

“Spatial Information Management toward Legalizing Informal Urban Development”

Registration Of Informal Buildings In Croatia

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SUMMARY

In the Republic of Croatia 87% of families live in houses or flats owned by people who live in those houses or flats. The problem, inherited from the past period, lies in fact that a lot of houses and flats are not registered in the cadastre and land register. Multipurpose housing stocks which were built during the socialist period in most of the cases are not registered because of unsolved legal relations. Another important problem lies in the fact that during the socialist period a lot of buildings were built without building permits (especially on the Croatian coast) and those buildings are treated as informal (illegal). Until recently those buildings could also be registered in the cadastre and land register, but with registration of the fact that the building is informal. Of course, buildings which are not registered or registered as informal have less market value. New legal framework for newly built buildings clearly defines all necessary steps in the building process, including registration in the cadastre and land register, and there are no problems for newly built buildings. Today in Croatia buildings and flats which are not registered or registered as informal are very rarely subject to legal transfer of real estate because nobody is willing to buy such property, and banks and other financial institution are not willing to release loans for the purpose of buying such properties. In this text there is a description of the Croatian legal framework for registration of unregistered and informal buildings, description of the protected coastal area, description of the problem of informal extensions to the buildings, description of the legal framework for registration of newly built buildings and basic information about the program for removing (tearing down) illegally built buildings.

SUMMARY (in Croatian)

U Republici Hrvatskoj 87% kućanstava živi u vlastitom stanu ili kući. Problem, koji je ostao iz prethodnog razdoblja, je u tome da mnogo stanova i kuća nije registrirano u katastru i zemljišnim knjigama. Višestambene zgrade sagrađene u vrijeme socijalizma u pravilu nisu registrirane u katastru i zemljišnoj knjizi iz razloga neriješenih imovinsko pravnih odnosa. Drugi važan problem je u tome da je u vrijeme socijalizma mnogo zgrada sagrađeno bez potrebnih građevinskih dozvola (pogotovo na hrvatskoj obali), te da se te zgrade smatraju nelegalnima. Takve je zgrade do nedavno bilo moguće registrirati u katastru i zemljišnoj knjizi ali se činjenica da nisu legalizirane isticala u zemljišnim knjigama. Naravno da zgrade i stanovi koji nisu registrirani ili su registrirani uz na-

vođenje činjenice da nisu legalizirani imaju znatno manju tržišnu vrijednost od onih registriranih i legalnih. Novi pravni sustav za građenje zgrada predviđa obavljanje svih potrebnih radnji da se zgrade i stanovi registriraju u katastru i zemljišnim knjigama i tu problemi ne postoje. Danas se u Hrvatskoj zgrade i stanovi koji nisu registrirani ili su registrirani uz navođenje činjenice da nisu legalizirani vrlo rijetko kupuju, a banke nisu sklone davanju kredita za kupnju takvih zgrada i stanova. U radu se navode rješenja iz hrvatskog pravnog sustava koja se odnose na registriranje neregistriranih i nelegaliziranih zgrada, opisuje zaštićeno obalno područje, opisuje problem nelegalne dogradnje zgrada, opisuje način na koji se grade i registriraju novosagrađene zgrade, te daju osnovne informacije o programu uklanjanja nelegalno sagrađenih zgrada.

INTRODUCTION

The Croatian system of registering real property and real property rights is based on two registers – the Real Property Cadastre and the Land Register. Croatian registration system is also based on the principle of legal unity (*superfices solo cedit*) according to which the real property consists of land (cadastral parcel) together with everything that is permanently attached to the land on the surface of the land or under it. Unlike many other registration systems, the Croatian registration system demands registration of buildings and other constructions in the cadastre (geometry) and the land register (legal status). When a building or other construction is registered in the cadastre and land register, it is registered as a part of the cadastral parcel and follows the legal destiny of the cadastral parcel. Person who is the owner of the cadastral parcel is also the owner of the building which is built on the parcel and vice versa. Apartments and business premises in multipurpose housing stocks are registered only in the land register in the manner that each flat is attached to the ideal share of ownership over the whole real property (cadastral parcel).

REGISTRATION OF BUILDINGS IN CROATIA

The basis for registration of buildings in Croatia is the **cadastral (surveying) project** within which the following are presented: data regarding the location and shape of building, data about house numbers, data about the building usage type and data about the legality of buildings. When data about buildings are registered in the cadastre, the information about the registration will be sent to the land register and the building will be registered in the land register as well.

For the registration of a building, the cadastral parcel on which the building is built must be registered in advance. A cadastral parcel on which a building is built is called a **building parcel**. Formation and registration of building parcels must be done according to the Physical Planning Act, and in accordance with physical planning documents.

PHYSICAL PLANNING DOCUMENTS

Physical planning documents in the Republic of Croatia are: Strategy and Physical Planning Program of the State, Physical Plans (County Physical Plans), Physical Plans of the Protected Areas, Towns and Municipalities Physical Plans, General Urban Plans, Detail Urban Plans and other physical planning documents. The Physical Planning Act defines the deadlines for passing the county, town and municipal physical plans (until now 400 physical plans have been passed, out of a total of 567 which will be passed and adopted by the end of this year).

FORMATION OF A BUILDING PARCEL

Building parcels can be formed and registered in three possible ways:

1. according to the location permit
2. according to the detail urban plan
3. according to a special administrative act defining the land for the usage of buildings

Location permit is an administrative act, based on physical planning documents, which defines the location, shape and extension of a building parcel.

Detail urban plan is a physical planning document, passed by towns and municipalities, presenting the division into building parcels.

Special administration act defining the land for the usage of building serves to **define building parcels** for buildings which are built without a building permit or not in

accordance with the building permit and it can be introduced only for those buildings which will remain to exist according to physical planning documentation.

The location permit, detail urban plan or the special administrative act defining land for the usage of buildings are the basis for the cadastral (surveying) project.

In the Republic of Croatia formation and registration of cadastral parcels (building parcels) which are not in accordance with physical planning documents is forbidden in urban areas.

BUILDING PERMIT

Building permit is an administrative act based on which one can start to build. The existence of a building parcel is a prerequisite for the building permit. At the same time, a person who wants to build must prove that he/she has established legal rights over the building parcel (ownership, building rights etc.), entitling them to build on the parcel. That means that the cadastral parcel (building parcel) must be registered in the cadastre and the land register and that the real property rights of the builder are registered in the land register. Of course, buildings can be built based on a contract with the holder of real property rights.

OCCUPANCY PERMIT

Occupancy permit is an administrative act based on which one can use a built building. This means that if the occupancy permit is issued, people can move in (start to use) the building. Buildings with an occupancy permit will be registered in the cadastre and the land register based on the cadastral (surveying) project. Only buildings with occupancy permits are treated as **fully legal buildings**. In the procedure of issuing the occupancy permit, it will be checked whether the building was built according to the building permit.

REGISTRATION OF APARTMENTS AND BUSINESS PREMISES

Parts of a building will be registered in the land register based on a **condominium units plan** describing apartments and business premises. Apartments and business premises in multipurpose housing stocks are registered only in the land register in a manner that each flat is attached to the ideal share of ownership over the whole real estate (cadastral parcel). Whether apartments and business premises are built according to the building permit will be checked out in the procedure of issuing the occupancy permit.

REGISTRATION OF BUILDINGS WHICH DO NOT HAVE THE NECESSARY PERMITS

Buildings for which the necessary **occupancy permit is not issued** but which have a building permit can be registered in the cadastre and the land register. In such a case, the fact that there is no occupancy permit will be registered in the land register. When the occupancy permit is issued, the inscription about the illegality of the building will be removed.

Buildings without a **building permit** can be registered only on cadastral maps; they cannot be registered in the land register.

There are some exceptions, and according to those exceptions some buildings can be registered also in the land register even though there is no building permit. In that case, the fact that there is no building permit or occupancy permit will be registered in the land register.

All buildings which were built before 15 February 1968 are considered as buildings with occupancy permit. One of the reasons for introducing that date as the date of “legality” for the previously built buildings was the fact that on that date the first area photogrammetric shooting in Croatia was preformed.

INFORMAL BUILDINGS

All buildings in the Republic of Croatia without a building permit are treated as informal (illegally built). For some buildings (buildings of minor importance) it is not necessary to have a building permit. All buildings built before 15 February 1968 are not treated as informal.

The problem of informal buildings can be divided in two parts:

1. buildings which were illegally built because of socially driven reasons
2. buildings which were illegally built for profit driven reasons

BUILDINGS WHICH WERE ILLEGALLY BUILT BECAUSE OF SOCIALLY DRIVEN REASONS

Buildings which were illegally built because of socially driven reasons were mainly built in towns and areas around the towns. Most of those buildings were built from World War II until the independence of the Republic of Croatia. Informal buildings were built in that period of time because the regime did not manage to fulfill the needs of the society. Around the

biggest towns (Zagreb), whole settlements were illegally built. Construction regulations existed the whole time, but there was no control and will to follow regulations.

Regulations existed from 1992 until 1995 in Croatia, according to which all informal buildings could be legalized. At that time, there was an estimate that about 100 000 buildings were informally built. According to the existing data about legalization, during that period between 30 000 and 35 000 building were legalized.

Today, the Republic of Croatia is solving problems arising from buildings which were illegally built because of socially driven reasons by the introduction of physical planning documents. Towns and municipalities are entitled to create urban plans. If a building will be allowed to remain according to the urban plan, there is a legal procedure for issuing the necessary permits for such a building. Buildings which can not remain in existence according to physical planning documents will be removed (torn down).

Illegal buildings on the Croatian coast built as weekend or vacation houses by Croatian citizens and citizens from other former Yugoslav republics pose a particular problem. Those buildings are treated from the perspective of protecting the coastal zone.

BUILDINGS WHICH WERE ILLEGALLY BUILT FOR PROFIT DRIVEN REASONS

Illegal constructing for profit driven reasons is a new problem for Croatia. In most of the cases, this is an issue of building without a building permit. In some cases, it is the issue of not building in accordance with the building permit (building extensions beyond the building permit for the reason of making an extra profit). This problem escalated after 1995 when the regulation about legalization was revoked, and especially after 2001 because of the legal possibility to hook up utilities to informally built buildings.

Today, new regulations treat informal building as a criminal act and a program for removing (tearing down) irregularly built buildings exists.

THE DECREE ON PLANNING AND PROTECTION OF THE PROTECTED COASTAL AREA

The problem of constructing informal buildings was especially present on the Croatian coast. That was one of the reasons for the Government of Croatia to introduce the Decree on Planning and Protection of the Protected Coastal Area. The protected coastal area encompasses all islands, the coastal belt stretching up to 1000 meters from the coastline and the sea belt stretching up to 300 m from the coastline.

In the protected coastal area (hereinafter referred to as: PCA), physical planning is based on the following basic planning guidelines:

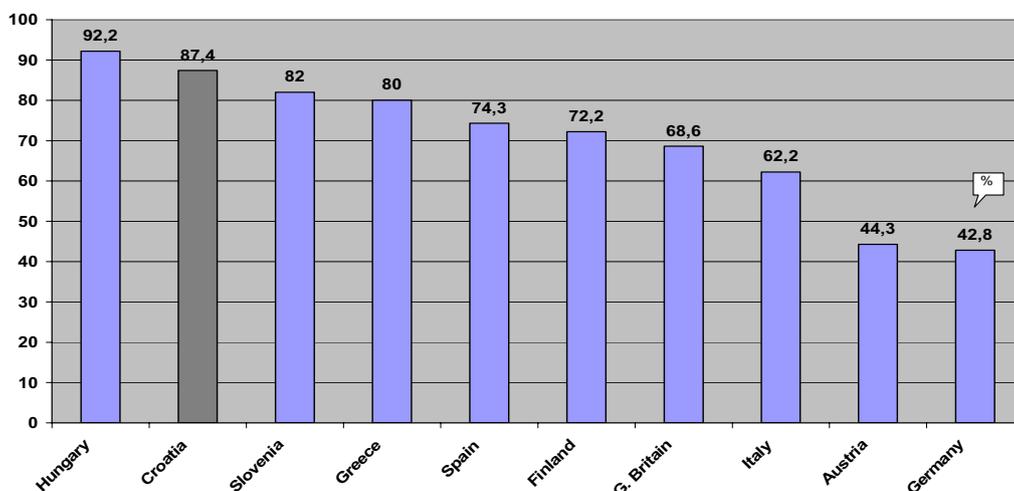
- preserve natural, cultural, historical and traditional values of the coastal and hinterland landscape,
- ensure the application of environmental protection measures at sea and land, especially potable water resources,
- plan comprehensive organization and protection based on the criteria of preserving natural wealth and keeping intact certain morphological entities,
- restore valuable and endangered natural, cultural and historic heritage sites,
- ensure free access to the coast and passage along the coast, as well as public interest in using maritime domain in particular,
- preserve uninhabited islands and islets with natural and cultivated landscape used primarily for agricultural activities, recreational use, organized sightseeing and research, without planning construction zone,
- preserve natural beaches and virgin forests and incite natural regeneration of forests and other indigenous vegetation,
- not plan new construction zones in settlements or connecting them with each other,
- limit construction in undeveloped parts of the existing settlement construction zones and separate construction zones (peri-urban) along the seashore and aquifers, except for functions directly linked to the sea, seashore and aquifers,
- limit construction of production and energy facilities for the purpose of protecting and preserving environmental worth,

- influence the development of traffic and utility infrastructure through the protection and preservation of landscape values,
- plan buildings of residential, commercial and other usage so that their purpose, location, size and design respect given environmental value and characteristics,
- restore existing abandoned mining fields and industrial areas primarily through landscaping or planning the tourism, sports and leisure facilities

New construction areas can neither be extended nor established in the PCA, except for separate construction areas (peri-urban) intended for tourism not exceeding 15 hectares. New peri-construction areas (peri-urban) intended for tourism may be planned only if the development of the present tourist areas (zones) exceeds 80%. As an exception, if the developed part of the construction zone exceeds 80% of the total construction zone, the construction zone in the PCA may be extended no more than 20% of the developed construction zone. If the developed part of the construction zone is less than 50% of the total construction zone, the developed part must be scaled down to 70% of the existing area.

In respect to the Decree, the developed part of the construction zone means the developed construction plots and other areas used for various purposes while the undeveloped part of the construction zone denotes one or several adjoining unordered and undeveloped construction plots whose total surface exceeds 5,000 m² as well as all surrounding undeveloped plots. The present construction zone means the construction zones of settlements and separate construction areas (peri-urban), defined by the appropriate physical planning document in compliance with the usage of areas and criteria defined by the county physical plans.

Families with privately owned house or apartment



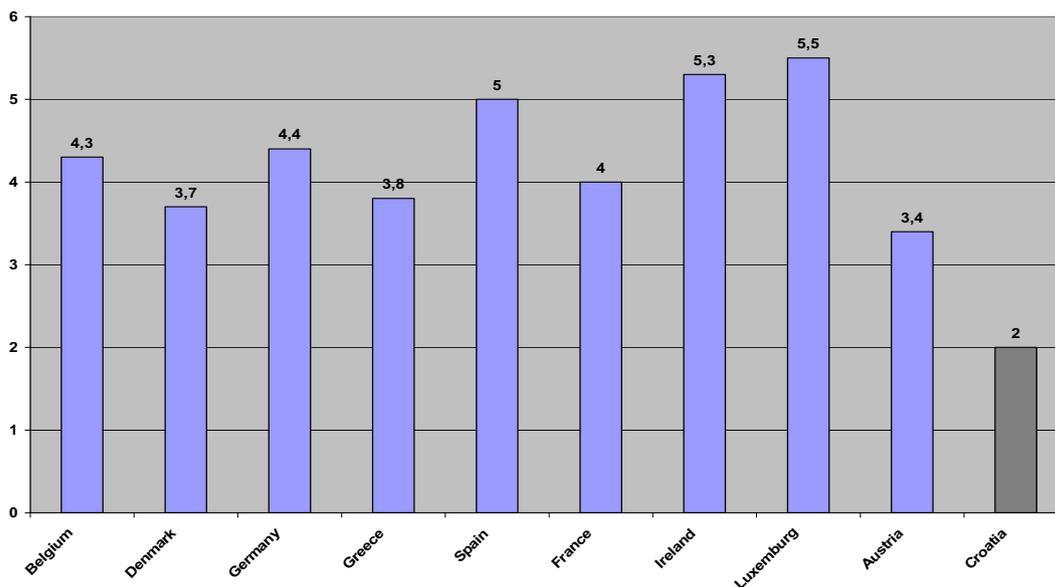
INFORMAL BUILDING EXTENSIONS

More than 87% of Croatian families privately own a house or apartment. A high percentage of households living in their own houses or apartments is a result of the sale of social apartments into private ownership. 51.3% of apartments have up to two rooms, where 2.7 family members

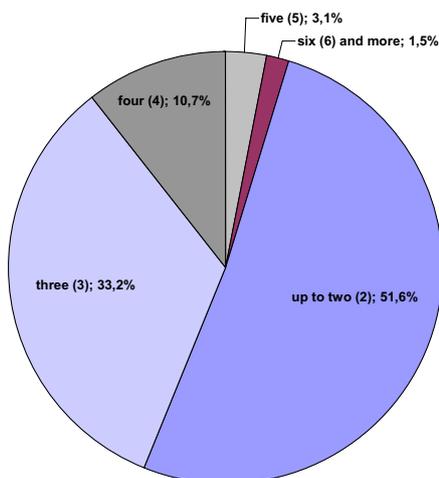
live on the average.

This data are based on the results of a large poll (a sample of 2727 households) held by the Croatian State Bureau of Statistics in 2005, regarding the housing conditions in Croatia.

Average number of rooms per family for some European countries



Number of rooms in Croatian houses and apartments

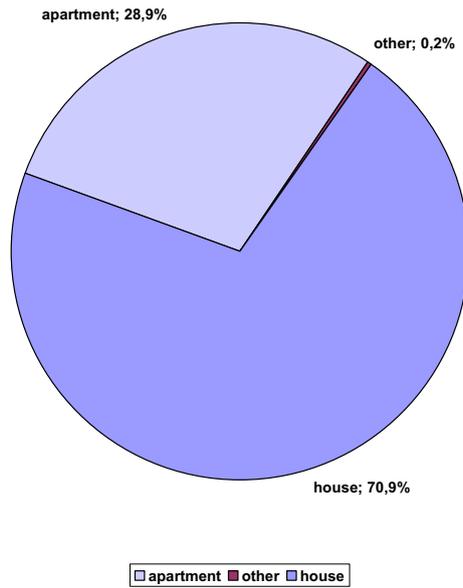


Relatively small number of rooms per average Croatian family is one of the reasons which lead to informal extensions to the buildings which were regularly built.

This problem is today regulated in Croatia through **building inspection**. Building inspection normally acts

based on complaints of citizens (mainly neighbors). Informal building extensions are very hard to control. Registration processes are one of the ways of finding out about informal extensions. Efficient building inspection is the only right way.

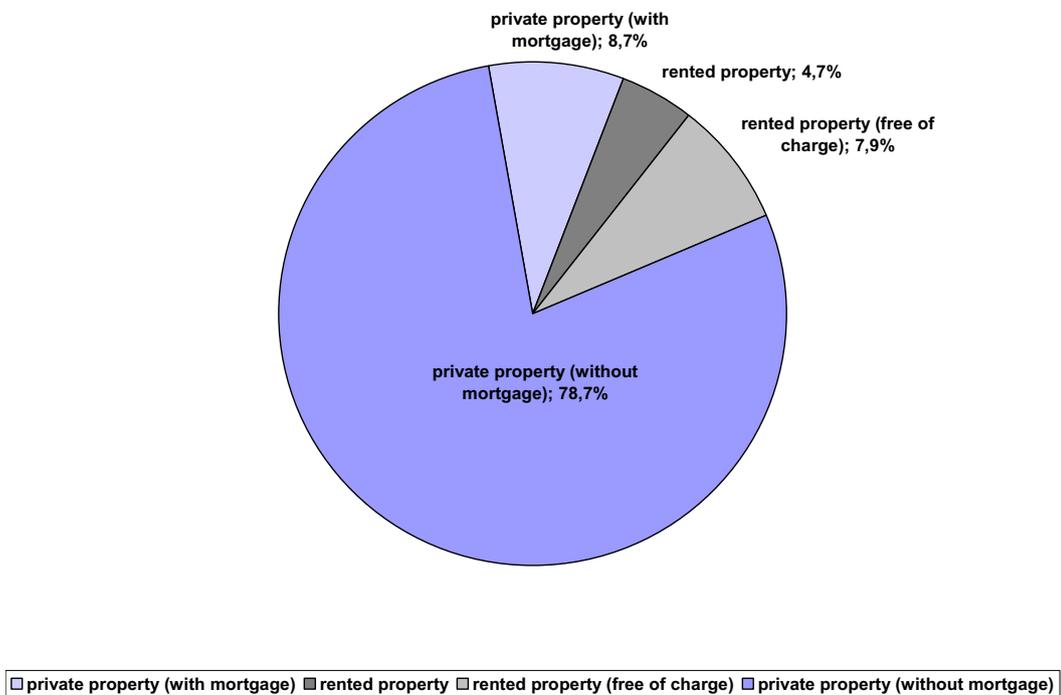
Houses and apartments in Croatia



It is very interesting that only 12.6% of Croatian households live in rented houses and apartments, and that only 4.7% pays rent. Most of the houses and apartments in

Croatia are not mortgaged. This data shows large potential for the development of the housing and mortgage market in Croatia.

Accommodation in private or rented property in Croatia



PROGRAM FOR REMOVING (TEARING DOWN) ILLEGALLY BUILT BUILDINGS

In order to protect the nature and the cultural heritage in the Republic of Croatia, the Ministry of Environmental Protection and Physical Planning has been active in several areas, from passing physical plans, new legislation, streamlining *the obtaining of permits etc.*

The problem of informal buildings cannot be solved easily in a short time, but it is a fact that there is progress and that the number of such buildings has significantly decreased.

The Directorate for Inspection Affairs within the Ministry of Environmental Protection and Physical Planning has taken complex measures to solve the problem of informal buildings; however, in certain locations tearing them down was unavoidable, showing at the same time the existence of serious intention to bring order into the environment.

In the past three years, since the beginning of this action, a total of 1,600 informally built buildings were torn down and 4,000 legalized.

Before each demolition procedure, there is detailed verification whether the informally built building is inhabited, because inhabited buildings are not torn down. Particular attention is paid to the fact whether the occupants also possess other real property; if this is not the case, such an informally built building is not torn down.

On the territory of the Republic of Croatia, there are a number of regions where demolition has been carried out or is planned. This is some examples:

- The Island of Vir-a whole island was practically informally built-a total of 9,000 buildings.
- The Island of Krk-in the region of the city of Krk, forest lands have been devastated due to informal construction.
- The Municipality of Rogoznica – harmonization of the draft of the municipal physical plan with the Decree on Planning and Protection of the Protected Coastal Area showed that, out of approximately 1,180 informally built buildings only 400 will be able to be legalized.
- The County of Istria, The Municipality of Marčana – A total of 300 buildings have been built illegally in the forest, attached to the complete utility infrastructure, and

with assigned house numbers. Informal builders are by and large citizens of the Republic of Slovenia (70-80 %), who use these as their weekend houses.

Today, about 9,000 administrative procedures concerning informal buildings are going on. The problem of informal construction must be solved globally. All subjects need to be included (the Ministry of Justice, State Geodetic Administration, State attorneys, municipalities, counties...) in order for the citizens to understand that informal construction is not a solution and that it is necessary to change the behavior of all citizens.

This is a long process; its success requires understanding and a certain degree of tolerance from all subjects towards a final solution of informal construction.

INSTEAD OF A CONCLUSION

Illegal construction is a reflection of a social crisis.

Legalization of informally built buildings is not popular with those who built buildings according to regulations.

Buildings which were illegally built because of socially driven reasons must be considered separately from buildings which were illegally built for profit driven reasons.

The problem of illegally built buildings must be considered from the perspective of environmental protection.

Illegal construction must be proven as the most expensive construction.

Illegal constructors must be shown as persons making extra profit by violating regulations.

Illegal construction can be stopped with a good legal framework, physical planning, construction regulations and registration.

Physical plans must be in accordance with environmental protection policies and they must secure sustainable development.

Construction conditions must meet housing needs and be in accordance with the economic potential of citizens and society.

Registration of building parcels and buildings must secure established property rights.