

# Illegal construction in Montenegro

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## Summary

*Illegal constructions are a significant problem in Montenegro. Especially in areas of municipalities facing a certain economic development, namely the capital, Podgorica, and the coastal area sub-urbanisation and an increasing amount of illegal objects can be observed since the mid-1990-ies.*

*Inadequate planning documentation as well as long and expensive procedures for permits and licenses are identified as the major reasons for today's illegal constructions. The paper gives recommendations how to deal with them and to prevent future illegal objects without claiming their applicability in other countries with different prevailing conditions.*

*It is concluded that due to extend of illegal objects only legalization of those constructions in combination of an efficient prevention of future illegal objects can stop the further environmental degrading of Montenegro and ensure sustainable urban and economic development. Process of legalization needs to be carefully adjusted in order to motivate the citizen in participation, but instruments for enforcement have to be operationalized as well. Mandatory precondition is provision of necessary financial resources by both the Government and the local self-government units.*

## 1 INTRODUCTION

Montenegro is a small country of about 13,812 km<sup>2</sup> at the Adriatic Sea and a population of 620.145 [7]. More than 50 % of the population live on approx. 22 % of the entire terri-

tory (the 6 coastal municipalities and the capital Podgorica). After breakdown of the Socialist Republic of Yugoslavia and joining a State Union with Serbia Montenegro re-established its independence in June 2006.

Since mid-1990ies, Montenegro faces huge differences in urban development. Previous industrial centres decay, urban and other areas degrade while uncontrolled construction takes place outside areas determined for construction, often occupying valuable landscapes or high quality agricultural land. In particular in the capital and the coastal area sub-urbanisation and increasing amount of illegal structures<sup>1</sup> can be observed.

Very obvious is an unequal population distribution and economic development between republic level and some municipalities. In 2003 the population density of Montenegro was 44.9 persons/km<sup>2</sup>, while in the capital Podgorica it was 117.4 persons/km<sup>2</sup>. In 2003 of the total population of Montenegro 27.3% lived in the capital [7] – tendency rising.

Illegal constructions are dominant in suburban areas where there is no possibility for adequate communal infrastructure and objects for other public services (schools, kinder gardens, shops etc.). The authors roughly estimate that in “hot spots” at the Montenegrin coast up to 80% of the houses or apartments fall under the term “illegal” – either they were constructed completely without building permit and/or other licenses or the final object goes beyond the stipulations of the building licence. In Podgorica, capital of Montenegro, more than 20,000 illegal constructions are estimated [3] - most of



pictures 1 and 2: examples for illegal buildings on the Montenegrin coast (left: Budva, right: Sutomore)

<sup>1</sup> In this paper the term “illegal construction” is used for constructions in urban or rural area established without procurement of the necessary permits and licenses. It includes as well constructions which extent stipulations of the permits and licenses and structures erected outside areas provided for construction.



picture 3 and 4: *illegal one-family houses on usurped state land (Malo Brdo, Podgorica)*

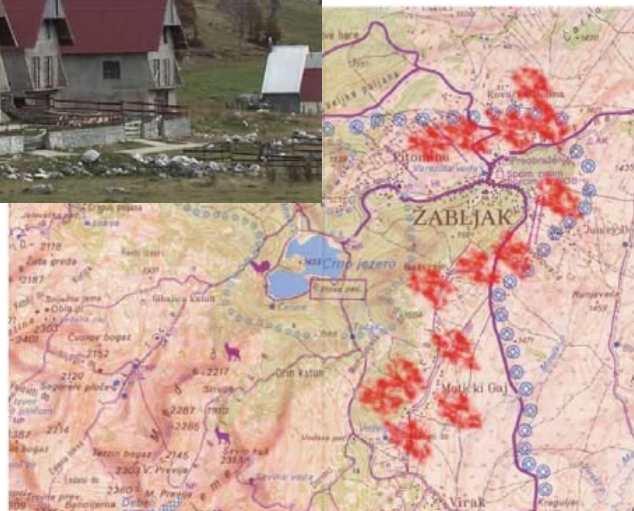
them in sub-urban areas. In most of the cases illegal facilities were constructed on state land. Due to a lack of systematic data no more detailed statements regarding the total amount of illegal constructions in Montenegro can be made.

In 2004 together with other countries in South Eastern Europe Montenegro signed the “Vienna Declaration on Informal Settlements in South Eastern Europe”, committing itself to undertake measures to address informal settlement issues and to initiate and implement reforms in the wider orbit of sustainable urban development and social housing. It was recognized that a key factor in preparing the country for accession to the EU will be the urban, social, and economical integration of informal settlements.

## 2 TWO “GENERATIONS” OF ILLEGAL CONSTRUCTIONS

Two phases of development of illegal constructions can be identified in Montenegro: The first one directly relates to the breakdown of the Socialist Republic of Yugoslavia as well as impact of wars and sanctions on state and economy. The second one more relates to the still ongoing process of transition from planned to market economy.

Between 1989 and 1995 big demographical movements took place in Montenegro. While number of residents in the northern municipalities decreased significantly, municipalities as Podgorica recorded huge increases. These migrations



picture 5: *illegal buildings in National Park “Durmitor” (upper left: weekend houses, down right: illegal construction around Zabljak)*

towards the southern part of Montenegro are mainly a result of the wars in the surrounding republics and the collapse of the State enterprises. GDP was halved, number of unemployed and grey economy rapidly increased. Additionally, a lot of refugees and displaced persons from ex-Yugoslav republics took refuge in Montenegro. Existing housing facilities were not sufficient to provide adequate living conditions for all those people leading to occupation of (mostly state) land and construction of objects without licences.

Another fact why people dared to take state land and built their houses illegally, results in the former housing fund. Usually, during socialist times two or more family members paid contributions into a housing fund. After breakdown of the state enterprises neither they already had got apartment space nor the money was returned.

Unlike, majority of today's illegal structures are characterized by extending stipulations of the building permits and are linked with the uneven economic development of the past years that directly influences the housing market. The largest housing investments have been made in Podgorica as the economic centre of Montenegro and locations at the coast which are very attractive for apartment construction due to tourism development and around port of Bar. Those structures are constructed illegally mainly caused by out-dated or not existing planning documents which therefore are inadequate to steer the actual economic development. Responsibilities between national and local level lack harmonization which leads to long and expensive procedures.

### 3 INADEQUATE PLANNING DOCUMENTATION

Spatial planning in Montenegro is implemented on two levels – national and local. The first Spatial Plan of the Republic of Montenegro dates from 1984. It obliged the municipalities to enact their spatial and regulatory plans. Hence, the years till end of the 1980ies represent a period when for the most Montenegrin towns spatial planning documentation had been elaborated, in some cases for the first time.

The Spatial Plan of the Republic had been revised and changed in 1997. But as well as the planning documentation at local level it lacks extensive implementation. With assistance of GTZ MLM project the Spatial Plan of the Republic of Montenegro till 2020 had been drafted. Its adoption by the parliament is expected for spring 2007.

Additionally, so called spatial plans for special purpose areas with common or other features requiring special management or usage exist, e.g. for national parks or the coastal zone. For special purpose areas which are not elaborated in details by those plans a so called Study of Location stipulates regulations for possible constructions. Despite ongoing construction activities e.g. at National Park “Skadar Lake” or on territory of National Park “Durmitor”, not a single study of location has been made yet!

16 of 21 Montenegrin Municipalities elaborated spatial plans for the area of the municipality, mostly dating from the 1980ies and covering approx. 83% of the territory

table 1: *planning documentation at local level (source: GTZ MLM project and Ministry of Economic Development)*

municipality	area (km <sup>2</sup> )	population density*	Spatial Plan	GUP		regulatory plans	
				km <sup>2</sup>	% of municipal area	km <sup>2</sup>	% of GUP
Andrijevica	283	20.4	no	1.7	0.6	0.2	11.6
Bar	598	67.0	no	62.2	10.4	11.4	18.4
Berane	717	48.9	yes	12.9	1.8	1.6	12.4
Bijelo Polje	924	54.4	yes	95.2	10.3	4.8	5.0
Budva	122	130.4	yes	44.0	36.1	121.7	276.4
Danilovgrad	501	33.0	no	7.5	1.5	1.5	20.0
Zabljak	445	9.4	yes	20.5	4.6	0.9	4.6
Kolašin	897	11.1	yes	9.0	1.0	1.2	12.9
Kotor	335	68.5	yes	18.1	5.4	11.9	65.9
Mojkovac	367	27.4	no	4.4	1.2	1.4	32.4
Nikšić	2,065	36.5	yes	55.8	2.7	6.4	11.4
Plav	486	28.4	yes	44.2	9.1	3.4	7.8
Pluzine	854	5.0	yes	3.4	0.4	0.6	16.7
Pljevlja	1,346	26.6	yes	12.1	0.9	1.4	11.8
Podgorica	1,441	117.4	yes	85.0	5.9	33.8	39.7
Rožaje	432	52.5	yes	6.0	1.4	3.8	63.5
Tivat	46	296.3	yes	37.4	81.3	5.0	13.5
Ulcinj	255	79.6	yes	90.3	35.4	10.2	11.3
Herceg Novi	235	140.6	yes	77.6	33.0	0.5	0.7
Cetinje	910	20.3	yes	15.5	1.7	3.8	24.3
Savnik	553	5.3	no	0.0	0.0	no data	
<b>total</b>	<b>13,812</b>	<b>620,145</b>		<b>702.7</b>	<b>5.1</b>	<b>225.6</b>	<b>32.1</b>

\* according [1]

of the Republic. Two of the remaining 5 Municipalities, Danilovgrad and Šavnik, elaborate a spatial plan currently. In almost all municipalities (except Šavnik) General Urban Plans (GUP) exist. End of the 1980-ies they covered the entire urban area of Montenegro, but due to migration and economic changes during the 90-ies they are adequate no more – neither in terms of area nor of content.

Situation regarding Detailed Urban Plans (DUP) and other regulatory plans is even worse: just for about 32% of the area covered by a GUP regulatory plans exist. This is only about 1.6% of the entire territory of Montenegro! Just 6 municipalities adopted regulation plans for more than 25% of the GUP-area.

It is very obvious that in areas facing a certain economic development during the previous years planning documentation is rather more existing, namely Podgorica and the coastal municipalities. But even considering the mainly rural characterized municipalities in the northern part, above figures seem much too small to prove an adequate base for sustainable urban development.

According the Law on Spatial Planning and Development enacted in 2005 all kind of planning documentation shall be renewed till end of 2008.

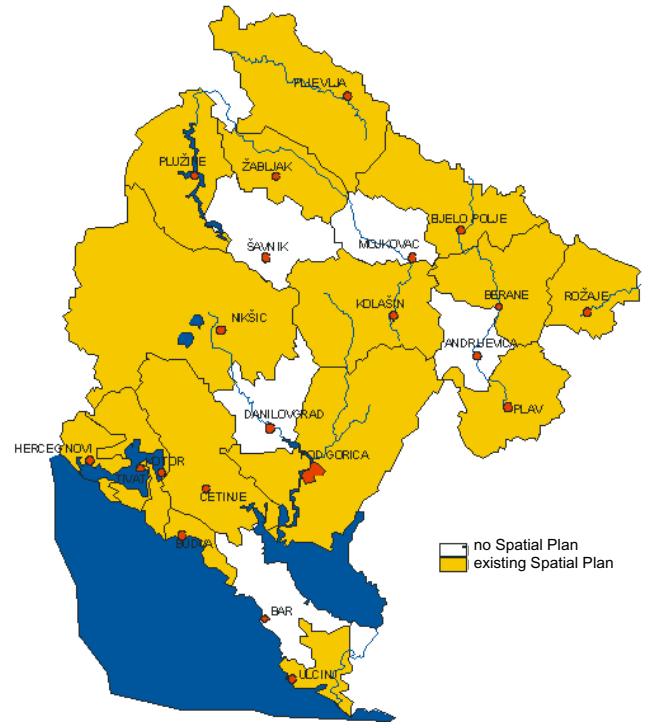


diagram 1: *Spatial Plans of the municipalities*

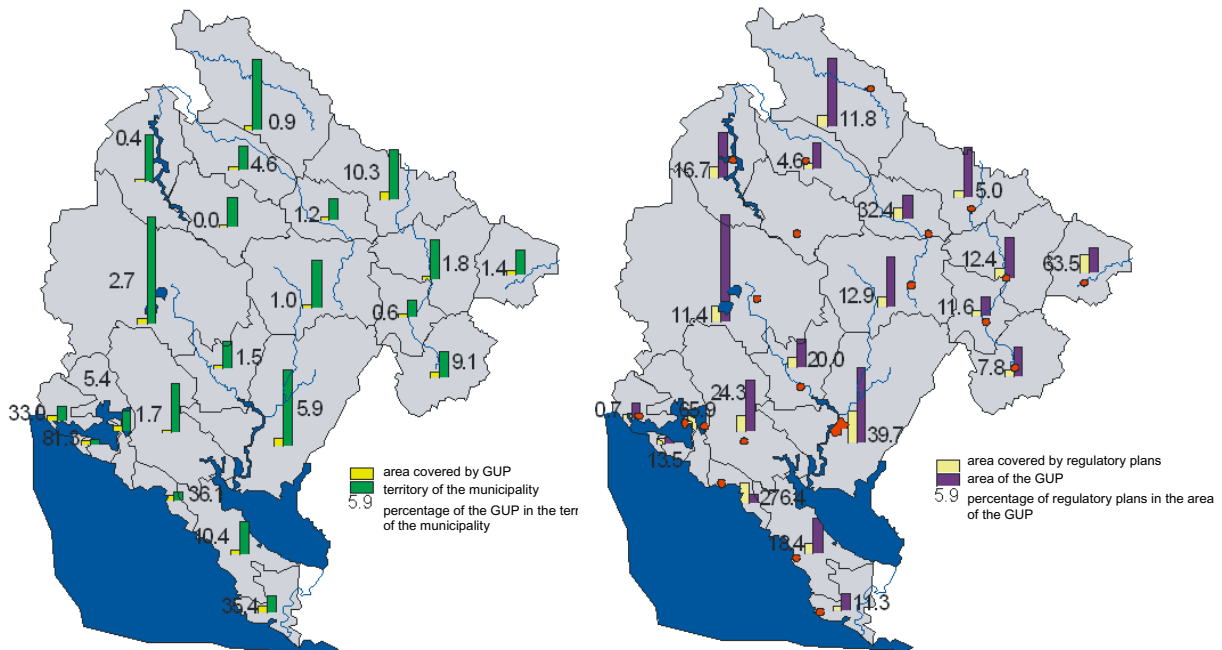


diagram 2 *General Urban Plans (left) and Regulatory plans (Detailed Urban Plans, Urban Plans, Urban Projects) (right) of the municipalities*

## 4 LONG AND EXPENSIVE PROCEDURES FOR BUILDING PERMITS

Currently, institutional and organizational harmonisation in the domain of protection of environment and spatial development are ongoing. Division of responsibilities between national and local level is mainly defined by the Law on Spatial Planning and Development and the Law on Local Self-Governance. In particular, the Law on Spatial Planning and Development splits the responsibility for issuing building permits to two levels: for objects with more than 1000 m<sup>2</sup> as well as objects within National Parks the Ministry for Economic Development is responsible, for other objects the municipalities. In praxis, spatial management on state level is not sufficiently linked with the one on local level, responsibilities lack harmonization.

This situation contributes to a highly complex and intransparent system of obtaining permits and licenses for construction. Since not even the authorities responsible for issuing building permits could support a potential investor with a complete list of necessary documents, in the scope of the Municipal Land Management Project of GTZ the authors assessed which documents are needed in order to obtain a building permit in Montenegro. The investigations showed: All together an investor e.g. for an object with more than 1000 m<sup>2</sup> would need at least:

- 15 decisions or approvals,
- 3 certificates, and
- 2 official statements or opinions
- from 11 institutions and authorities on national and local level [4].

The related legal stipulations are spread over 14 laws, not counting relevant related bylaws and municipal decisions. Depending on kind of the planned object necessary decisions and responsible authority might differ.

Even more complex are the legal stipulations regarding administrative fees connected with obtaining these necessary documents. Since, in addition, each municipality adopts different regulations on this issue it is not possible to give a concrete statement on the expenses involved. In average it is estimated that an investor has to spend between 5 and 10% of the construction costs for administrative and communal fees.

Such cumbersome procedures discourage investors, in particular small ones, and unintentionally act as incentives to illegal construction.

## 5 CONCLUSIONS FOR MONITORING, CONTROL AND LEGALIZATION OF ILLEGAL CONSTRUCTIONS

Precondition for an effective land management is a registration system for land ownership, land use and other

relevant rights. Since 1992 Montenegro establishes a Real Estate Cadastre (REC) as registry for real estate and rights on real estate. Today, the REC is existing for approx. 60% of the country, though it should be noted that all urban area is included. The structure of the REC allows detailed evidence of illegally constructed structures including recording of inexistence of building and using license. Only, in least cases illegal objects are recorded in the registry. Reasons for this situation are obvious: entry by owners request happens rarely and for systematic detection e.g. by arial survey the responsible Head Office for Real Estate lacks both financial and personal resources. Detection and registration during determination of boundaries of construction parcels is a very long lasting process applicable only for single illegal objects, but not capable to solve the current situation.

Construction land in urban areas must be developed in accordance with the spatial and urban plans. As already mentioned above, the lack of such plans as well as the tendency to built family apartment buildings in stages without necessary documentation results in illegal construction and occupation of urban construction land. Given the magnitude of this practise the only realistic approach to prevent an even higher environmental degradation is the legalization of illegally constructed objects, upgrading the communal infrastructure in those areas, and taking measures appropriate to prevent further illegal constructions. Precondition is that the illegal structures fit into the urban plans or that such plans could be amended or established accordingly. Also, significant financial means are necessary in order to upgrade communal infrastructure.

Already in December 2000 Montenegro adopted the Law on Building Constructions which defines a period of two years for the local self-government units to register illegal objects. Based on this, local self-government units should initiate and finance preparation of building plans in order to provide a basis for further actions. Due to lack of financial resources most of the self-government units did not yet establish this register of illegal objects. Even the established ones are already outdated today due to lack of maintenance. The authors have no information that single municipalities prepared rebuilding plans.

Inspection supervision is conducted by the Ministry of Economic Development through civil servants. Though, there are 5 inspectors for entire Montenegro only. They might be supported by single inspectors employed by few municipalities.

Based on these facts the following actions need to be focused on

- a) integration of the existing illegal objects in the overall urban system and
- b) prevention of new illegal objects.

For integration of existing illegal objects the following activities should have priority:

- Establish actual records on illegal objects included in the database of the Real Estate Cadastre (responsible actors:

Head Office for Real Estate, Local Self-Government Units, Ministry for Economic Development). This includes finalization of the REC for rural areas as well as establishing of monitoring processes for topical detection of illegal objects.

- Continue the already started process of elaboration and amendment of urban planning documentation. The urban plans have to be adjusted to the stipulations of the new National Spatial Plan (after its adoption expected end of spring 2007). Legalization of illegal constructions need to be incorporated by detailed legalization plans. (responsible actors: Local Self-Government Units, Ministry for Economic Development)
- Establish a uniform process of legalization of illegal objects including collection of an appropriate fee which needs to be re-invested in communal infrastructure. Fee and procedure needs to be designed in order to motivate the citizen to legalize their illegal objects. Enforcement of legalization compliance has to be operational. Future illegal constructions shall be prevented by:
  - Reform of the permission and license processes in order to design them more efficient and more transparent and
  - enforcement of penalty system and operationalizing court procedures.

The Housing Policy Action Plan already includes most of these recommendations. Still, they need to be codified in a Law on Informal Settlements.

Main obstacle, but at the same time mandatory precondition for these measures are sufficient financial resources and institutional capacities, in particular of the self-government units. One possible source could be part of the public revenues by real estate related taxes and fees. Their provision

can be seen as an indicator for the political will to solve problem of illegal objects sustainably and establishing an urban planning system balancing economic demands and environmental aspects.

## BIBLIOGRAPHY

- [1] Government of Montenegro: Law on Building Constructions, Podgorica 2000.
- [2] Government of Montenegro: Law on Spatial Planning and Development. Official Gazette of the Republic of Montenegro, no. 28/05, Podgorica 2005.
- [3] Government of Montenegro: Housing Policy Action Plan for Montenegro, Podgorica 2005.
- [4] GTZ: Overview on documents needed and steps to obtain building permits in Montenegro, Municipal Land Management Project, Podgorica 2006.
- [5] GTZ: Planning System in Montenegro, Municipal Land Management Project, Podgorica 2006.
- [6] Government of Montenegro: Vienna Declaration on Informal Settlements in South Eastern Europe, Vienna, September 28, 2004.
- [7] National Authority for Statistics of Montenegro: Census of Population, Households and Dwellings 2003, Podgorica 2004.
- [8] Stability Pact for South Eastern Europe: Cologne Document, Cologne, June 10, 1999.
- [9] Stability Pact for South Eastern Europe: Summary report on the 4<sup>th</sup> Regional Vienna Declaration Review Meeting, Belgrade, November 23-24, 2004.
- [10] Vlada Crna Gora: Regionalni program jačanja kapaciteta za urbani razvoj I stanovanje u jugoistočnoj evropi – implementacija bečke deklaracije, Podgorica, August 31, 2006..

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