Land is classified in three categories: fertile land, non-fertile land, land with special use purpose. Sub-classes of land can be established. Most of the land is State-owned by the Republic of Montenegro, in particular in urban areas, whereas most of the agricultural land, now classified as “fertile land,” is privately owned.

- The cadastre is also the register for the registration of property rights (ownership and other rights). Registration is the modus of transferring property title.
- Other principles are contained in the law as well, such as legality (only rights defined by law can be registered), public trust, reliability and priority.
- The law also regulates joint ownership and condominium rights.
- The law differentiates between the actual registration (recording) and the pre-notation (conditional recording until final conditions are met within a time limit).

In 2002 a *Law on Restitution* was passed, but its implementation is doubtful.

2. Real estate cadastre and planning issues

The Directorate for Immovable Property is the Republic of Montenegro’s agency responsible for the functions of the cadastre and rights registration. It has 21 district offices performing cadastre and rights registration functions. Its organization and its capability to exercise its functions can be described as very poor due to lack of financing, poor technical standards and equipment and staffing problems.

The data in the Real Estate Cadastre in Montenegro is organized in to four sheets:

- The A sheet contains data on the real estate.
- The B sheet contains data on the holder of the rights on the real estate.
- The V sheet contains data on buildings and other improvements.
- The G sheet contains data on encumbrances.

Illegal construction is noted in sheet G as an encumbrance.

The Real Estate Cadastre is open to the public and its organization is similar, albeit more extensive, to the Austrian “Grundbuch” organization. The costs for services are as follows: information (abstract) from the land book is Euro five, while from the cadastre - Euro 10. Registration takes 15 days to one year, but for a

Euro 22 fee registration can be performed in one day.

The real estate cadastre system in Montenegro requires urgent attention. According to local experts, “the percentage of the territory of the Republic included in the Real Estate Cadastre is 56 per cent. For the remaining part there is no cadastre record, since this territory was covered by the Inventory Cadastre Recordings performed approximately 60 years ago. This part of the territory does not have official topographical cadastre maps.”

As a result, urban planning, the operation of real estate markets and resolving the problem of illegal construction is severely hampered by the status of the Real Estate Cadastre. Furthermore, land for construction in urban areas is owned by the State. To a small extent, State (Republic) land is being auctioned by the Directorate for Real Estate of Podgorica for real estate development purposes. This Directorate is also responsible for short-term land leases of up to one year. The large amount of illegal construction makes it almost impossible to create and prepare land for orderly real estate development through urban planning and the creation of infrastructure. At the same time,

creation of infrastructure. At the same time, though, municipal authorities are deprived of revenues from taxation, fees and payment for communal services, which are desperately needed for performing municipal functions.

A new *Law on Physical Planning and Development* is in the process of adoption, intending to introduce, among others, the following key provisions:

- Clear hierarchy and tasks of different spatial plans;
- Procedures for harmonisation of different types of plans;
- License regimes for all participants in planning and construction;
- Measures for non-compliance with statutory plans.

Inherited issues, deficits and inertia in spatial planning are still issues that need to be addressed. In addition, many urbanised areas lack some or all levels of spatial plans; in many others - the existing old plans are inadequate to present needs and interests in development. The process of legalisation will inevitably lead to much compromise in the new urban plans.

CONCLUSIONS AND RECOMMENDATIONS

The assessment of the housing sector of Serbia and Montenegro has identified a number of challenges as well as opportunities for reforms to improve access to affordable and adequate housing. Major reforms have been initiated in both republics to develop the framework for a market-based housing system. Housing has not been a political priority so far and the attention to social housing issues is mostly driven by concerns for integration of refugees and IDPs (Internally Displaced Persons). Housing reforms have been eclipsed by economic and political crises. The future reform path, however, requires a significant commitment to the development of the right mix of legal, financial and institutional mechanisms to enable more efficient operation of housing markets and the provision of social housing.

This chapter highlights the major findings of country-specific assessments. It explores progress in housing reforms in Serbia and Montenegro with a particular focus on the following issues:

- Housing conditions: trends and challenges
- Institutional reforms
- Reforms of housing legislation
- Reforms in housing finance and support for housing from public sector.

The evaluation of both republics is then linked to a set of major recommendations for specific reforms to be undertaken at the next stage of housing policy development and implementation. An attempt has been made to highlight the similarities and differences in the housing system of Serbia and Montenegro and to define specific priorities for action in the areas of housing policy, institutional, legal and financial reforms.

A. Introduction

This last decade has brought considerable challenges to the housing sector, due to overall economic difficulties in Serbia and Montenegro and the influx of refugees and IDPs. In 2004, the State Union of Serbia and Montenegro still hosted

the largest number of refugees and IDPs in Europe. In 2004 there were 283,349 registered refugees (270,341 in Serbia and 13,008 in Montenegro) from Croatia and Bosnia and Herzegovina, and 226,410 registered IDPs (208,391 in Serbia and 18,019 in Montenegro) from Kosovo. Most of them live in private accommodation, while 17,000 remain in collective centres.

Other challenges stemming from the period of economic and political transition are growing poverty and unemployment. Serbia's GDP today is half that of pre-reform levels: 10.3 per cent of households live in poverty, and 19.5 per cent are at risk of falling below the poverty line. The official unemployment rate based on the ILO definition is close to 12 per cent while a number of statistics place it much higher (in the range of 30 per cent). The grey economy is pervasive. In Montenegro, unemployment is as high as 30 per cent and poverty rates are close to 11 per cent. The highest rates of poverty are found among a number of vulnerable and socially excluded population groups. According to the most recent estimates, 22 per cent of refugees and IDPs live in poverty.

Few housing policy developments in either republic address the need for a comprehensive legal, institutional and financial framework for the efficient operation of the housing sector. The traditional system of enterprise and/or state provision of housing has collapsed. Growing housing demand, in the absence of an adequate framework regulating new private initiative, has led to immense illegal construction resulting in a great number of new unplanned settlements in large urban centres. At the same time, limited public support for the maintenance and management of the existing multi-unit housing has resulted in a further deterioration of the housing stock, in the absence of investment in refurbishing or upgrading by homeowners.

The Government of Serbia has started to take measures to tackle the challenges brought by

the period of economic and political transition. It adopted a draft *National Housing Policy* in 2002. The development process, however, was delayed by lack of funding and frequent changes in government. The housing policy received new impetus in 2004 under the Ministry for Capital Investments.

In Montenegro, the Government is preparing a *Housing Policy Action Plan* (HPAP) to address key challenges in the housing sector. The HPAP was initiated by the Ministry for Environmental Protection and Urban Planning, in 2004, and has been developed through consultation with the main national stakeholders in the housing sector, including representatives from banks and housing associations, as well as with international organizations active in Montenegro's housing sector.

In both republics, the development of housing policies needs to be accompanied by a number of changes in the legal and financial framework as well as capacity building to enhance the efficiency of housing sector institutions.

B. Republic of Serbia: Evaluation of housing reforms

1. Housing conditions

According to the preliminary results of the 2002 Census, the population of the Republic of Serbia (7.498 million) relied on a total housing stock of 2.96 million dwellings – an average of 394 units per 1,000 people. Compared with other former socialist countries, the size of Serbia's housing stock seems adequate. The total number of dwellings exceeds that of households by over 341,000 (about 11 per cent). Another aspect suggesting a reasonable volume of housing is the continued increase in the stock by 8.1 per cent between 1991 and 2002, while the population increased by one per cent.

Despite the availability of housing in general, its distribution is not necessarily adequate to meet housing needs. There are many dwellings with more than three occupants per room (about 590,000 occupants in just 120,000 dwellings) and over 54,000 people occupy about 18,000 substandard dwellings.

Amenities are a key factor of housing quality. Though new construction has improved

access to basic amenities, the provision of piped water and sewer should be a priority for housing policy in the Republic of Serbia. As of 2002, 18 per cent of rural housing remain without piped water indoors, while 40 per cent have no access to a flushing toilet and shower.

Serbia, like most other countries in transition, has a high share of homeownership and only about 2.1 percent of public housing (58,000 units). Most of the 700,000 public rental units - socially owned enterprise housing - were privatised during hyperinflation (1992-1993). Private rental housing has grown in importance in recent years, particularly in large cities across Serbia.

Though explicitly regulated since 1995, management and maintenance of multifamily housing appears to be problematic. The performance of maintenance is an obligation of owners' associations under the supervision of local administration. Public maintenance companies still dominate the market in all major cities – approximately 62 per cent of apartments in the 11 major cities are clients of public maintenance companies. Owner's associations have been slow in establishing themselves as legal entities. In addition, the overall impoverishment of the population prevents adequate mobilization of funds to deal with day-to-day repairs. The stock as a whole suffers from continuous insufficient investment in maintenance and depreciation in value.

New housing construction has decline, as in most transition countries, with annual volumes ranging between 10,000 and 11,000 in the late 1990s, or an average of 14 units per 10,000 people. Most of the housing – 83 per cent in 2002 - is built by the private sector. In addition to a high share of homeownership, before the transition, Serbia also showed high rates of privately built new housing (72 per cent in 1989). As construction loans are limited and expensive, most of the new construction is pre-sold and financed by the future owners. Reportedly, most cash-investment comes from remittances. A large share of new dwellings are built without building permits. Estimates range from 500,000 to 900,000 across Serbia, resulting in *large informal settlements in cities*. Informal settlements vary in terms of standard (from slums to luxury residences), location (from suburbs to city cores and protected areas) and size (from several small units to over 50,000 residents' settlements). The

complexity and vast scale of the illegal construction issue would require much more political attention, resources and wider social involvement.

2. Evaluation of the institutional framework

Public sector institutions. In Serbia, the need to improve the efficiency and transparency of the public sector is a high priority. A decade of politicization and centralization of authority, combined with economic collapse and the outflow of educated and skilled people, have left most public institutions in disarray. Frequent changes in regulations, corruption, and misuse of state institutions for political purposes have all negatively affected public administration.

The Housing Affairs section of the Ministry of Capital Investments is the key driving force in housing policy at central government level, but it needs long-term support from other ministries to achieve real change. Recent proposals advanced the idea of setting up a separate National Housing Agency with the potential to introduce stability into housing policy and overcome political fragmentation.

The intention of the government is to move away from the role of provider in housing towards an 'enabling' approach. This will require the development of new skills and methods. National and local government bodies concerned with housing should find ways of encouraging and promoting good practice, and of incorporating the views of a range of stakeholders into policy-making.

Local governments have acquired a critical role in housing with some of the newly established Municipal Housing Agencies offering examples of good practice in housing reforms. The issue of sustainable funding is particularly critical for municipalities, as the scale of responsibilities exceeds current resources, particularly in the context of declining donor assistance.

A good number of institutional reforms have been catalyzed by the Settlement and Integration of Refugees Program (SIRP) supported by the Italian government and UN-Habitat, and carried out under the auspices of the Ministry for Capital Investments. At the national level the programme has helped to develop the instruments needed to create housing policies. At

the local level SIRP has played a key role in developing the aforementioned Municipal Housing Agencies, which provide experience that will be valuable in extending the provision of social housing.

Private and non-governmental institutions. There are many construction companies in Serbia with the capacity and expertise to undertake housing projects, including large firms currently building apartment blocks. The maintenance sector now includes private companies as well as public enterprises, but the proportion of apartment blocks maintained by each varies greatly between areas. The country has 46 banks and less than 10 of them are owned by foreigners, mainly Austrian banking groups. Real estate agents and other market intermediaries have become established, although most of them operate in the informal sector and are not professionally licensed.

Resident associations in privatized apartment blocks have the potential to influence decisions about their housing. However, there does not seem to be any systematic approach to training residents to exercise their responsibilities. Resident or community-based organizations, though currently few in number, will be essential intermediaries in the dialogue between municipalities, planners, infrastructure services providers and owners of illegal housing. The recently formed Association of Tenants could help disseminate the experience of local groups.

3. Reform of housing legislation

The period since approval of the *Housing Law* in 1992, when public provision was replaced by market provision of housing, has witnessed the deregulation and subsequent disintegration of state responsibility. A mere rhetorical obligation that 'the state takes measures for the creation of favourable conditions for housing construction and for meeting the housing needs of socially vulnerable persons', has never been implemented. These responsibilities were delegated to municipal governments who played an important role in the administration of Funds for Solidarity Housing Construction. Furthermore, the *Law on Local Self-Government* (2002) that came into force in September 2004 was accompanied by fiscal and budgetary changes that aim to transfer even more power and responsibilities to the local level. Municipal governments will be expected to develop and implement local housing policies in

accordance with the *Draft Law on Social Housing*. The draft law merely describes basic responsibilities at the central/republic and local/municipal levels, i.e. the establishment of the National Housing Fund and of the local Municipal Housing Agencies. Municipal governments have the right to allocate land for construction purposes, yet the decision to do so is arbitrary, as the procedure remains unregulated. All urban construction land is owned by the central/republican government. The title to a building does not arise legally until the construction is complete, consequently hindering the development of secured construction financing.

With respect to maintenance and management, although the *Law on Basic Elements of Property Rights and on the Maintenance of Residential Buildings* establish the responsibility of the co-owners of a residential building to maintain the building, in reality such buildings are not maintained. This can to a large extent be attributed to the absence of a comprehensive *Law on Condominiums* clearly setting out the obligations of co-owners and the mechanism for fulfilling those obligations. Furthermore, condominium ownership is not formally recognised, therefore the inability to register such ownership reduces the ability of homeowner associations to raise funds for building maintenance.

The transformation of the previous dual system, which identified title holders and the physical characteristics of immovable property into the new unified Real Estate Register of Serbia, was initiated by the introduction of the *Law on State Survey, Land Registration and Registration of Rights to Real Property*. So far, however, the law has not been fully implemented, since the Real Estate Register covers only 55 per cent of the territory. This can be largely explained by the initial absence of documentation on state ownership of immovable property and the consequent lack of documentation on property transactions since privatisation began in 1992. Implementation will remain incomplete until the issue of the legalization of illegal construction has been resolved.

The implementation of an effective system for the registration of land and immovable property is necessary for the creation of a sound legal framework for property rights and the development of a real estate market and mortgage

financing. It would also provide a source of data on land and real estate that allows for the imposition of a fair level of taxation, as well as the development of a coherent land administration and planning policy.

4. Reform of housing finance and state support for housing

Mortgage lending is just emerging in Serbia with initial offerings mainly by foreign banks. A typical loan-to-value ratio is 70 per cent; the interest rate is approximately 10-12 per cent and maturity is up to 20 years. The absence of mortgage law and other important legal provisions related to land registration, foreclosure and bankruptcy is a major constraint for the development of housing finance. Furthermore, banks don't have access to long-term resources for mortgage lending. The reform of pension and insurance systems, as well as the introduction of investment funds, is still ahead.

Despite the absence of a primary market for housing finance, housing transactions have increased considerably, and in Belgrade alone had reached 100,000 in 2004. Purchase prices in the secondary market vary widely depending on location and the condition of the property. Interviews with real estate agencies in November 2004 indicate that the purchase price of a typical 80 m² flat in Belgrade could be between EUR 125,000 and 250,000, while in Novi Beograd (suburban location) it ranges between EUR 50,000 and 75,000. In Niš or Novi Sad the prices are around EUR 900-1,000/m². Despite widespread poverty, high unemployment and underemployment in Serbia, the above sporadic statistics on housing prices demonstrate clearly that the housing market reflects the size of the grey economy, which is estimated to be between 30 and 50 per cent of the size of the official economy.

Housing costs have increased in Serbia during the transition, but still remain modest compared to other countries in transition. Owners and public sector tenants spend approximately 10 per cent of their income on housing, while in the private rental sector the share is as high as 27 per cent.

Public expenditure on housing. Funds for housing were mobilised through income tax, set between 0.3 per cent and one per cent of salary, which replaced the Solidarity Fund in 2001. The

assembly of the municipality defined the tax rate and the allocation of revenues for housing construction. The legislation neither defined conditions for distribution of resources (criteria, target groups, conditions for granting and refunding of resources, etc.), nor enacted other by-laws or monitoring systems. This tax was scrapped in July 2004.

A new policy instrument – a State insurance of mortgage credits provided by the *National Corporation for Insurance of Housing Credits (NKOSK)* – has recently been launched. There is concern about the fact that the NKOSK will be active in the financial market without supervision by the National Bank, a license, without fulfilling the capital requirements obligatory for other market participants and enjoying an implicit guarantee. In addition, this form of state support for housing appears to be poorly targeted. Given the prices in the housing market, less than 10 per cent of households can qualify for a mortgage. Without explicit guidelines on targeting, two scenarios are possible: (a) NKOSK will insure a large amount of high-risk mortgage credits thus imposing high costs on the State budget; (b) NKOSK will insure only low-risk mortgage credits, thus subsidizing households that least need state support. There are also plans to establish a National Housing Fund as well as municipal/regional funds.

Other social housing activities of the Government of Serbia have roots in integration programmes for refugees and IDPs. From 1996-2003 the Commissariat for Refugees and UNHCR together with other partners, such as Swiss Disaster Relief and the Norwegian Refugee Council, provided resettlement assistance for more than 2,400 households. The main components has been assistance to local settlements through full construction, self-help or partial self-help. Another important part was the rehabilitation and maintenance of the collective centres. Support for the housing sector also includes the reconstruction and extension of the home for mentally disabled children and youth and the rehabilitation of home, for the elderly.

The implementation of the *National Strategy for Resolving the Problems of Refugees and IDPs* has been slow due to inadequate funding. At the moment the government is proceeding with the closure of the collective centres, which may leave some individuals

more vulnerable for an interim period, if adequate alternative housing solutions are not provided. International and local assistance has focused exclusively on the occupants of collective centres, while other refugees and IDPs living in private, temporary and often inadequate accommodation, have been excluded.

Under the Settlement and Integration of Refugees Programme (SIRP), 670 housing units for refugees and local vulnerable people are being built. However, the other components of the programme, in particular those related to the institutional housing reform and the establishment of a cost recovery system are of even greater importance to the housing sector.

Implicit housing subsidies. Despite the relatively low level of direct budget allocations to housing, considerable public resources indirectly flow into the sector. This takes a variety of forms: privatization of public/socially owned housing at below market prices; subsidies to cover emergency repairs in multifamily housing; below market rents in public rental housing; non-existent market-based property taxation and land lease prices; no value added tax on housing construction; and no cost-recovery mechanisms for utility infrastructure connection and improvement. This lack of financial transparency and fiscal discipline in the housing sector reflects the rudimentary nature of housing policy in Serbia and needs to be reconsidered. For example, property taxes are based on the dwelling's surface area and some generally defined zoning; an average property tax amounts to 8,000 dinars per year without any reference to market value of different locations. Until January 2005 there was no tax on housing construction, which effectively is a universal subsidy of 18 per cent. Taxes, fees and targeted subsidies are essential policy tools to rationalize housing consumption and encourage private investment in housing. They also mobilize financial resources for social groups in need of housing support.

C. Recommendations for the Republic of Serbia

Serbia does not have a clearly defined housing policy. The general lack of direction, cooperation and follow-up in government housing policies has received little attention so far. In fact no major activities in the housing sector have taken place since 2000. Actors within the housing

sector are thus faced with different laws without negotiated goals, priorities or a shared vision. Instead there are many different strategies, policies, and measures, some based on new laws, such as the *Planning and Construction Law* (2003), and some on old ones, such as the *Housing Law* (1992). There is a confusing mixture of old strategic documents like the *Spatial Plan of the Republic of Serbia*, and new strategies adopted recently, such as the *Strategy for Resolving the Problems of Refugees and Internally Displaced Persons* (2002), the *Poverty Reduction Strategy Paper* (2003), local strategic plans, etc. As a result, there are many pieces of housing policy scattered in different documents, lacking clearly defined priorities. Additionally, some of the goals and measures stipulated in the different documents are conflicting.

Problems within the housing sector need to be addressed in a comprehensive manner involving all major stakeholders, i.e. the different ministries involved in housing at the republic

level as well as local governments, housing associations, non-governmental, private and international organizations.

International donors should be encouraged to pursue greater co-ordination so that their contributions can better complement the development of a national housing policy. The establishment of a structured programme of knowledge transfer, research and capacity development is very much needed to assist the housing policy implementation in Serbia.

The recommendations are grouped in the following clusters:

- Housing policy priorities;
- Institutional development and capacity building;
- Changes in the legal framework;
- Reforms of the housing finance system.

Box 8.1: Recommendations for Housing Reforms in Serbia

1. Housing policy priorities

Housing policy framework

1.1. An inventory of existing policies, laws and regulations must therefore be made as a basis for any future housing policies and actions. This can be the basis for a comprehensive housing strategy, with clearly defined priorities.

Policies on maintenance and refurbishment of existing housing

1.2. One of the highest priorities should be to prevent further decay and inefficient use of the existing housing stock. A comprehensive approach to address these problems requires the following major initiatives: (a) action plans and timescale for modernization of housing and infrastructure; (b) pilot programmes, including loan and grant arrangements for priority areas; (c) preparation of simple, practical guidelines on energy efficiency measures.

Policies on new construction

1.3. Municipal land policies need to ensure a steady supply of land for housing in general, and for social housing in particular.

1.4. Measures for the legalization of informal housing should be taken in the preparation of the new generation of master plans supplemented with financial packages including residents' contribution to the cost of infrastructure and essential services.

Policies on social housing provision and housing assistance

1.5. Central government is advised to develop, in co-operation with representatives from municipalities, a social housing programme which defines the objectives of the government and main mechanisms to address these objectives:

- The programme should focus on the poorest and most vulnerable households living in substandard and/or unsafe housing conditions, particularly refugees, IDPs and Roma;
- The programme should address housing finance, cost-recovery and subsidy schemes, housing standards, eligibility criteria of beneficiaries, municipal activities, and tasks of non-profit organisations and private developers;
- The government needs to define rental housing as the main form of tenure for social housing. (Please refer to the UNECE Guidelines on Social Housing available at www.unece.org/env/hs.)

1.6. The draft *Law on Social Housing* (and the necessary sub-legislative acts) should be revised in order to: (a) identify the role of municipal government in financing social housing and the relationship between municipal government and commercial banks; (b) impose an obligation on municipal government to allocate land for the construction of social housing and to establish a procedure for this allocation; (c) define beneficiaries, allocation procedures (means-tested), rents based on cost recovery and management obligations.

1.7. Central government is advised to develop and introduce housing benefit to assist low-income households in the rental sector with rental costs and utility payments. This benefit should be means-tested and tenure neutral (available in the private and social rented housing) with possibilities for limited assistance to poor households in owner-occupied units.

1.8. It is also recommended that legislation be amended to clarify the rights and obligations of tenants under lease agreements, by introducing, for example, provisions regulating the premature termination of lease contracts and specifying the sanctions available to the landlord for the non-payment of rent.

2. Institutional development and capacity building

Central government

2.1. Structures and mechanisms should be put in place to ensure effective and long-term co-ordination and development of housing policy, particularly with regard to the establishment of the National Housing Fund and adequate staffing levels within the Ministry of Capital Investment.

Local government

2.2. Municipalities should ensure that they have sufficient funding and staff to: (a) develop local housing policies, including stakeholder consultation; (b) provide effective and efficient management of housing; (c) monitor the work of local housing organizations; and (d) manage the process of legalizing informal housing.

2.3. An assessment should be undertaken to determine the capacity of smaller municipalities to provide an effective housing service, and to consider other options in this area, such as joint arrangements or the use of non-profit organizations.

2.4. The experience of the municipal housing agencies, established under the SIRP programme, should be evaluated and information on good practices disseminated.

Private and non-profit housing institutions

2.5. A regulatory regime should be established to ensure adequate standards of provision by non-profit housing organizations, and to encourage continuous improvement in their service. This system could build on the experience of housing co-operatives. Non-profit housing organizations should be eligible for capital and/or revenue subsidies, subject to meeting regulatory requirements and providing housing for vulnerable people.

2.6. The Government should introduce a licensing scheme to regulate the work of housing market intermediaries - real estate agents, housing managers, property appraisers and maintenance firms – which meets international standards.

2.7. The Government, in partnership with municipalities, should support the work of residents' assemblies and associations of homeowners with training in bookkeeping, asset management, contract monitoring and effective negotiation.

3. Changes in the legal framework

Land and property ownership

3.1. The *Law on the Basic Elements of Property Rights* should be amended to allow for: (a) transfer of public construction land titles to municipal governments and privatization of construction land through auctions; (b) a clear definition (in conjunction with amendments to other legislative acts) of the authority and responsibility of municipal governments with regard to land management.

3.2. The *Housing Law* should be amended to make the right to privatize inapplicable to newly constructed social housing occupied on a tenancy basis. Provisions should be developed to account for adequate supervision of private renting, including contracts, tenant-landlord relations and tenant protection. If applicable, the development of a separate Landlord/Tenant Act should be considered.

Tax legislation

3.3. Budgetary legislation may be amended to enable municipal governments to manage housing responsibilities. This may be done by defining and increasing the percentage of central government tax revenue received by the municipal government. In addition, incentives for improvement of the municipal financial management system can be created by establishing clear debt limits for municipal authority borrowing and municipal credit rating.

3.4. The Government could consider the introduction of tax incentives for the construction of social housing by amending the *Value Added Tax Law*.

3.5. Improvement of the fiscal legislation and the system of property registration is needed to allow effective implementation of the new law on market based property taxation of real estate. This will mobilize much-needed public revenue from this source.

Mortgaging and registration

3.6. A *Law on Mortgages* is recommended where the creditor is able to foreclose without problems: it should include provisions stating clearly the grounds upon which the creditor may initiate action, and a building under construction may be the subject of a mortgage. In Serbia, as in other countries in transition,¹³² it is recommended to introduce, at least as an alternative to a regular "accessory" mortgage, a "non-accessory" pledge on land as a flexible instrument to secure credits.¹³³

3.7. The *Law on State Survey, Land Registration and Registration of Rights to Real Property* should be amended to allow for the registration of titles to buildings under construction and for the registration of condominium property. Tax legislation should also be amended so that income derived from the use of condominium property may be effectively used for the *maintenance of the residential building*.

3.8. The Government could consider the introduction of a *Law on Notaries* to make the registration of titles more effective.

Urban planning

3.9. So as to acquire building and occupancy permit for housing, an exhaustive list of the regulations and standards that must be complied with should be drawn up with detailed guidelines on legalisation of illegal housing. When a building is non-compliant with the provisions of the land use plan and/or with the necessary permit requirements, the rights and responsibilities of the registered owner should be specified.

3.10. *The Law on State Survey, Land Registration and Registration of Rights to Real Property* urgently needs to be fully implemented in the territory of Serbia in order to create legal certainty of property rights and to support the development of a real estate market and mortgage-based financing.

3.11. The profession of notary - according to Western European models - should be introduced in order to assist people with real estate transactions and to increase the security of such transactions.

4. Reform of the housing finance system

4.1. In order to promote a functioning primary market, one must ensure transparency of the market, low transaction costs and a reliable legal environment.

4.2. Essential components of a reliable legal framework should be:

- Clear and secure laws on property rights, including a complete and well functioning property register;
- Problem-free creation and enforcement of loan collateral;
- Swift property transactions at reasonable cost.

4.3. The Government should consider the best suitable housing finance system. The UNECE Study on Housing Finance Systems for Countries in Transition provides details on different systems used across the region: deposit-based system, bond system, contractual savings schemes (Bauspar system), mortgage backed securities and State Housing Banks or Funds. The study provides a method for evaluation of applicability of the given system in the specific local conditions.¹³⁴

4.4. Financial institutions need to develop options for access to long-term capital for mortgage financing. A covered bond system, which is a common instrument in Europe¹³⁵, might be appropriate. This system allows capital to be raised with an interest rate close to government bonds. Besides long-term funding for banks, covered bonds are an important instrument in the development of a capital market. European law foresees privileges for covered bonds as investment instrument for institutional investors (pension funds or insurance companies) due to their inherent security, based on legal provisions.

4.5. It might be advisable to postpone the introduction of mortgage-backed securities (MBS) due to their complicated structure, high upfront costs and lack of standardisation. MBS are suitable for well developed markets. In EU countries, MBS today are used as portfolio and risk management instruments. Current capital relief will diminish under the new Basle II agreement.

4.6. Another instrument for long-term funding is the Bauspar system. However, the State needs to be aware of the problems that subsidising this system might entail. If implemented, it should be constructed in such a way that does not imply dependence on public subsidies.

4.7. Given the economic difficulties and fiscal constraints, the subsidy system in Serbia has to be targeted to groups in need of state support. These groups should be able to solve their housing problems through transparent means-tested (income based) subsidies.

4.8. Implementation of housing programmes, including the distribution of housing assistance funds and decisions on guarantees based on government directives, should be done by a specialized institution (e. g. NKOSK/National Housing Fund). There should be only one institution in charge of the implementation of housing programmes. It is therefore recommended that the envisaged National Housing Fund be unified with NKOSK. This institution should be subject to banking supervision and equity rules and have the possibility to attract money from the capital market.

D. Housing reform in the Republic of Montenegro

1. Housing conditions

According to the preliminary results of the 2003 Census, the population of the Republic of Montenegro (617,740) relied on a total housing stock of 253,135 dwellings – an average of 410 units per 1,000 people. The total number of dwellings exceeded that of households (191,047) by over 62,000 (about 32 per cent). Another aspect appearing to point to a reasonable volume of housing is the 24.3 per cent increase in the housing stock over the period 1991–2003 while the population increased by only 4.5 per cent. The rate of new construction in Montenegro is relatively high – an average annual rate of 6.7 units per 1,000 people, four times higher than the average for Serbia.

Montenegro has a high share of recreational properties and vacant apartments in rural communities. Podgorica and some of the other large cities, however, have attracted a great number of migrants and refugees. Over 6,000 households, many of them Roma, live in substandard dwellings (slums). Vulnerable groups, represented by refugees and poor local households, consume less than 14 m² per person, while the national average consumption is about 26 m² per person.

More than 95 per cent of housing in Montenegro is privately owned. Privatization of socially owned apartments followed the same rules as in Serbia. However, housing shortages in large cities, aggravated by flows of refugees and IDPs, have led to a variety of housing arrangements. Many privately owned units are shared with tenants, sub-tenants or relatives (at least 3,500 in Podgorica).

In Montenegro, as in Serbia, single-family homes are the predominant form of housing. In Podgorica the share of units in multi-apartment buildings is about 30 per cent (18,000 units). Apartment buildings are generally considered to be problematic in terms of management and maintenance. Reluctance to assume responsibility for maintenance in privatised buildings and financial constraints are seen as the main reasons for continuous deterioration of the housing stock. Although the law requires homeowners to form an association and elect an administrator, this requirement is not

systematically implemented. For example, out of the 2,200 buildings in Podgorica, which were expected to set up an association and choose a manager, only 500 have done so. Collection of maintenance fees is poor and emergency repairs often need to be financed by municipalities.

Housing quality is generally good, but there are significant urban-rural inequalities. Although most of the housing stock was built in the last 40 years, with close to 20 per cent built since 1991, rural housing lacks basic amenities. The condition of water supply and sewerage networks is of general concern, especially in coastal areas and the northern part of Montenegro. The situation is aggravated in expanding cities like Podgorica, where illegal construction creates planning, legal, financial and physical constraints for adequate network connections.

2. Institutional reforms

Public sector institutions. Due to Montenegro's small size, it is particularly crucial to improve the efficiency of public administration, as a large civil service would be unaffordable. A reform strategy was adopted in 2003, aimed at organizational improvements of the public administration and its policymaking and implementation capacity. The municipal administration has inadequate capacities, poor equipment and outdated methods of work. The use of modern financial management, ensuring continuous improvement, or co-operation with stakeholders and the private sector are poorly developed. Much progress has been donor-led, unco-ordinated and short-term.

The Cadastral service is a major concern, with around half of the territory lacking cadastral information. The implementation of a complete Land Register is hampered by the lack of financial resources and inadequate education and training of personnel. In Montenegro, as in Serbia, the profession of notary does not exist, although the assistance of notaries in the acquisition of rights and registration process would be valuable.

Private sector and non-governmental organizations. Montenegro has 10 active banks supervised by the Central Bank of Montenegro. A deposit insurance fund is financed by the bank without State guarantee. Broker firms are organized in the Association of Brokers of

Montenegro. Real estate agents exist, but they are not professionally licensed. There are many companies with the capacity and expertise to undertake construction projects, including large firms currently building apartment blocks. The associations of homeowners are underrepresented.

3. Reform of housing legislation

In Montenegro the *Law on Floor Property of 1995*, amended in 1998, provided the basis for privatization. In contrast to the situation in Serbia, however, the legislation makes it impossible for the tenant to purchase the apartment within two years of the law coming into force. In further contrast to the situation in Serbia, the owners of buildings constructed on private land have been awarded common indivisible ownership of both the building and the land. Article 15 of the *Law on Floor Property* states that, ‘if construction land on which a building was built is privately owned, the owners of separate parts of the building shall be entitled to common indivisible ownership of such land. If a building was built on construction land which is publicly or state owned, the owners of separate parts of the building shall be entitled to permanent use of the land on which it was built.’

As most land is held in public or state ownership, the effect of this provision has been limited. It should be noted that efforts are made in Montenegro to privatize small amounts of State-owned land through auctions or land-lease arrangements; however, a long-term plan to disengage the State from land ownership does not exist.

With respect to multifamily housing, as is in Serbia, the law fails to enforce the obligation of residents to take responsibility for buildings, which in practice leads to further deterioration of the stock. Furthermore, legislation fails to clearly elaborate on the circumstances in which public funding from municipal government is to be provided. Although article 41 of the *Law on Housing Property* states that, ‘the costs of regular maintenance, emergency and necessary work shall be borne by owners proportionately to their respective share by the surface of separate parts of block of flats in the total surface of separate parts there is no mechanism to ensure that the residents of a building comply with these obligations.

Finally, article 9 of the *Law on Floor Property* states that ‘the funds for meeting the housing needs of poor persons shall be provided by both the republic and municipal government units in line with their respective regulations.’ The responsibility of municipal authorities for the maintenance of such housing has not been clearly defined.

The new *Law on Floor Property*, adopted in 2004, has attempted to solve these and other problems by making it mandatory for residents to pay for building maintenance in an emergency (e.g. failure of mechanical, electrical or heating systems in the building). The respective contribution is based on an average monthly rent paid per square meter of useful housing unit area. As private flat owners cannot afford to pay maintenance fees, this amendment is therefore unlikely to provide a real solution to the problem.

A new *Mortgage Law*, adopted in August 2004, provides a reliable basis for mortgage lending.

4. Overview of housing finance and market issues

The economy of Montenegro is small compared to Serbia. Montenegro introduced the Euro as its official currency following a period of dual currency (dinar and euro). Montenegrobanka is the only bank offering housing renovation loans, using housing as collateral. Mortgage loan terms are as follows: 10–12 years maturity, 40 per cent loan-to-value ratio, 9.5 per cent interest rate (floating), 20 per cent down payment. Loans are only given for renovation, not for the purchase of a flat.

A major problem in the housing finance sector seems to be the lack of transparency, in particular with regard to how the State and public entities today finance construction. In addition to the impact on the State budget, it prevents banks from taking part in the market and developing a stable housing and real estate financing system. Other problems are the unstable economic situation, the incomplete legal environment and the underdeveloped financial sector.

The data on prices in the housing market are scarce. Typical rents in Podgorica are between

EUR 100 and 300 (average EUR 150) for a small apartment, although the average monthly income is only EUR 200. The purchase of a housing unit would require the payment of the total purchase price – between EUR 50,000 and 150,000 – to the real estate developer upfront (with huge risk involved) in the case of new construction, or to the owner in the case of a real estate transaction in the secondary housing market.

Whereas the supply of rental units seems to be rather scarce in Podgorica, a large number of units are offered for rent in the coastal towns of Bar, Kotor, Bar, and Budva. These are typically vacation homes offered off-season for rent at prices slightly lower than those in Podgorica. Typical sale prices for houses with adjacent land in Podgorica range between EUR 65,000 and 150,000. Apartments appear to be priced in the same way, about EUR 1,000 per m². Given the lack of credit for the purchase of residential properties, and the official income data, prices in the housing market reflect the size of the grey economy and the lack of other opportunities for investment.

5. Social housing needs

Montenegro's *Housing Action Plan* deals with tenure options for social housing and proposes either owner-occupancy with affordable, subsidized loans or social rental housing. The target groups identified for social housing are family welfare beneficiaries, pensioners, Roma, refugees and IDPs, young people and individuals with unresolved housing problems. Over 10,000 families in Montenegro are welfare beneficiaries. In addition, there are 92,000 pensioners, some without their own accommodation, although they have contributed to the Solidarity Housing Fund. At present, it is estimated that around 20,000 Roma live in Montenegro, often in unsafe and substandard accommodation. The domestic Roma population is estimated to be around 3,200, the rest being refugees and IDPs from Kosovo. The total number of refugees and IDPs in Montenegro is as high as 43,000. IDPs do not have the right to legal employment, nor are covered by social assistance – they have no support except for sporadic humanitarian aid.

In conclusion, the need for social housing in Montenegro is huge. Funds for the housing of

pensioners and disabled people should be provided by the Fund for Pension and Disability Insurance. The Ministry of Labour, Health and Social Welfare administers housing units for temporary use, but the number is small – 65 units, for instance, in Podgorica. Local governments are required to use one per cent of the municipal budget to provide housing for the most vulnerable people. Podgorica, for example, has 100 apartments for disabled people, single mothers, refugees and the poorest families.

UNCHR and SDC have provided 230 housing units for new family settlements for refugees and IDPs in six locations, reaching 1,050 beneficiaries. In addition to this, the self-help program, through delivery of construction materials for new housing or an extension of the existing unit, has targeted 145 families.

E. Recommendations for the Republic of Montenegro

Officials in Montenegro have started to revise the overall housing policy framework, most prominently through development of the *Housing Policy Action Plan* which was approved in 2005. It is important to continue with the integrated approach to solving the problems within the housing sector under the lead of the Ministry of Environmental Protection and Physical Planning.

The implementation process needs to be accompanied by a number of changes in the legal framework as well as effective institutional reforms.

The Housing Policy Action Plan (HPAP) contains the redefinition of central and local government housing support for socially vulnerable groups, as well as identification of low-income and vulnerable groups requiring special care. Furthermore, it refers to the design of a social housing mechanism for these groups. The main target group for social rental housing should be the most vulnerable individuals and families. In addition, it is essential to strengthen the capacities of municipalities in the planning and implementation of social housing programmes, especially in the growing cities of Podgorica, Niksic, Bar and Herceg Novi.

Box 8.2: Recommendations for housing reforms in Montenegro**1. Institutional development and capacity building***Central government*

1.1. Structures and mechanisms should be put in place to ensure effective and long-term co-ordination and development of housing policy particularly with regard to the establishment of the National Housing Agency in Montenegro.

1.2. The reform of the Real Estate Register (Evidence) of Montenegro should have a high priority. A uniform system has to be fully implemented within a short period of time. As a first step, the actual needs should be identified in a feasibility study and a work plan should be developed.

1.3. Central government needs to strengthen the capacity of the statistical bureau to ensure more adequate and timely dissemination of essential information on housing sector and to have a solid basis for establishing priorities for housing policy.

Local government

1.4. The introduction and development of local solutions and tools for the implementation of social housing activities is highly recommended.

1.5. Municipalities should ensure that they have sufficient funding and staff to: (a) develop local social housing policies; and (b) manage the process of legalizing informal housing.

Private and professional housing institutions

1.6. Close co-operation of the public sector (policies, legal framework, institutions, land register and rights registration) with the private sector (mortgage-based financing systems, notaries, surveyors and real estate agents) should be encouraged for a proper functioning of the housing market and land administration.

1.7. The profession of real estate agent has to be regulated with regard to qualifications, licensing, monitoring of activities, fee structures and creation of a professional organization. The regulations for licensed surveyors have to be reviewed and improved. The profession of notary needs to be introduced to assist people in their real estate transactions and to increase the security of such transactions.

2. Changes in the legal framework

2.1. Legislation should be amended to allow for: (a) transfer of public construction land titles to municipal governments and privatization of construction land through auctions; (b) a clear definition (in conjunction with amendments to other legislative acts) of the authority and responsibility of municipal governments with regard to land management.

2.2. Legislation should be amended to make the right to privatize inapplicable to newly constructed social housing.

2.3. Provisions should be developed to account for adequate supervision of private renting, including contracts, tenant-landlord relations and tenant protection. If applicable, the development of a separate Landlord/Tenant Act should be considered.

2.4. The *Law on Housing Property* should be amended to ensure that residents in multifamily buildings comply with their obligations to pay for regular maintenance, emergency and other necessary work. The establishment of a homeowners association as a legal entity, in the case of new construction, needs to be mandatory.

3. Reform of the housing finance system

- 3.1. The development of a transparent housing and real estate finance system is highly recommended. The State or State-owned entities shall - as a rule – not finance housing for the general population. This may entail amendments to current legislation (e. g. Art. 61 of the Law on Housing Property). The main task of the State in real estate finance should be to play a supporting role. Lending to borrowers is the task of banks and other market participants.
- 3.2. The improvement of the legal environment for mortgage lending, especially with regard to land registration and foreclosure, is highly recommended.
- 3.3. In considering the best suitable housing finance system the Government should make full use of the UNECE Study on Housing Finance Systems for Countries in Transition (please see box 8.1.).¹³⁶
- 3.4. The introduction of an instrument to raise long-term funding for mortgage lending needs to be considered. A covered bond system, like the one recommended for Serbia, might be appropriate. Due to the size of the market in Montenegro a specialized mortgage bank can be created.¹³⁷
- 3.5. Caution should be used in implementing a tax-privileged Bauspar system, as discussed in the HPAP. The Government needs to be aware of the problems that subsidising this system might entail. If implemented, it should be construed in such a way that does not imply continuous dependence on public subsidies.
- 3.6. Given the economic difficulties and fiscal constraints, the subsidy system in Montenegro has to be targeted to groups in need of State support. These groups should be able to solve their housing problems through transparent means-tested (income based) subsidies.
- 3.7. Taxes and subsidies should be transparent. Tax advantages need to be shown every year in the State budget as non-realized income.

4. Social housing development

- 4.1. Central government is advised to formulate a social housing programme which focuses on the needs of the most vulnerable households living in substandard housing, particularly refugees, IDPs and Roma. The programme should include the main mechanisms for addressing social housing needs, such as finance, subsidies, allocation, standards, and role of different actors, particularly local government and the non-profit sector.
- 4.2. It is highly recommended that social rental housing be allocated to the most vulnerable individuals and families. Access should be means-tested and social rental housing should be exempt from privatization.
- 4.3. It is recommended that a housing benefit system be introduced, starting with a gradual increase of family welfare benefits to cover part of housing costs. Low-income and vulnerable households renting in the private sector, refugees and IDPs should be eligible for housing benefits. Incentives need to be provided to municipalities to increase their commitment to resettlement and inclusion of refugees and IDPs.
- 4.4. Central government, in partnership with large urban municipalities, needs to implement the programme for the legalization/upgrading and location of Roma settlements.

¹³⁶ Housing Finance for Countries in Transition, Principles and Examples, UNECE 2005. Available at www.unece.org/env/hs.

¹³⁷ The institution can be modelled on the covered bond institutions in Switzerland (Pfandbriefbank and Pfandbriefzentrale) or in Austria (Pfandbriefstelle). It can be established by state banks without explicit or implicit State guarantees together with interested banks with the clear aim to be privatised in the long run. Participation has to be free for every bank interested in using the service and offering mortgage loans. The problem of transferring the mortgage to the central entity can easily be solved by law.

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