

# Formalization of property rights A case study of Montenegro

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Master Thesis 30 credits 2011



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Property and Land Law

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Ås, August 2011

## **Abstract**

Informal and illegal construction has been a part of Montenegro's development since the 1990s. It is estimated that there are around 100 000 informal/illegal constructions in Montenegro, which is approximately 1/3 of the total housing stock in the country (Onsrud 2010). Illegal and informal construction is common on the whole territory of the country and often in concentrated living areas, thus creating a whole informal settlement.

A typical feature of such construction is either absence of a licence for construction, or construction differing from the conditions of the licence. Most commonly the illegal/informal construction occurs on the investor's private land, but such construction also occurs on the municipal land. The informal/illegal construction has a negative effect on the country's development.

There are various reasons for the increase of illegal construction in the country. One of such reasons is insufficient land administration during the past two decades. The procedures for obtaining a building permit and registration of property are awfully long, time consuming and costly. The system is so complicated that even the local authorities have difficulties understanding all of the procedures. The local authorities are imposed to double-check and even triple-check all the necessary documentation submitted by the investors for obtaining a building permit, which makes the system very little productive and costly.

Amongst other reasons for illegal/informal construction are migration, rapid urbanization, establishment of a free market economy in the country and corruption. The lack of sufficient legislation on illegal/informal structures also contributed to the investors' fearless attitude towards the illegal/informal construction.

The main goal of this study is to describe the existing situation and to contribute to the theoretical understanding of the possible reasons for which illegal/informal construction occurs. This thesis includes the discussion of different aspects that are connected to the problem of informal settlements such as property rights, land administration, public regulations, development and negative impact on the environment. This thesis is based on the knowledge gained through the study of available literature about the theme and a fieldwork in the country of concern.

# Sammendrag

Uformell og ulovlig utbygging har vært en del av Montenegros utvikling siden 1990-tallet. Det er anslått at det finnes rundt 100 000 uformelle/ulovlige bygninger i Montenegro, som utgjør omtrent 1/3 av den totale boligmassen i landet (Onsrud 2010). Ulovlige og uformelle bygninger finnes i hele landet og ofte i tett bebygde strøk slik at de danner hele uformelle bosetninger.

Et typisk trekk ved en slik konstruksjon er enten fravær av en byggetillatelse, eller konstruksjonenes avvik fra bestemmelsene i byggetillatelsen. Oftest skjer den ulovlige/uformelle utbyggingen på investorens private land, men også, i mindre grad, foregår den på kommunalt land. Den uformelle/ulovlig utbyggingen har en negativ effekt på landets utvikling.

Det er ulike årsaker som førte til økningen av ulovlig utbygging i landet. En av disse er utilstrekkelig landadministrasjonen i løpet av de siste to tiårene. Prosedyrene for å få en byggetillatelse og registrering av eiendom er veldig lange, tidkrevende og kostbare. Systemet er så komplisert at selv de lokale myndighetene har problemer med å forstå alle de forskjellige prosedyrene. Kommunene er pålagt å dobbeltsjekke og noen ganger trippelsjekke all nødvendig dokumentasjon fremlagt av investorer for å få en byggetillatelse, noe som gjøre at systemet blir veldig lite produktivt og kostbart.

Blant andre årsaker til ulovlig/uformell utbygging er migrasjon, rask urbanisering, etablering av en fri markedsøkonomi i landet og korrupsjon. Mangelen på tilstrekkelig lovgivning om ulovlige/uformelle bygninger har også bidratt til investorenes uredde holdning til ulovlig/uformell utbygging.

Hovedmålet med denne oppgaven er å beskrive den eksisterende situasjonen og bidra til teoretisk forståelse av de mulige årsakene til ulovlig/uformell utbygging. Denne avhandlingen omfatter diskusjon av ulike aspekter som er knyttet til problemet av uformelle bosetninger som for eksempel eiendomsrett, landadministrasjon, offentlige reguleringer, utvikling og negativ innvirkning på miljøet. Dette akademiske arbeidet er basert på kunnskap tilegnet gjennom studier av tilgjengelig litteratur om temaet og et feltarbeid i det aktuelle landet.

## Preface

Working with this thesis has been both very challenging and very interesting. I got the chance to immerse in a theme, which I never studied before. The more I researched the phenomenon the more I discovered new aspects of it. It has been a great learning experience and maturing process. My goal was to capture the reader's interest for this fascinating theme and to show the connections between the subject of property rights and land administration and development of a country in transition.

I would like to express my gratitude to the people who guided me and have helped me throughout the process of writing this thesis.

I am very grateful for all advises I received from professor Hans Sevatdal. His great knowledge and ability to motivate and inspire is something that has been a great help to me during the writing process.

I would like to thank my supervisor Einar Hegstad for guiding me through the writing process.

I am very grateful to Helge Onsrud for all the help, interesting discussions about the theme of the thesis and for all the advice.

This study would not be possible without the people who helped me during the fieldwork in Montenegro. My contacts at the Municipality of Bar for being a great information source and taking time to answer a great amount of questions, and helping me to establish contact with other officials in the country.

I am very thankful to my fantastic translator, Milena, for helping me to communicate and to understand the local culture. For being a good companion on my discovery expeditions through the complicated neighbourhoods and illegal habitats.

Not least am I grateful to all the people who let me into their homes and shared their stories with me. For their great sense of humour, which made it easy to speak about the difficult subjects and gave some great quotations in the thesis.

I would like to thank my family for the mental support and cheering me to the finishing line.

I would also like to express my gratitude to Stian Eisenträger for supporting me through the process of creation of this thesis and giving me advise about English grammar.

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## **List of Abbreviations**

EU – European Union

EBRD – European Bank of Reconstruction and Development

FAO – Food and Agriculture Organization of the United Nation

IMF – International Monetary Fund

MANS - Network for Affirmation of Non-governmental Sector

NGO – Non-Governmental Organization

OSCE – Organization for Security and Co-operation in Europe

UN – United Nations

UNDP – United Nations Development Programme

UNECE – United Nations Economic Commission for Europe

UN-HABITAT – United Nations Humane Settlements Programme



# Chapter One

## Introduction

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### 1.1 The theme

The theme of this thesis is informal and illegal construction in Montenegro. This type of construction includes buildings raised without a building permit or differing from the conditions of the building permit. According to the latest reports done by the UNDP office in Montenegro, there are possibly 100 000 informal structures in Montenegro which is approximately 1/3 of the total housing stock in the country (UNDP 2010). This type of construction can be found all over the country and often in concentrated living areas, thus creating a whole informal settlement.

There is a chain of problems that is connected to informal construction. This chain consists of physical, economic, environmental and social problems that are slowing down the development of the country.

Amongst the physical problems with many informal structures is lack of secure construction, which is a big concern especially on the coast because of the seismic risk in the area. The costal areas of Montenegro are especially prone to earthquakes. In 1979 the costal area experienced a devastating earthquake 7.1 on the Richter scale during which 94 people were killed and over a thousand people were injured.

The biggest economical problem with this type of construction is that the transactions with these create an informal market and affect the country's general financial market. The social problem that informal construction leads to is the loss of security of the owner's property rights.

Illegal/ informal construction has also a negative effect on the local environment, because it causes pollution and destruction of ecosystems in the country.

In 1991 the government signed Declaration on Ecological State of Montenegro. The declaration was incorporated in the constitution of the country in form of amendments (Government of Montenegro Ministry of Tourism and Environment 2008). This was the fist

time a country officially became an ecological state. Despite the declaration little attention has been paid to environment during the past years. Urbanization, increase in illegal construction and illegal use of natural resources put a big strain on the biodiversity of the country.

Pollution and destruction of natural habitats is especially big concerns in and around protected areas, on the coast and around mountain resorts (EEA 2010).

Throughout this thesis I will discuss different aspects that are connected to the problem of informal settlements such as property rights, land administration, public regulations, development and negative impact on the environment.

The theme of registration of property and rights connected to the property is central in the institution of property law. Registration of property is an important issue in a country's economy, politics and even social structure. One of the functions of property registration system is to regulate the relationship between individuals and rights to land and ownership. Lack of a well-functioning registration system, as well as a justice system, often create greater challenges for development and prosperity of a country. It also affects the security of individuals' rights of occupation and ownership. I would even say that it is a vital element without which security of rights and property law institution in general will fail to function.

Legalization of informal and illegal construction is considered to be a part of the solution to the existing problem and prevention of further informal development in the country.

Legalization process basically means registration and formal legalization of informal and illegal buildings. There are different expert opinions whether legalization is a good solution for informal development. However, Montenegro has chosen this method to dealing with the problem and in this dissertation I want to focus first and foremost on the perspectives of those who have the first hand knowledge about the issue.

To gain more knowledge and understanding of the construction of illegal/ informal buildings and the legalization process in Montenegro, I decided to do a study in the country concerned. I made the decision to do my study on the Montenegrin coast of the country after a conversation with Helge Onsrud at the Norwegian Centre for Property and Development. He shared with me his experience from Montenegro and suggested Bar as a possible place to do a study about illegal buildings. He also helped me to establish contact with the UNDP office in Podgorica and local authorities in Bar. After a conversation with a representative from the municipality I decided to do my study in areas situated close to the town of Bar. The areas where I did my study are closely described in the chapter 1.3.



Figure 1: The map of Montenegro (Image: World-Geographics (2011))

I collected much of the information for my study by collecting the information by talking to the local people who live in illegal/informal constructions, the local authorities that deal with regulation of property and spatial planning, as well as the experts who have scientific knowledge of the problem. During the study I wanted to take a closer look at what kind of challenges a country faces due to lack of registration and informal development. And finally I wanted to learn about solutions that are being suggested by the experts.

## 1.2 Research questions and objectives

The theme of informal and illegal buildings is comprehensive. There are different aspects of this theme that are interesting to research. My initial thought was to focus on the question why people do not register their buildings in the cadastre. However, throughout my research work I stumbled upon new questions, which I found more relevant to ask. Hence I decided to form my research and thesis around three research questions.

My first research question reflects the focus on one geographical area: *“What are the reasons for the increasing number of informal and illegal constructions in the past two decades on the coast of Montenegro?”*

By answering this research question I first of all want to achieve an understanding of the reasons for informal development of the property sector on the coast of Montenegro. I want to look at what kind of factors that affect and stimulate the informal development.

Understanding the reasons, the current situation and the effects of informal development in this specific area can help understanding the reasons for informal development in other countries in the region that are facing the same problem of informal development. I chose the time frame of two decades because, according to the Montenegrin authorities, the illegal construction started during the 1990s and continued until the present time.

My second research question is *“What kind of purpose does property registration serve in a country affected by informal development?”*

By answering the second research question I would like to find what is the current situation of the property registration in Montenegro with main focus on the coastal area. I would like to find out what kind of role property registration is playing in informal development; can a functional registration system co-exist with informal development?

The last research question is *“What kind of measures are being taken by the government to put a stop to the informal development?”*

The third and last research question I would like to look at the legalization process, a project that was initiated by the authorities and aid organizations to solve the problem of informal development. I would also like to find how the existing property registration system collaborates with the legalization process.



To answer all of the research questions my first objective is to assess the situation in general. My second objective is to gain knowledge about different processes that are affecting informal development in Bar and areas around Bar, such as registration of property, urban planning and transaction of property. I developed the following objectives to help me find the answers to the research:

- How does the process of urban planning work in the Municipality of Bar?
- How does the property registration process work in the Municipality of Bar?
- What are the necessary procedures to gain permission for building?
- What are the authorities' views on letting people register their illegally/informally-constructed buildings?
- Why do some people choose to register their informally or illegally constructed houses in the cadastre, while others choose not to register?
- What kind of consequences does the owners of the formal sector experience after registering their property?
- Are there any consequences that the owners of the informal/ illegal constructions might experience if the authorities find out about the informality/ illegality of the construction?
- Are the owners of illegal and informal constructions afraid of the possible consequences?
- How do the transactions with informal buildings happen and what place do these transactions have in the market?
- What kind of consequences does the problem of informal building have on the country's development?

### 1.3 Outline of the research area



Figure 2: The map of the country with emphasis on the research area (Image: Wikipedia (2011))

Montenegro has a variety of examples of informal building and the amount is quite large in comparison with the country's size and population. As I have mentioned earlier, the number of informal buildings is estimated to be around 100 000. Informal buildings exist all over the country and for this reason they cause different types of challenges. For this master thesis I chose to research the coastal area of the country and more specifically in the areas close to the town Bar.



Figure 3: Example of a research area: Ulcinj. (Photo: Lena Hellenen)

According to the Tourist organization of Bar the total area of the municipality is 550 km<sup>2</sup> and the population size is about 40 000 people. The municipality of Bar is a very attractive tourist area with its 46 kilometres of coastline, in addition to the connection to Skadar Lake National Park. The location and the climate make the area perfect for summer tourism and it gives an opportunity for development of tourism and many local people take advantage of this opportunity. There is hardly a place in the area that does not become crowded with tourists during the summer. There are people who come to rent an apartment from the locals, and there are people who come to build their own holiday homes. The development of tourism in Bar contributes positively to people's financial situation on the one hand, but on the other hand it contributes to informal development in the area.

Bar is a historic town and is dated back to the prehistoric times. The town was conquered and destroyed many times throughout the history. Finally it was rebuilt and given its name in the beginning of 20<sup>th</sup> century. Because of the town's harbour, Bar became an important place in the former Yugoslavia. It served the purpose as the port for both the naval fleet and trade ships. During the 1990s the port of Bar became one the most important transit points in the multi-billion dollar criminal industry: cigarette contraband. The contraband came to the port of Bar from various places of the world: The Middle East, Central Asia, Western Europe, the Balkans and other. The contraband was then shipped from Bar to Bari in Italy. These kinds of operations were not hidden from the government because it gave an income to the country through a "transit-tax" (Glenny 2009). Montenegro has had a goal to become a member of the EU since the 1990s, but the government's support of this illegality was not acceptable for a

prospect EU-country. Property development seems to be another profitable business in which authority representatives and politicians like to invest in. It is alleged that some of these investments involve illegality.

In 2010 local authorities of the coast town of Budva, about 38 kilometres up the coast from Bar, were involved in a scandal concerning illegal property development. In 2007 the Russian company Mirax Group started the construction of luxury apartments in Zavala close to the town of Budva (figure 4). In 2008 the local NGO, MANS, submitted a criminal appeal to stop the construction because they suspected that it lacked the necessary permits. In December 2010, the mayor of the town of Budva, Rajko Kuljaca, deputy mayor Dragan Marovic and the eight of their associates, were arrested on charges of abuse of the office and organized crime in spatial planning and construction (MANS 2011b). The mayor and the deputy mayor were suspected of having secured “substantial unlawful gain”(said in the police press release) for the Zavala Invest Company, the partner company to the Miramax Group, through abuse of their official positions (U.S. State Department 2011). The Podgorica Superior Court ordered a 30-day detention of the suspects. They could be facing up to ten years in prison if they would be found guilty of charges (Ibid). The case is still under investigation.



Figure 4: The luxury apartments "Astra Montenegro in Zavala, Budva (Photo: Lena Hellenen)

The MANS has investigated several similar cases to the one in Budva. Amongst these is a case in Bar, which also involves alleged illegal construction. According to the MANS the investor in the construction was brother of the former Minister of Interior. The construction involved 11 luxury villas and two apartment buildings (figure 5). Allegedly this construction was illegal and the mayor of Bar was aware of the violation of the law by the investor, but did

not stop the construction (MANS 2011a).



Figure 5: The luxury apartments in Bar (Photo: Lena Hellenen)

The same organization claims that the illegal construction does not only involve the private sector and private investments of the government officials, but the public sector may also be involved. In its annual report from the last year the organization claims to have discovered that the house registered to the National Security Agency of Montenegro in Podgorica is built illegally. According to their findings the annex to existing building, which doubles the size of the building, was constructed illegally (MANS 2011a).

In my opinion these examples illustrate very well the seriousness of the situation of illegal construction in Montenegro. The illegal construction happens on different levels and the type of the constructions varies from family homes to apartment buildings and to hotels, as I have discovered during my study in the country.

## 1.4 Methods

### 1.4.1 Choice of method

I chose to do a qualitative research for this master thesis due to various reasons, although a quantitative research potentially could have given more accurate data about the situation. The main goal of this thesis is to describe and to understand the of informal/ illegal construction. By and large, my methods are based on semi-structured interviews and direct observations. It

was also logical to choose the qualitative research method for this study because the nature of my research questions is rather qualitative than quantitative. A qualitative research would not necessarily lead me to better understanding of the questions I aimed to answer in this thesis. The other goal is to analyse and understand the phenomenon by gathering information from different sources. As I had very limited knowledge about informal development and legalization of property in Montenegro it was difficult to make realistic hypothesis. To gain more knowledge and better understanding of the phenomenon I read related studies that were carried out in the region previously.

Another reason why I chose to do a qualitative study is my lack of knowledge about the country and local culture. I did not know if it would be possible for me at all to interview the local people considering being a foreigner and not speaking the local language.

I also had to consider the sensitivity of the theme of my research. To find an answer to my research question I had to ask people straight forward questions about delicate subjects such as building permits, registration and tax payment. These are all sensitive questions that people are most likely to feel uncomfortable to answer. It is a challenging job to ask people this type of questions, as it puts both the respondent and the interviewer outside of the comfort zone. It is an even bigger challenge to do this job in a foreign country without knowledge of the language, the culture and the customs, in addition to being in an unfamiliar setting.

Going into the research process of this thesis, I had little prior knowledge about the situation, except for that there are a lot of illegal/ informal buildings in the country. This means that my whole approach was some sort of investigation of an “unknown” territory. As a result my study acquired an exploratory character.

Qualitative method gives more flexibility to the research and is more open to changes in the process of work. By choosing a more flexible research method I had the possibility to change the interview guides and questions when the situation was requiring it. I used this possibility as I gained more knowledge about the existing situation and some experience about what kind of information people are willing to give.

The research process for this master thesis consisted of a combination of activities. To gain knowledge about the general part of my research questions I have studied relevant literature. My literature comprise list of different types of written material: syllabus from property

studies at the university, official documents, studies, articles and books written by the experts in different fields.

The other part of my research consisted of fieldwork in Montenegro. I chose to do fieldwork in Bar to collect the data from various information sources and by own observation. This type of data collection helped me to identify the reasons for existing problem of informal development and the process of formalization. By “various information sources” I mean investors who have built informally or illegally, local authorities and experts who deal with the issue of informal development on a daily basis. My strategy was to get as many interviews as possible with these information sources during my stay in Montenegro.

Time is a big challenge, i.e. scarce resource, for a fieldwork. I had a limited period of time to collect the necessary information due to the deadline of my thesis. I scheduled three weeks in March to do the fieldwork. As I mentioned above, I did not have previous knowledge about possibilities to interview local people and it made it difficult to estimate how much time would be appropriate for my research. The financial situation also limited my possibilities to stay for a longer period of time. Besides the costs for living and transportation, I also had to use a translator to be able to make the interviews. After considering the costs and the time limitations I came to a conclusion that three weeks was my best option for doing the fieldwork in Montenegro.

For my interviews I used an interview guide (Attachment 1). It consisted of some closed questions and some open questions. I did not use all the same questions for all the areas where I did the interviews. However, some of the questions were relevant for all of the areas. I would usually start the interview with the following questions:

- Size of the house
- The year of construction
- Number of people living in the house
- Do you rent out rooms to tourists?
- Did you build, buy, inherit or rent the house?
- Do you have connection to the sewage system, electricity and telephone line?
- Do you have access to the public road?
- In your opinion, are the roads good enough for emergency transport (ambulance, fire department etc.) in terms of width and accessibility?

- Do you have parking space?
- Who has provided the area with infrastructure, the municipality or people living in the area?
- Are you satisfied with the infrastructure?
- Is your house built by the necessary safety standards?
- Do you feel that the construction of your house is safe in case of an earthquake?

These questions had two purposes in my interviews. The first purpose was to collect the general information about the house and the condition of the building and the neighbourhood. The second purpose was to have an easy start of the conversation before leading on to more difficult questions about building permit and illegal construction.

I asked all the respondents if there was a building permit for constructing the house. In cases where the house was bought, I asked if the previous owner had a building permit. I met very few people who were renting. In case they had any knowledge about the way the house was constructed, I asked them as well if they knew if there is a building permit for the house.

Depending on the answer about the building permit, the interview developed further. If people did not have building permit, then I could ask them whether they have tried to apply for a building permit or if they just built without applying at all. I also asked them what were the reasons for not applying and what kind of consequences they feared in case the authorities would find out about this.

I asked all the respondents if they thought that the application procedures for gaining a building permit are difficult or easy to understand and follow. I also asked what they thought was the reason for why so many people build without permission from the authorities. In the chapter 5 I explain more detailed how I experienced the interview situation and what kind of responses I received to my questions.

Interview with the officials were also an important part of my research work. The interviews with the officials included representatives from the central and local governments. At the local government I spoke with the representatives of the Municipality of Bar, Department of urban planning, housing and environmental protection and Real Estate Administration. At the central government I spoke with Ministry of Sustainable Development and Tourism, Tax Administration and Real Estate Administration. I discuss the interview process in more detail



in chapter 5.2. In the same chapter I also discuss the use of direct observations as a method of my research work.

### 1.4.2 Choice of research area

As I mentioned in chapter 1.2 I chose to do my research in the areas close to the municipality of Bar because of the recommendations from Mr Helge Onsrud at the Norwegian Centre for Property Rights and Development. The Centre for Property Rights and Development was established in 2005 and is a part of the Norwegian Mapping Authority. The Centre is working mostly with Balkan countries and former Soviet republics. The Centre is cooperating with the local authorities of these countries, in addition to NGOs, about property rights issues and development. In 2010 Onsrud participated in a conference about illegal and informal construction in Montenegro where he gained the knowledge about the situation. I came in contact with Onsrud through my professor Hans Sevattal because I was interested in doing a research about informal development. Onsrud explained me the situation in Montenegro and suggested that the municipality of Bar could be good study case on the matter.

On my arrival to Bar I decided to have the first interview with the municipality to gain knowledge about the area, background of the existing informal development and to ask for advise on which areas that could be best for my research. I also received some help in choosing the areas for interviews from my translator's family, who are local and know a lot about the municipality. I took into consideration that receiving advice about the areas from local people could be compromising for my research. People may have biased interests and give me advise that can be misleading. I chose to take that risk because the local people have the best knowledge about what is happening in the local community. Throughout my fieldwork I have double-checked the information I was given by the local people with the local authorities and made my decisions accordingly. To choose the right information sources is a challenging part of every research work, especially when the informants have private and professional interests in the topic of the research. All in all, my choice to do the research in different areas was based on advice from local people and local authorities, about where I could find illegal and informal constructions of different types and purposes.

I chose to do the research in the following areas: Sutomore, Susanj, Polje, Utjeha, Ulcinj (figure 2). I would characterize these areas as suburban. It was interesting to visit different areas because the type of constructions varied from private houses to hotels. The areas also had different problems related to illegal constructions. For example in some areas there is no sewage system and in other there is a connection to the public sewage system. I also found it interesting to visit an area where most of the constructions are legal to find out the attitude of people living in legal buildings are relative to illegal construction.



Figure 6: Overview of the research areas: Sutomore, Susanj, Polje, Utjeha and Ulcinj (Image: Google Maps (GoogleMaps 2011))

### 1.4.3 Selection of respondents

The main goal of my research is to find out what are the causes for informal development in Montenegro. To get a more comprehensive perspective on the situation I decided to interview both the authorities that are dealing with the issue of informal development, and the local people who have first hand knowledge about the issue.

The location of the research area made it difficult to foresee how many interviews I would be able to conduct. Most of the chosen research areas are situated on the seaside and consist mostly of holiday homes. The owners of the holiday homes usually come during summer holidays to stay for some weeks or a month, or to rent out the houses to tourists and then leave. Since I did my fieldwork in March it was not possible to interview the owners of the summer homes. It is not certain that if I would do my fieldwork during the summer I would have an opportunity to interview the owners either, because as I have already mentioned many of them just come to rent out the houses for tourists and leave. During the summer holiday season the coastal region becomes crowded with tourists. If I had chosen to come during this period of time the tourists would create another obstacle for my research because many of the local people who live in the areas permanently rent rooms to tourists during the summer. The owners would probably have been too busy to talk to me or they would not have been interested to answer any questions in order not to awake any suspicion of the guests.

The lack of possibility to interview the owners of the summer homes significantly reduced the sample size of the potential respondents. My selection of respondents consisted of the owners who live in the area permanently. This circumstance was both an advantage and a disadvantage for my research. The advantage was that people who are living permanently in the area were not afraid to point out to me houses that were built without permits. They were also not afraid to tell me about the owners of these constructions and the consequences it had on the neighbours. The disadvantage was that I did not have an opportunity to talk to the owners of these constructions and crosscheck the information I was given by their neighbours. Although it would be interesting to hear the opinion of all the people who live in the area, I feel that it was more important to talk to the permanent residents. I feel that I got the necessary information to answer my research questions, because the permanent residents have better knowledge about the situation in the area than those who come only for a visit.

During my research I have interviewed the owners of family homes and small hotels because they were open to give the sensitive information I needed for this research. Unfortunately it was not possible to interview the owners of the big hotels that were pointed out to me as informal buildings because it is necessary to have personal contacts to get an interview with them. Neither was it possible for me to interview the government officials, who allegedly were involved in illegal construction, involvement because I did not have enough resources and the necessary contacts. However, for further research it would be interesting and valuable to interview and investigate the owners of big hotels and government officials to verify or to disprove their involvement in illegal/informal construction. This would add further insight into the phenomenon.

My intention was to talk to as many owners of legal and illegal constructions as possible. My criteria for choosing the respondents were simply that they should be owners of illegal constructions, or owners of legal constructions. When researching a bigger area, such as I did, it is common to divide a bigger area into strata by different criteria. Considering that my selection of respondents was already reduced to the group of people who live in the area permanently and I decided that there was no need to divide the area any further. I had better chances to carry out more interviews by simply going from door to door. I was able to do 40 interviews with the local people.

I interviewed two local officials who are working in the Municipality of Bar with urban planning and registration of property. I will not mention them by their names, to protect their identity, due to the sensitive information they have given me during the interviews.

I have also spoken with representatives from the Ministry of Sustainable Development and Tourism, the tax office in Podgorica, the Cadastre in Podgorica and a lawyer who works with cases concerning property law. It was crucial to speak to the experts working on different levels and departments to get a better perspective on the issue.

#### 1.4.4 Working with translator

The language was a big challenge for my fieldwork. I had no previous knowledge of Montenegrin<sup>1</sup> language. The use of English in Montenegro has increased in the past years due to the expansion of the tourist industry and other international cooperation. Children are being taught English in school from the early age and many university programmes require the basic knowledge of the language. It is still a challenge to find people of older generations who can fluently speak the language. It would not be possible for me to interview people without a help of a translator.

My translator was an important part of the fieldwork not only as a mean of communication, but also as a key ingredient to establishing trust and credibility with the respondents. In every household where we conducted interviews, we were asked where the translator comes from and what is her last name. The family of my translator comes from Bar and the fact that she is a local person made people more open to talk in most of the cases.

#### 1.4.5 Interviews

The first step to do the interviews was to find a person who accepted to participate. As I have mentioned earlier, my translator and I went to or asked random people on the street, if they lived in the area and if they would like to talk to us. Most of the people who agreed to be interviewed invited us into the house and offered us something to drink and to eat.

Montenegrin people are very sociable and they like to have visitors. Very often we would meet the owner of the house and some friends or relatives visiting them. When I asked the questions everyone who was there would like to join the conversation and answer the questions. It could be destructive because I first of all needed the information from the owner of the house. At the same time it was an advantage because people could say things that were interesting to the subject of my study in general. The interviews went easy most of the times.

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<sup>1</sup> After Montenegro became an independent country in 2007 the official language of the country was changed from Serbian to Montenegrin. Today the law declares Montenegrin the official language of the country.

<sup>2</sup> Information used in the table was collected from different sources: CIA World Fact Book

People were willing to answer my questions, even if they apparently were not always telling the truth.

It was more difficult to get interviews with representatives of public authorities. It is a strict hierarchy in the society and in the working environment in Montenegro. It is not possible for a student to get an interview just by calling an official or a representative of local authorities. My experience was that it was crucial to know people, and have contacts with respective positions that can give recommendations and vouch for you. Usually I would be told that I only have a few minutes and that I should not ask too many questions, because they were very busy people who did not really have time for any interview. Some of the authority representatives were more used to communicate with researchers and answering difficult questions. Others were more abrupt with their answers, or tried to avoid answering the questions at all.

Generally very few people spoke English, which made the interviews time-consuming. I felt it was a serious disadvantage that I did not speak the local language because there are some lingual nuances that are difficult or impossible to translate into a foreign language.

#### 1.4.6 Structure of the thesis

In the end this rather extended introduction I would like to describe the logic of the composition of this thesis.

I found it appropriate to give an overview of related information about the country already in the next chapter, chapter 2.

Further, I found it useful, partly for myself and partly for the reader, to present some of the concepts and theoretical issues. This is restricted to what I feel is necessary.

In chapter 4 I focus on land administration issues related to my research questions.

In chapter 5 I present my findings combined with analysis. I finalize this chapter with conclusions, which I feel are possible for me to draw. In fact, both chapter 4 and 5 comprise the findings that I made.

In chapter 6 I present the solutions, of the problem of illegal construction, that were suggested by the government. After, I describe my thoughts on the solutions.

I finalize the thesis by expressing my thoughts and reflections on the work on this thesis and the findings.

To show examples of the things that I observed during my fieldwork, I decided to use photographs in the thesis. However, I want to bring to the readers attention that I did not make any pictures of the houses where I interviewed the owners. All of the interviews with the private owners were confidential. To protect their anonymity I could not use any images that could make the owners easily identifiable.

I found it difficult to illustrate all the examples with only words; therefore I found it necessary to use photographs. I also included the images of allegedly illegal constructions in which the public officials were involved. All of the cases that I mention in this thesis are publicly known through the mass media in Montenegro and the neighbouring countries. Since I did not interview the owners of the buildings on the photographs it is unknown to me whether the constructions are illegal/informal. The purpose of the photographs is to give general examples of what a typical house in an area looks like, what the roads look like, what type of construction is going on in the centre of Bar and in other areas I visited.

When I thought about the way I should structure the thesis I came to the conclusion that it would be more interesting for the reader if I would include relevant examples from my research throughout the thesis, instead of just concentrating them in one chapter. I would say that this thesis is structured in an “analytical” way. By this I mean a kind of mixture of presentation and discussion, both aimed at answering my research questions.

## Chapter Two

### Country profile

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#### 2.1 Introduction

I chose to give an introduction of the country already in the second chapter to create a context for further discussion of the theme, concepts and issues. A country's historical development, politics and culture affect country's land administration and property sector. I hope this introduction will help reader's understanding of informal development in Montenegro.

In this introduction I only included the key fact that I found important to give an impression of the country, such as background information about the country's history, politics, economy and social structure.

#### 2.2 Geopolitical profile



Figure 7: Map of Montenegro's geographical position (Image: Travels with two (2011))



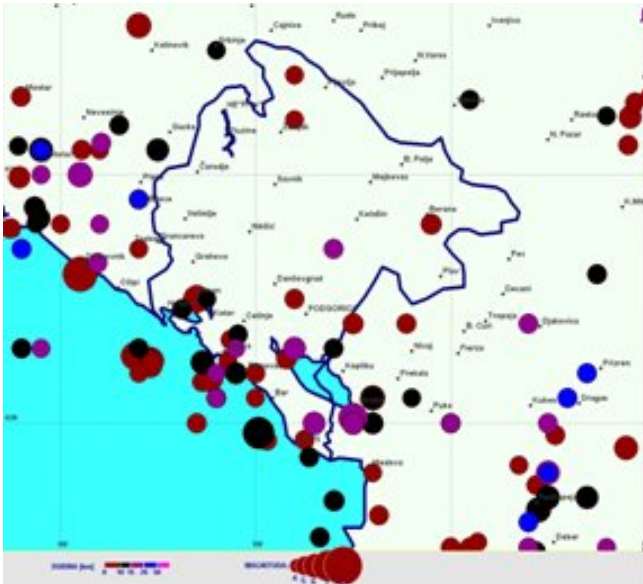
| Table 1: Quick facts about Montenegro <sup>2</sup> |
|--|
| <b>Geographic coordinates:</b> 42°30 N 19°30 E     |
| <b>Total area:</b> 13,812m <sup>2</sup>            |
| <b>Land area:</b> 13,452 m <sup>2</sup>            |
| <b>Coastline:</b> 293,5 km                         |
| <b>Lowest point:</b> Adriatic sea 0km              |
| <b>Highest point:</b> Mount Durmitor 2,522m        |
| <b>Government type:</b> Republic                   |
| <b>Capital:</b> Podgorica                          |
| <b>Population:</b> 650,575                         |
| <b>Number of municipalities:</b> 21                |

Montenegro is situated at the Adriatic coast with borders to Albania, Croatia and Bosnia and Herzegovina (Rellie 2005). The climate is contrasting from the mild Mediterranean in the south to the alpine in the north. This opens to many possibilities for visitors to the country during all the seasons of the year. Even being a small size the country has a lot to offer its visitors, such as mountains, canyons, beaches and four national parks with rich biodiversity.

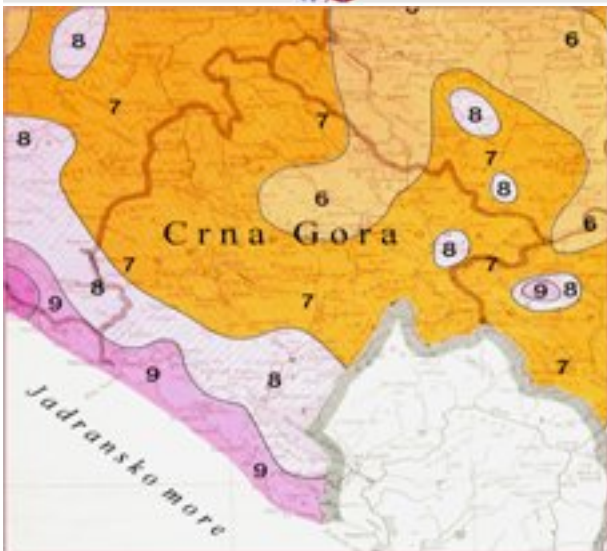
As I have mentioned in the first chapter Montenegro is in common with earthquakes because it lies on the eastern Adriatic seaboard, which is situated in the seismic fault line. Devastating earthquakes have taken many lives during the past centuries. Although earthquakes of catastrophic proportions do not occur frequently, the danger of an earthquake needs to be considered when building houses and other structures.

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<sup>2</sup> Information used in the table was collected from different sources: CIA World Fact Book ([www.cia.gov](http://www.cia.gov)), The Brandt Travel Guide to Montenegro (2005) and The Norwegian Ministry of Foreign Affairs ([www.landsider.no](http://www.landsider.no)).



Map of epicenters of damaging and disastrous earthquakes in Montenegro and surroundings for the past 5 centuries.



Map of maximum earthquake intensities in Montenegro that have occurred in the past (expressed in MCS intensity scale).

Figure 8: Map over the earthquake prone areas (Image: PPRD South Programme (2011))

Montenegro separated from Serbia on June 3, 2006 and became an independent state. Right after its independence the country applied for memberships in the world's leading organizations EU, WTO and NATO. The EU declined Montenegro the membership due to the country's high level of corruption and organized crime. Although there is still corruption that gives life to informal development in the country, Montenegro was granted a candidate status for EU membership in 2010. During my fieldwork I have got an impression that people are positive to becoming a member of the EU, but they are concerned that the government does not put enough effort into improving the conditions in the country. People expressed concern that the government does little to bring the country to the level of northern European countries.

Since its independence Montenegro became a member of several international organizations: the UN and OSCE in 2006, the World Bank group, IMF and the Council of Europe in 2007 along with a number of other agreements.

## 2.3 History

### 2.3.1 Formation of the state

The name Montenegro comes from the Venetian form of Italian name “Monte Nero”, which means “The black mountain” (Mønnesland 1994). The name has been used since the 14<sup>th</sup> century and supposedly it has been given because of the great mountains that appear black from the sea. The local name in Slavic is Crna Gora. During the history many neighbouring countries tried and several times succeeded to conquer Montenegro. The mountainous landscape has always been a great help to the Montenegrins in the battle for freedom.

The formation of the country began formed during the Middle Ages. In the beginning Montenegro was a part of the Serbian kingdom Zeta, but in 1355 Montenegro became an independent principality.

Throughout the Middle Ages the country was conquered and ruled by the Turks during several periods. This led to implications for the relationship between Montenegro and Serbia in the later times.

The formation of the Christian state happened during the ruling time of vladika<sup>3</sup> Danilo I (1697-1735). He established a good relationship with the Russian tsar Peter the Great and together they joined the forces to keep away the Turks. The Russian tsar saw political benefits in forming a relationship with a Slavic Christian nation in the Balkans. The good relationship between the two countries proved itself when the Montenegrins supported Russia in the war against Napoleon (1805-1806). The relationship with the Russian people has lasted until today, both business wise and politically.

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<sup>3</sup> Vladika is a bishop. In Orthodox state a vladika had a great power that could be compared to a tsar. He could influence the country's politics and was a big link between the people and the ruler.

During the ruling of another vladika Petar I (1782-1830) Montenegro started its modernization as a state. The country's social system was based on strong clan and family traditions and values. The clans were ruled by the dominant male figures. The relationship between clan members did not necessarily mean blood relations. A clan was more of a community that lived together and shared a land. The family's honour was considered as one of the most important values to protect, which often involved blood revenge.

To get higher education Montenegrins had to go to Serbia, where they got new influences and ideas about democracy and development. At the time Montenegro was far from a democratic state formation. There was no party system and the head of the state chose the parliament representatives. This kind of state organization could hardly be called a democracy. When people came from Serbia with the new ideas it was a threat to the state. The government feared this kind of influences from Serbia and called them anti-Montenegrin.

### 2.3.2 Important changes during World War I and II

Montenegrins were proud to be an independent country, but its independence has been threatened many times by the neighbouring states. Austria-Hungary and Italy had interests in Montenegrin territory, which created tension between the nations. Montenegro had to seek alliances with other Balkan countries. In 1911 an alliance of Balkan countries made an agreement to alienate the Turkish population. In 1912 Montenegro declared war against Turkey and it was a start of the first Balkan war. After the war Montenegro's territory expanded. The population of the new territories felt more Serb than Montenegrin and therefore wanted a union between the two countries. Serbia in its turn did not want two kingdoms in the union, as it was the most powerful country in the Balkans before the World War I. During this war the relationship between Serbia and Montenegro became strained because Montenegro made territorial claims on the same areas as Serbia.

The time between the two world wars Montenegro lost its recognition as an independent state. The country's population became more divided between those who meant that Montenegro should be a part of Serbia and those who meant that Montenegro should be an independent state. In the beginning of the 19<sup>th</sup> century the country depended on donations from Russia

because there was no industry in the country and lack of jobs. The mountainous landscape made it difficult to do cultivation and to hold large house animals (Jelavvich 1983). The living conditions were becoming very hard and people migrated to America, Serbia, Russia and Habsburg territories.

In 1917 the Korfu declaration was signed between the Croats, Serbs and Slovenes about the establishment of the common state of Yugoslavia. Montenegro was again divided into two groups: those who wanted to join the union-state and those who were against it. In 1918 Serbia invaded Montenegro and forced the country to an alliance.

During World War II Yugoslavia got one of the strongest communist parties of all other Eastern European countries. The Soviet Union was a great example to the Yugoslav communist party. A secret police was established to terrorize people and to prosecute the traitors and the enemies of the country. Dangerous people were considered those who were religious, free thinkers, people with any foreign connections and others who by any dropt word awoke suspicion. Everyone who was classified as a traitor or an enemy was prosecuted and his/ her property was confiscated.

### 2.3.3 Fall of Yugoslavia and gaining independence

In the beginning of the 1950's Yugoslavia started to move slowly towards decentralization. During the period between 1965 and 1980 the process of decentralization was in progress. However, different states in Yugoslavia, amongst them Montenegro, opposed the change. The decentralization process took a long period of time. When it finally happened it did not lead Yugoslavia to a democracy, the states within the federation still had a centralized power. In 1974 the Constitution was written and it contained new laws about the election of new parliament representatives. According to the new system delegates to the parliament were chosen from different groups of population and regions and therefore it hindered an opposition to establish.

After the decentralization and Tito's death the economic state of Yugoslavia started to worsen. Any production and export were decreasing and people were losing their jobs. An

economic crisis started to emerge and depth to the foreign countries started to grow. Nationalist feelings were on the rise and it was stimulated by the new regime in Yugoslavia.

A new era of dictatorship began when Slobodan Milošević came to power in 1986. His goal was to gain more focus on the Serbs as a mistreated nation. This was his strategy to remove other state leaders and replace them with loyal people to his regime. Milošević succeeded with his plans in Montenegro. Until 1992 Montenegro was not officially in a coalition with Serbia, but with Milošević in ruling seat Montenegro was once again forced to an election that would decide a coalition. For Milošević, Montenegro was an important ally because of country's connection to the sea. In 1997 Milošević became the president of the Federation. He suppressed the rights of Albanians and Kosovars. Montenegro did not support this kind of treatment and gave refuge to 100 000 people (Rellie 2005). Milošević was replaced with a federal president in 2000 and the new time started for Serbian-Montenegrin alliance.

Serbia signed a new agreement with Montenegro in 2003 with the intention to better the chances for both countries to becoming a member of European Union. The new alliance was given the name the State Union of Serbia and Montenegro.

## 2.4 Social structure

Montenegro became an independent state after a peaceful resolution of the State Union of Serbia and Montenegro in 2006. The resolution happened in a democratic manner by the national vote. However, the relationship between Serbia and Montenegro was put under strain. The local population of the country has split opinions whether it was necessary to separate from Serbia. Many people in Montenegro believe that Serbs and Montenegrins are one people and just as many believe the opposite. According to the latest statistics 32 per cent of the country's population consists of Serbs (CIA 2011). There are many other ethnic groups living in the country, such as Croats, Albanians and others. A significant part of the respondents in my research work are representatives of the ethnic groups mentioned above. People from other countries build their homes and live together with the Montenegrins. There is no division between the Montenegrin population and "the foreigners" and therefore it was easy to come across "the foreigners" during my field interviews. However, while doing my fieldwork I was made aware of a phenomenon when a certain group of people choose to build

and live like a small community. One such group is the Muslims living in Bar. This religious minority started forming their own community by only buying and building houses in the same area. When they want to sell a house they would only sell to other Muslims. The other group is Russian citizens who come either to settle permanently or to buy a summer homes. Possibly the reason for this are the property agencies that sell the houses in the same area. The local people have expressed that it would be better if people did not establish their own small communities, other than that it did not seem to have any big negative affects on the area. It could be an interesting research question to find out what kind of consequences this kind of development has on the area, but it was not a part of my research and it did not have any affect on my work.

## 2.5 Economy and property market

|   |
|---|
| <p>Table 2: Quick facts about country's economy (The Heritage Foundation &amp; The Wall Street Journal 2011)</p> <p><b>GDP (PPP):</b> \$ 6,5 billion<br/> 7 % growth<br/> 4,6 % 5-year compound annual growth<br/> 10,393 per capita</p> <p><b>Unemployment:</b> 14,7 %</p> <p><b>Inflation (CPI):</b> 3,6 %</p> <p><b>FDI Inflow:</b> \$ 1,3 billion</p> |
|---|

Montenegro experienced economical growth after the separation from Serbia. The country's GDP was at 7,5 per cent in 2008. This made Montenegro one of the fastest growing economies in the Balkans (International Bank for Reconstruction and Development et al. 2007). Montenegro was able to pay off some of the external creditors and it enabled positive economical growth in the country. During the global financial and economic crisis the country's GDP fell down to 2 per cent in 2009 (IBDE 2011).

Today the service industry represents the main economic activity in the country. In fact services make up circa 60 per cent of the country's economic activities (The World Bank

Group 2007). Montenegro's main export is aluminium and it makes up a quarter of the country's total economy. Agriculture is also an important part of the Montenegrin economy, although it only makes up 15 per cent of the country's total economy. Agriculture is an important income source for people especially in the northern areas of the country, which is also the poorest part.

International investment interest has also increased in the past years stimulating the country's economy. The most popular international investments have been tourism, real estate, trade and transport. According to the reports from the European Bank (EBRD) Montenegro did not yet reach the international accounting standards and language standards, and this creates barriers for the foreign investors (EBRD 2010). As I have mentioned earlier there is a lot of interest in real estate investments from foreign investors, but inefficiency of the property related institutions create challenges that limit possibilities to invest.

Montenegro changed its currency several times over the years. In 1999 Montenegro adopted German currency Deutsche Mark and the euro was adopted in 2002.

The state collects the following taxes: individual income tax, corporate tax, value-added tax, inheritance tax and property tax. During the interview with the tax office in Podgorica I learned that from 2003 the revenue from the property tax is collected and governed by the local administration. The municipalities earn most of their income through the collection of property tax. There are no official statistics on tax payments, but approximately 20-30 % of the population pay the property tax regularly. The law standardizes the minimum and maximum levels of the taxes, but the local administration can make decisions on the exact level of the tax. The tax level is supposed to be proportional with the value of the property. The property is divided into three categories of use, from which the value is being determined: category 1. for permanent residents, category 2. for business use and category 3. for seasonal use. If the person owns more than one house the tax automatically double or triple from the regular level. In addition to the three categories of the property use there are other corrections such as the city zone, age of the taxpayer and number of family members.

The tax office in Podgorica blamed the lack of both human and technical resources for the low tax payment amongst the citizens. The three places with the best payment of the property tax in the country are Tivat, Kotor and Podgorica. Bar is one of the municipalities in the country that collects the least taxes and can hardly reach 20 per cent payment a year.



There is no difference for payment of property tax between illegal and legal construction. As long as the property is registered in the Cadastre the owner is obliged to pay the property tax.

The banking system in Montenegro has been completely privatised during the past few years and today you may find both Montenegrin and foreign banks in the country. The financial sector is developing slowly and interest rates on credit remain high.

There is little involvement of the business sector in the urban planning process, although the law is allowing business sector and other users of the land to participate in the development of urban plans (Law on spatial planning and construction §§ 14- 15). Such involvement could stimulate economic development on the local level and consequently on the national level as well. According to the local laws the investors can influence the decisions on preparation of a new plan or on changing already existing plan.

There is a possibility to take a loan from a bank with the property as a security for the loan, but it is not as widespread as it is in Norway because the financial situation is still unstable in the country and the interest rates are quite high. When the situation is concerning mortgaging the constructions without building permits the banks can make a decision to give or to decline a loan. As I have learned during my fieldwork the banks most often decline the loan application that involve illegal buildings. However, if the value of the land on which the illegal construction is built covers the loan the bank often agrees to mortgage the illegal object together with the land.

The Montenegrin property market started its development in the 1980s and continued through the 90s even introducing foreign investors on the market. This growth of the market did not last long. During the war in Yugoslavia the market stopped its development. During this unstable time in Yugoslavia land management was one of the least prioritised states tasks. Montenegro experienced a crisis in the country during the 1990s and the beginning of the 2000s.

Right before Montenegro became an independent state the real estate market revitalised and more foreign investors from countries like Russia, Ireland and Norway became interested investing their money in the Montenegrin market (International Monetary Fund 2008). Most of the property sales happen through property agencies. During my research I have asked people to tell me what they think about the use of agencies. I have got an impression that people are mostly positive to the use of agencies. People felt it was more secure to buy or

to sell property through an agency in terms of easier transactions and necessary paper work. At the same time many of the respondents said that they would not go to an agency if they needed to sell or to buy property because it is too expensive for them.

During the fieldwork I spoke with 3-4 agents who work in real estate agencies and they all told me that it is not legal anymore for agencies to deal with constructions without building permission. The public's opinion on this matter was the opposite. People were convinced that the agencies are still dealing with construction without building permit. People were not negative to agencies operating with informal and illegal constructions. The number of such constructions is so big in the area that if no one made any transactions with illegal and informal constructions the already slow property market would stop all together.

The transaction of property usually involves a transaction tax. The size of the tax depends on the price of the property. The transaction is done in a courthouse. There are no special courts for dealing with property in Montenegro, therefore all the questions concerning property are handled by the regular court system. When the transaction is settled between the buyer and the seller the buyer has to declare the purchase at the tax office and pay the transaction tax within the 15 days. The seller is not obliged to pay any transaction taxes. If the buyer does not pay the transaction tax within the 15 days he/she gets a warning from the tax office. If the buyer still fails to pay, the property can be sold by the authorities on an auction. From what I found out through the interviews the transaction procedures are equal for both legal and illegal buildings.

For countries in transition, such as Montenegro, the commercial and residential infrastructure is a big challenge after so many years of under-development and under-investment. The property sector is in great need of market-oriented development and property institution development because today it does not meet the demands of a market economy. The legal framework is ill-functioning and complicated bureaucratic system constrain the development in the property sector. The market loses its opportunities with foreign investors because of the risks connected to the insufficient ownership and property laws and policies. This also creates loopholes for both local and international investors who want to cheat the system.

## Chapter Three

### Concepts of Land Tenure and Land Administration

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#### 3.1 Introduction

The main purpose of this chapter is to define different terms and concepts used throughout this thesis. Definitions of different concepts and the relationship between these are needed to create the theoretical background that will help to describe and to understand the researched phenomenon. In this chapter I will only define terms and concepts that are relevant for the theme of this thesis and for my research questions.

Before I move on to the definitions it is appropriate to state the relationship between a concept and a term. According to the Oxford dictionary (1988) a concept is an idea underlying a class of things or a general notion. A term is a word used to express an idea, especially a specialized concept. In other words a term is just the name and concept is what lies beneath the surface of the name.

I must admit that it was a very challenging job to find the right words for different terms and concepts in English, and not least to explain them in English. Therefore, some of the concepts and terms are directly translated from Norwegian to English, because I was not able to find the exact translation in English. It is not certain that it would be easier to understand all the terms and concepts if I found the proper English words for them. Sometimes it is nearly impossible to explain a term or a concept in a way that a reader with any cultural and linguistic background will understand the exact meaning. I simply used the words that I have learned during my studies and I hope that the reader can forgive me some linguistic flaws.

#### 3.2 The concepts of “Property” and “Property right”

Studying the subjects of property and rights I have learned that at times different terms are being used interchangeably and concepts often have more than one definition. All the concepts and terms that I will try to define in this chapter are connected to this one central

phenomenon “property”. There is no simple way to describe what property is, because it consists of different components that have different meanings, and purposes in different contexts. The term “property” refers to both tangible assets, such as buildings, and intangible assets, such as a right to rent. The tangible part of the “property” concept is easy to understand because it is usually something we can “see”. The intangible part of the “property” concept can be very complicated and usually demands some investigative work before we are able “see” it.

Property is often defined as a “bundle of sticks” because of its complexity. In my opinion this expression describes the ubiquity of the concept of property very well. The “bundle of sticks” represents various rights and restrictions that can be connected to a property.

In Norwegian we use the term “eiendomsforhold”, directly translated to English “property conditions”, to describe the existing state of affairs with regard to the property units (objects), the owners (subjects) and the rights. (Sevatdal 2007: 50). The rights to land, obligations and restrictions of these rights may also come from public regulations. One of the main issues discussed in this thesis is the right to build and gaining a building permit, which is a good example of public regulations. The decision to grant a permission to build (in form of a building permit) lies with the public authorities.

The concept “property rights” can be defined in different ways depending on the intended context, for example purely legal, social, economical, political, or even religious and philosophical. The legal context of the property rights refers to a concrete physical object and to the subjects (persons or organizations) who have either direct rights or indirect rights over the physical subject (Sevatdal & Sky 2003: 21). Douglas C. North has put the definition of the property rights in the economic context and gave the following definition: “*Property rights are the rights individuals appropriate over their own labour and the goods and services they possess. (...) Because with any property rights structure transaction costs are positive; some valued attributes are in the public domain and it pays individuals to devote resources to their capture.*” (North 1990: 33).

In social context the property rights define the relationship between the subjects i.e. people. The rights to a physical object can regulate persons’ relationship to each other as well as the power balance between them. (Sevatdal & Sky 2003: 24)

If we summon up the definition of property right from the different contexts that I have mentioned earlier, we may say that it is the right to a property granted to an individual, a group or an organization, to use it and its resources, develop it, profit from it or transfer it. The right may be attached to the object as a whole (the land and the physical object on it), to a specific part of land, just to the physical object separately from the land or to a resource. Laws define property right or a right in property. There are written laws (statutory laws) and there are non-written laws that are based on traditions (customary laws and in some countries common laws). Both types of laws help to regulate the relationship between individuals and between individuals and physical objects.

In Norway the institution of property right has existed for a very long time and has slowly been integrated into the society. Although the concept of property rights has never been defined in the constitution, it is stated in the form of legislation on public management. Historically the duty to protect the property right belonged to the king, later it was given to the parliament. The parliament shares the responsibility to protect the property right with the court system and other state organs that deal with public management. The concept of property right became so integrated in the state and in the society that it can exist without a formal definition in Norwegian law (Sevatdal 2007).

### 3.3 Property institution and property regime

The term “regime” and the term “institution” both have different meanings depending on the context of use. More often the term “institution” is used to describe something concrete, for example a hospital or a state organ. The term “regime” is often used to describe organization of a state and it is usually associated with something negative. In this research work these two terms mean something completely different because of the context of use.

The best and probably the most known definition of the institutions is the one created by Douglass North (1990: 3): *“Institutions are the rules of the game in a society, or more formally, are the humanly devised constraints that shape human interaction. (...) Institutions reduce uncertainty by providing a structure in everyday life”*.

“The rules of the game” can be defined in various ways. Laws, regulations, contracts, social norms based on religious beliefs, culture or morals can define the rules of the game. Further North explains that institutional constraints are modifying human activity; they either permit or prohibit certain activities. A group of institutions can develop a regime when they are connected to an individual or a state organ. For a regime to appear, there need to be certain qualities connected to these institutions, for example authority giving qualities. In relation to property a regime can be a right that is connected to a property and the authority this rights gives to an individual who is granted this specific right. Property regime defines the relationship between an individual and a right, but not the relationship between different individuals and their rights. Regulation regime has an administrative task to regulate the use of property. The third regime is land policy regime and it is very similar to the regulation regime because it also deals with the administrative issues. All these regimes are equally important because together they make critical decisions about property, such as ownership, use, development and transactions. However, these three regimes operate with different tools, or as D. North calls it: the rules of the game.

Sociologist Richard Scott describes in his book “Institution and Organizations” the way institutions are built up of three pillars: regulative system, normative system and cultural-cognitive system (Scott 2001). He called this “the three pillars of institutions”. The table below explains the aspects of each pillar. The regulative pillar is based on the legal sanctions and constraints in form of laws, rules and regulations. The normative pillar is based on norms and moral values. The normative pillar defines the desired result of our actions, the objectives for achieving the result and the appropriate way for achieving the result. Cultural-cognitive pillar is based on the way we perceive the reality. Based on our perceptions we decide what is the desired result and what our objectives are. Naturally it is based on our cultural norms and beliefs. It is important to say that institutions can be both formal and informal. Later in this chapter I will discuss what it means for a property to be formal or informal. The principles of formality and informality of the institutions are similar to those of real property. I will discuss both concepts later in this chapter; therefore I chose not to discuss them in this subchapter.

|                            | <b>Regulative pillar</b>                       | <b>Normative pillar</b>           | <b>Cultural-Cognitive pillar</b>  |
|----------------------------|--|-----------------------------------|---|
| <i>Basis of compliance</i> | Expedience                                     | Social Obligation                 | Taken-for-grantedness<br>Shared understanding                               |
| <i>Mechanisms</i>          | Coercive                                       | Normative                         | Mimetic   |
| <i>Elements</i>            | Rules, Laws,<br>Sanctions                      | Values,<br>Expectations           | Common beliefs,<br>Shared logics of<br>action, Categories,<br>Typifications |
| <i>Basis of legitimacy</i> | Legally sanctioned                             | Morally governed                  | Comprehensible,<br>Recognizable,<br>Culturally supported                    |
| <i>Routines</i>            | Protocols,<br>Standard operating<br>procedures | Jobs, Roles,<br>Obedience to duty | Scripts   |

Figure 9: The three components of institutions (Image: W.R. Scott (2001))

### 3.4 “Informal” versus “Illegal”

Informal settlements and illegal buildings are two central concepts being used in this thesis. There are different terms attached to the issue of informal settlements, such as informal property, illegal property and extra-legal property. The rights attached to the property can also be divided into formal, informal and extra-legal. Below I will discuss the differences between “illegal”, “informal” and “extra-legal”.

The word “informal” can be interpreted incorrectly in some cases. Informal does not necessarily mean illegal as for example in the context of institutional theory. An institution or a rule can be both formal and informal. Both formal and informal institutions are a natural part of any society and any country. The difference between them is simply that the formal institution is defined by a law or a regulation, while an informal institution is defined by a code or a convention, for example behavioural code. Informal institution is commonly defined by socially transmitted information and a part of the heritage that we call culture (North 1990: 37). A country can experience a big change in its formal system (formal institutions), but informal institutions, such as traditions, may often keep the society from changing along with the formal system (Sevatdal & Sky 2003: 72). It is important to acknowledge the existence

and the meaning of informal institutions when implementing new laws, rules and regulations, especially when they concern land.

The borderline between the “formal” and “informal” is often unclear, for example a settlement with the same characteristics regarding land, urban planning, and housing can be considered either formal or informal. The definition often depends on the context and public authority interpretations (Durand-Lasserve March 2006).

Land tenure is the type of institution that has a strong connection to the tradition and culture. Not long time ago I did a small research in Uganda for a term paper, where I tried to understand how the land administration works in a developing country. Through this research I learned that the informal or traditional systems of land ownership, titling and transactions are as important as the official systems. Especially in the rural areas, since they tend to be more traditional than the urban areas, the traditional system has an immense meaning for the social structure. Informal systems can be well organized by the people living a community. P. Dale and J. McLaughlin explained in their book land administration (1999: 27) the following way:

*“Regardless of their origins, informal rights do not exist merely because someone claims them. Instead, people within the informal community agree among themselves as to where and how each can exercise these rights. The social basis of informal ownership is often clearly defined.”*

Informal systems, however, do not provide the same security of rights as the formal systems. The formal institutions are the political and economical laws and contracts (Sevatdal & Sky 2003: 73). They can be written and they can be unwritten, just like the informal laws and contracts. The formal institutions can be complementary, synergetic, opposing or reinforcing (Ibid).

The same way a property right can also be formal or informal depending on the context (FAO 2002; North 1990: 4). Sometimes the illegality may be forced by inadequate laws that are not possible to implement in the existing conditions. FAO made an exapmle of such situation when a law sets a standard on appropriate size of a farm, but in reality the farms are much smaller because of the informal subdivision by the heirs (FAO 2002). The mentioned example is not the worst case of the rule violation and therefore may be considered as just informal,



but not illegal. If the case was that a person would make a farm on a land that is regulated for industry, that would be viewed as serious violation of the law and would be considered illegal. The definition of “informality” and “illegality” in a certain case is based on the situation as a whole with consideration to the law and the possibility of its implementation. For example, a construction that is formally correct, is not necessarily legal. There are could be illegal actions behind the formal title of this construction, for example acquiring the formal title through corruption.

The best example to describe an extra-legal right are statutory and customary rights. Extra-legal rights, like informal rights, are not recognized by the law, but extra-legal rights are not illegal. Very often customary or traditional rights co-exist with the formal laws on equal or almost equal bases. Customary rights are often not integrated into the formal law, but recognized as de facto right (FAO 2002).

An informal settlement is just like an informal right is lacking legal recognition because it doesn't fulfil all the requirements of the law. UN-HABITAT (2003b) gives the following definition of informal settlements: “*i) residential areas where a group of housing units has been constructed on land to which the occupants have no legal claim, or which they occupy illegally. ii) unplanned settlements and areas where housing is not in compliance with the current planning and building regulations (unauthorized housing)*”.

Before I move on to the definition of other terms and concepts I would like to clarify why I am using the term “informal settlements” to describe the area where I did my research. Another term that is being used often to describe informal settlements is “slum”. The terms “informal settlement” and “slums” are often used interchangeably depending on the context of use. In some cases it is appropriate to use these two terms to describe the same area, but I do not find it appropriate to use the term “slum” for the geographical area of my research. UN-HABITAT (2003a: 10) gives the following definition of a slum: “*a contiguous settlement where the habitants are characterized as having inadequate housing and basic services. A slum is often not recognized and addressed by the public authorities as an integral or equal part of the city. It is an area which combines to various extent the following characteristics: insecure residential status, inadequate access to safe water, sanitation and other infrastructure, poor structural quality of housing and overcrowding.*”

Some parts of this definition are true for the settlements that I have visited, but other parts are not. Informal settlements in the geographical area where I did the research are contiguous and they often lack the adequate infrastructure and sanitation (connection to the public sewage and water systems). It is difficult for me to judge the quality of the construction. Most of the structures I have seen in the areas appear to be adequate housing. For a non-expert on construction, such as myself, the buildings seemed to be regular constructions, such we may find anywhere else. Only a trained engineer can give a correct answer to the question of structure security. My judgement was based on direct observations and interviews with the owners of the constructions. I will come back to discussion of this topic in chapters 5 and 6 of the thesis.



Figure 10: Example of a house in Ulcinj and Sutomore (Photos: Lena Hellenen)

Illegal or informal buildings are a natural component of an informal settlement. During my research I have experienced that experts describe the buildings using both of the terms “illegal” and “informal”. Below I have described the definitions of both terms given by the experts.

Helge Onsrud from the Centre for Property Rights and Development chose to use the term “illegal” rather than “informal” to describe the constructions. In his report (Onsrud 2010) he divided illegal constructions into three categories:

1. Buildings that are built on the land of the owner with the construction permit, but without use permit.

2. Buildings with no construction permit and no use permit built on the land of the owner.
3. Buildings that were built on the municipal land without the building permit and land owner's consent.

The Ministry of Spatial Planning and Environment has described illegal and informal buildings the following way (Strategy 2008: 4): “*Informal construction is an unlawful construction for which building permits cannot be obtained*” and “*Illegal construction is a construction for which a building permit could be obtained, but the investor failed to apply*”.

I learned that a typical feature of an informal settlement in Montenegro is construction without building permission. There are many buildings that are illegal or informal. Therefore it is necessary to use both terms “informal” and “illegal” to describe the situation and my findings in Montenegro. I saw both illegal and informal buildings during my fieldwork and I find it correct to use both terms.

### 3.5 Concepts of “Tenure” and “Tenure security”

Land tenure is defined by the rules stated in statutory and customary laws on property that say how the land should be held and how to handle the rights attached to the land.

Informality and illegality have many negative impacts both on the state level and on the personal level. One of such impacts is lack of tenure security, which has a meaning to provide a secure position of the landowner in relation to his property. There are many ways to define this term. UN-HABITAT (2006) has defined it as “*the right of all individuals and groups to effective protection by the state against forced evictions*”. The state should protect the rights holder's interests in case of any state interference. Informal settlements are usually formed outside of the urban plan and lack formal registration and therefore it is difficult to statue the right for protection of people living in such settlements. According to international human rights law tenure security is one of the components of the right to adequate housing (UN-HABITAT & Cities Alliance 2006).

The security of tenure has been an important issue, which concerned people since the transactions were possible. Ancient Egyptians already 3000 BC made records of the deeds in the royal registry (Larsson 1991: 20). Although the earliest property registers were primarily for the purpose of the registration of the citizens' deeds they still counted as the proof of the title in land. We can also find detailed descriptions of formalization of transactions in the Bible, for example in the book of Jeremiah 32:9 and in the Genesis 23. The transactions were made formal by the public announcements, presence of the witnesses and the sealing of the deed made the transaction formal.

Jeremiah 32:9:

*“...I bought the field at Anathoth from my cousin Hanamel and weighed out for him seventeen shekels<sup>[b]</sup> of silver. <sup>10</sup> I signed and sealed the deed, had it witnessed, and weighed out the silver on the scales. <sup>11</sup> I took the deed of purchase—the sealed copy containing the terms and conditions, as well as the unsealed copy—<sup>12</sup> and I gave this deed to Baruch son of Neriah, the son of Mahseiah, in the presence of my cousin Hanamel and of the witnesses who had signed the deed and of all the Jews sitting in the courtyard of the guard. <sup>13</sup> “In their presence I gave Baruch these instructions: <sup>14</sup> ...Take these documents, both the sealed and unsealed copies of the deed of purchase, and put them in a clay jar so they will last a long time.”*

These examples show that the formal registration of one's rights always had a big meaning for the sense of security. People have been preoccupied with the issue of tenure security and formalization for thousands of years and still most of the counties struggle to solve this issue. It is obvious that institutions play a very important role for tenure security, but somehow they can become more like a paradox both the solution to the problem and a contribution to the problem.

### 3.6 The concept of “land”

There are many ways to define the term “land”. Land has many meanings and purposes in our daily life: it is our habitat, source of food, income, shelter and recreation. Humanity has always depended on the land for survival.

When we are talking about “land” in the context of administration, we are not just talking about a particular parcel of land or the surface of the earth, but we are also talking about the resources on the surface, above and below the surface. We are also talking about the physical objects on the land such as buildings. Besides the physical objects there are also cognitive aspects such as rights of different sorts. The figure below gives an example of different components that may be attached to a land parcel.

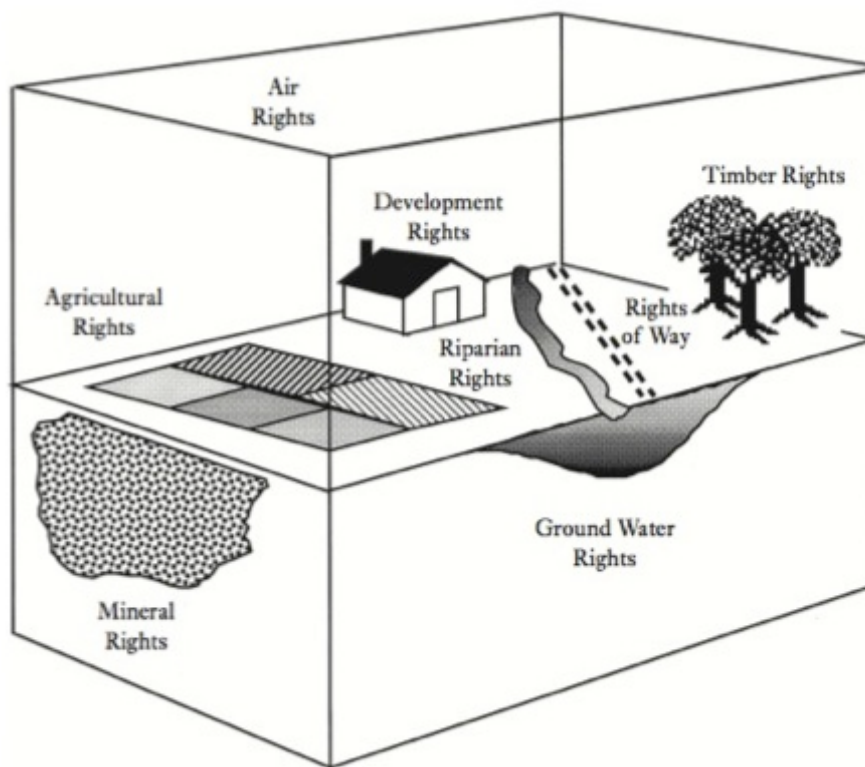


Figure 11: Example of different components of “land” (Image: Platt (1975) sited in Dale and McLaughlin (1999))

The physical concepts are usually easier to comprehend than the cognitive ones. This is because the physical concepts are something the eye can see, for example the ground, the construction, the shoreline etc. The cognitive concepts are the rules and the laws that are not visible and usually demand some sort of documentation of its existence.

Those two aspects of the “term” land vary in forms and shapes in different parts of the world. Those concepts are depending on cultural and social norms and level of development. The cognitive aspect is the one that is most influenced by the culture and social norms because it is build on principals and thoughts. People who live in different cultural and social sets of

environment have different principals and ways of thinking, what is accepted, as a norm in one country or a culture, may not be accepted in another.

People are relating both to the physical and cognitive aspects of the land therefore it is a natural need of managing and administrating the relationship. The relationship between people and the land is very complicated because it is always involves a third party. To have a fair system there has to be developed a set of rules and a system that will administrate and provide order in the relationship between people and land.

The way people perceive the concepts of land vary also with the way social development is progressing. They give new meanings and ideas to the development of land use. This affects the way land is being administrated and demanding the system to be dynamic. When the system is static and slowly or barely evolving it causes the informal development. In the following chapters I will discuss why Montenegro is a good example of this.

### 3.7 The concept of “land administration”

Land administration provides basic infrastructure for implementing land related policies and land management strategies (Williamson et al. 2010b).

We are living in a world of scarcity. In an ideal world everyone would have equal access to all the resources they need to have a good quality of life. Unfortunately we are living in the world far from ideal. The scarcity of resources both natural and others is a universal problem and equally relevant for every country. No matter how developed a country is it is a struggle to provide equality and security for its citizens. There are always limitations like time, money, natural and human resources, power and so on. However the difference between the developed countries and less developed countries is the use of tools and methods that help sustainable development. We can say that land administration is one of such tools, which helps to keep the development on track. It helps to cover some of the basic needs humans have, such as shelter, food, working place and recreation. Article 26 in Universal Declaration of Human Rights says that everyone has the right to standard of living adequate for the health and wellbeing for himself and his family including amongst other things a shelter (United

Nations 1948). The main purpose of the land administration as a tool is to protect this fundamental right by managing the available resources.

The scarcity of the resources leads to a harder competition for better access between the individuals. As we know by the experience the strongest competitors usually win. As intellectual beings we can reason that sustainable development would not be possible if we do not take care of the weakest in the society. For this reason we rationalize and try to make the best decisions that will suit both strong and weak individuals. Unfortunately the attempts to make the best decisions are not always successful. In course of this thesis I will look at the examples of such decision-making in Montenegro and discuss if those decisions were beneficial to the people or not.

If we sum up the meaning of land administration we can say that it is one of the key factors in a country's policy, social and economic development and environmental protection.

When a country goes through a transition<sup>4</sup> from one form of government to another and from closed economy to free market economy the transformation it comes as a shock and usually leads to a crisis. There are certain areas of administration that are left neglected because other areas are considered to be a bigger priority. Land administration is often one such administrative task that is often left neglected. This happened in Montenegro as well. Land administration has been a neglected task for a very long time. One of the main purposes of land administration is to provide the security of rights and to prevent the conflicts over land within the country.

As soon as a man realised that he can grow and produce food and extract materials from land this great resource was put under a strain. Since the times of Industrial Revolution our world have developed faster and faster by each decade. As the development was progressed the quality of the land was deteriorating. Fast development is a fact in the modern world as well. If we look at the example of Montenegro we will see that the development has happened with an exponential speed during the past two decades. Urbanization and increased exploitation of the natural resources are a part of the development. Since there happened very little development in land administration the situation got out of control, which resulted in as rapid informal development in the country. This again shows the importance of an efficient and

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<sup>4</sup> The term "countries in transition" is used to identify former socialist countries that go through a transition from closed economy to market driven economy. The key elements of such transition are privatization of land and property to create a land market, as well as privatization of financial sector.

effective land administration. Land administration alone is of course not enough for development, it is important that other administrative and political entities and the private sector are participating in the development.

### 3.8 Land administration “toolbox”

Collection of information about the land is the most important tools of land administration. Information reduces uncertainty by helping to identify and analyse problems, and helps the decisions related to land investment, development and management (Dale & McLaughlin 1988). Cadastre is the most common form of land information system. Which includes information on the ownership, value and use of land (Dale & McLaughlin 1999: 7). Other tools may include land policies and laws, surveying and valuation, land market, land management that is sensitive to gender and to unprivileged social groups.

There is no common land information system in the world or in a geographical region. Every state is free to develop its own system. It is very common however to adopt best practises from others, which often results in similarities of the systems in different countries.

Previously there was a belief that the adoption of western systems is the best way for developing countries to achieve successful progress. After many years of failing the approach has changed, and I would say that today the perspective on development is more adequate with a counties traditions and norms. Today land administration is perceived as a tool for achieving a successful sustainable development. As a consequence the view on what is good land administration has also changed. Williamson et al. (2010a: 6) writes that land administration processes need to be approached holistically and strategically integrated to deliver, or assist delivery of, the four main functions of land management: land tenure, land value, and land development. Further he says that if the organizations and institutions responsible for administering these processes are multi purpose, flexible, and robust, they can assist the larger tasks of managing land, as well as dealing with global land and resource issues. With this new approach or knowledge each country can chose to build up a system from a combination of tools that will suit the needs of the country. It is however a challenge to distinct which particular tools at appropriate for the country’s already existing system and conditions. Usually it takes a certain amount of time and failures to establish a system that



works. It is probably no such thing as a perfect system because even developed countries like Norway always see the need for improvement.

### 3.9 Cadastre

Cadastre is a systematically organized database of property data within a certain jurisdiction (Hanstad 1998: 651).

Although cadastre is the most common land information system, it is not a requirement for a land registration system (Ibid.). For the countries, which use cadastre as the formal registration system, it became a fundamental tool for administration of land.

Cadastre is a parcel-based land information system or in other words registration of property. Dale and McLaughlin defined a parcel in the following way in their book (1988: 20) “*Parcels are continuous areas (volumes) of land within which unique, homogeneous interests are recognized*”.

Registration of property involves systematically collection and registration of data related to the physical objects and rights connected to a parcel. In Norway we have a view on registration of property that is means more than collection of data about a property, but also as a creation of a property. We consider a property to be existent when it is introduced to the cadastre.

It is common that a registration system consists of two parts – registration of rights and registration of physical objects. The physical object register often consists of two parts - a written registration form and a map.

For a cadastre to be a good tool for land administration, land information and even development it has to be dynamic. This means that the information and the maps registered in the cadastre have to be updated as soon as any changes occur for registered entities. It is a typical challenge in developing countries because it requires modern technology, which is very expensive. Modern technology makes the data easily available for all the institutions working with immovable property, financing and natural resources. Modernization saves a lot of time and money in the long run.

Another factor that is important for a successful cadastre are good policies and guidelines for registration. It is a big challenge to find the right way to register illegal constructions; it is for those counties that want to include illegal buildings in the cadastre. The view on registration of illegal buildings is different in different countries, but the latest studies show that registration is usually more beneficial than exclusion (Augustinus & Benschop 2011).

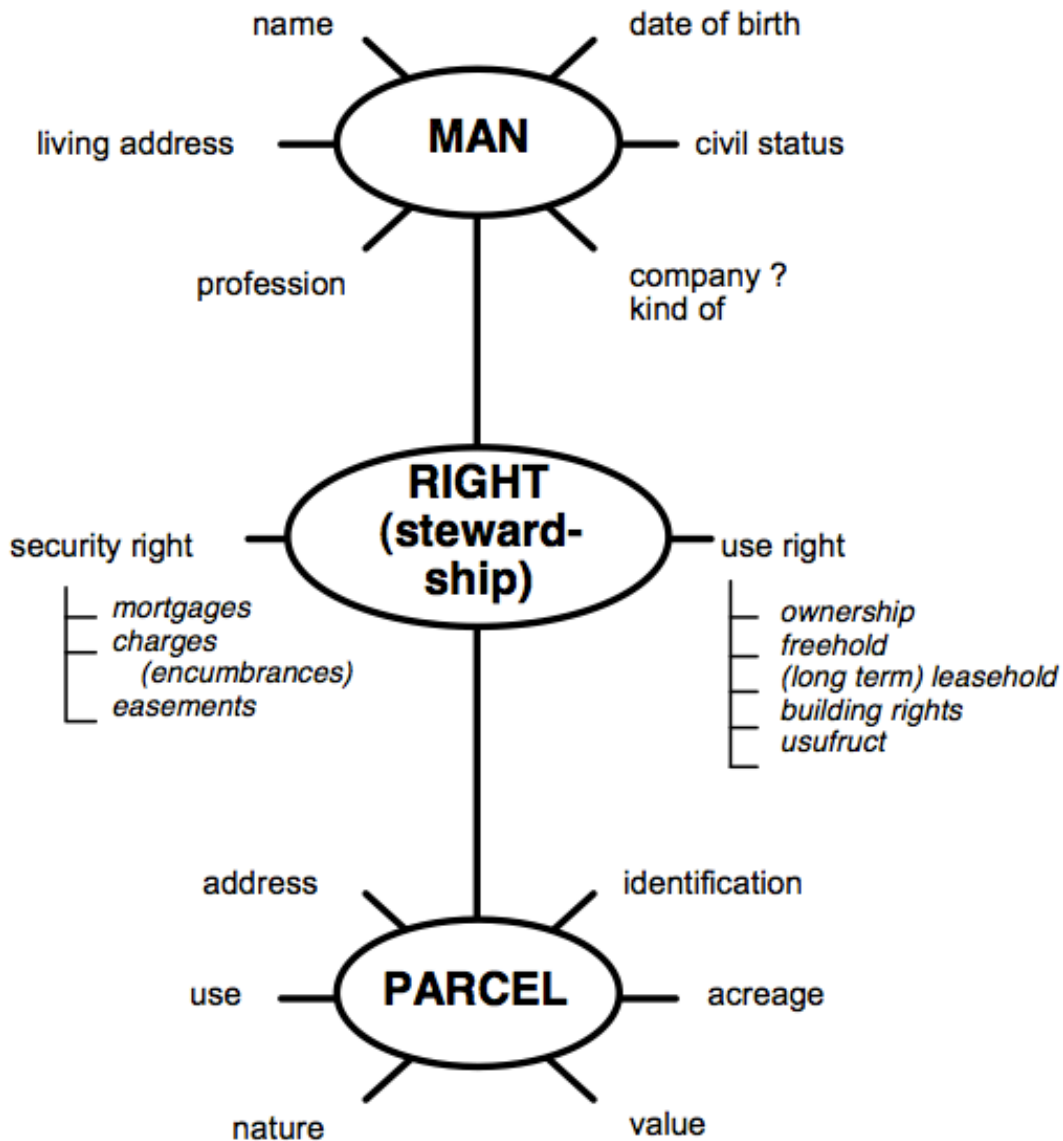


Figure 12: Model of the basic principle of cadastral information (Image: J. Henssen (1995))

### 3.10 Transactions and transaction costs

A transaction (of immovable property, for example land) simply means the conveyance of rights from one person to another. This involves the costs of various sorts; so called transaction costs. The transactions that are involved during the process are transactions of rights.

D. North wrote that the transaction costs depend on the cost of the valuable attributes of what is being exchanged and the costs of protecting rights, policing and enforcing agreements (1990: 27). The actual payment is not included in the concept.

Institutions regulate the cost of transactions. There are different institutions that can affect the costliness of transactions, but the most important institution is the property registration.

The more information is available for the parts involved in transaction the less will be the risk transaction costs, because reliable information lowers the risks. The institutions decisions over the transaction costs depend on the social and public structures in a country. The institutions need to be well developed to have a positive influence on the efficiency of the transaction costs.

Institutions can also determine the costliness of transactions, for example good spatial planning can help to lessen the costs of transactions.

## Chapter Four

### Spatial planning and land administration

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#### 4.1 Introduction

Before I move on to the presentation of my findings I find it necessary to present the land administration system in Montenegro. Hopefully this will help the reader to understand my findings and my conclusions. This chapter gives an overview of the spatial planning system and land administration in Montenegro without going into a lot of details.

Spatial planning is happening on two levels in Montenegro: on national level and on local level. The data used in this chapter was collected from the documents and the interviews with the authorities. The chapters 4.2 and 4.3 give a presentation of the administration of land on the national and on the local levels.

Building permit is one of the central topics in this thesis. In chapter 4.4 I give a step-by-step introduction of the process of granting a building permit.

#### 4.2 Administration on the national level

A general spatial plan treats the territory of the whole country is developed on the national level. This government has the responsibility of developing the general spatial plan. The duration of this plan is 15-20 years. A building permit can be granted to a constructor on the basis of the general spatial plan, which means that a building permit can be granted for construction outside of the city plan. The figure below is showing the basic principles of planning system on the national level.

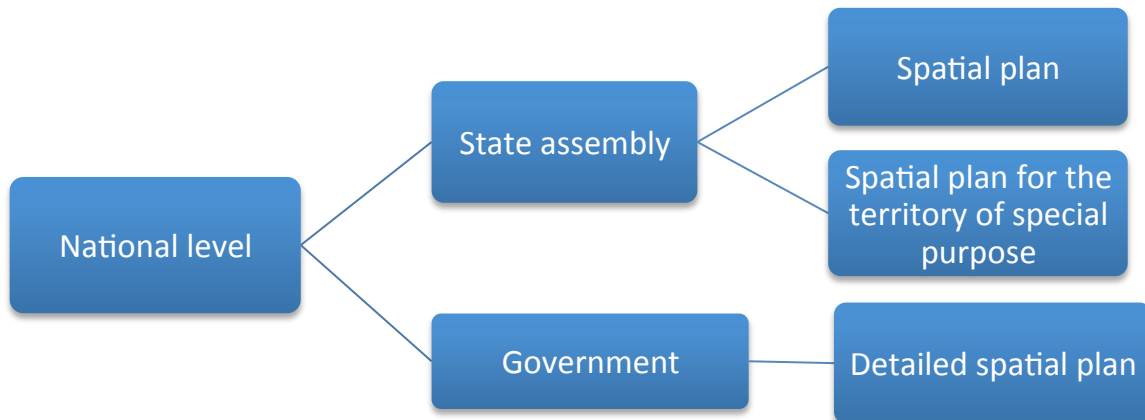


Figure 13: Planning system on the national level (Image: Lena Hellenen)

### 4.3 Administration on the local level

There is no planning system on the regional level in Montenegro. The local level is the next after the national planning level on the hierarchy ladder of the planning system of Montenegro. There are four types of plans developed on the local level. There is a general spatial plan of municipality unit, which has serving time of 15-20 years. There are general urban plan, general regulation plan and detailed urban plan. These three plans have serving time of 5-10 years. It is significant to mention that the duration of all the plans in practice depends on the legal adoptions of new plans. A plan is legally valid as long as there is no new plan of the same rank is adopted. The last general spatial plan for the territory of Montenegro was adopted in 1974. The figure below shows the basic structure of planning system on local level.

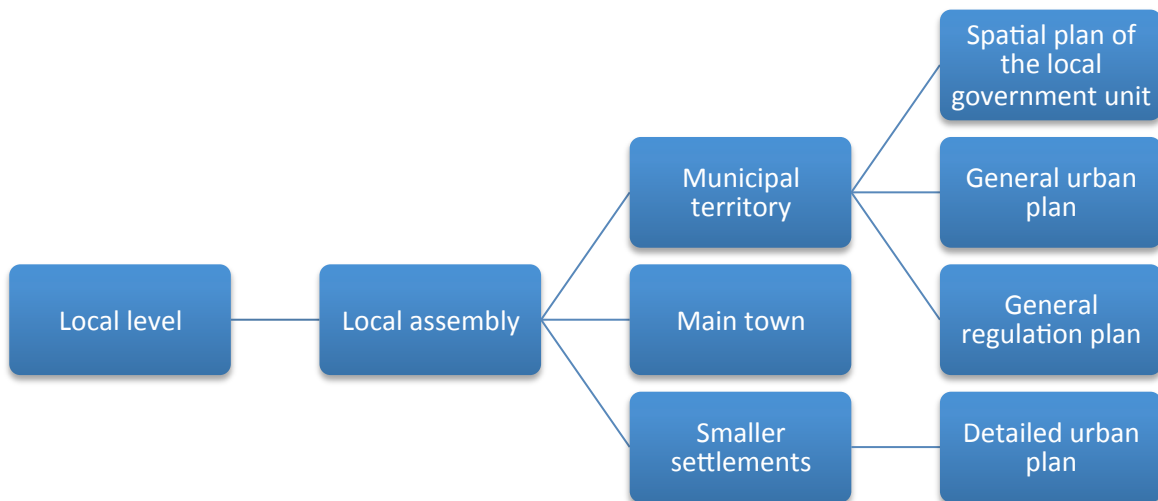


Figure 14: Planning system on the local level (Image: Lena Hellere)

The local governing is in principle strictly controlled by the central government, and if the central government finds it necessary, it may take the responsibility for adopting plans on the local level. However the local government has the legal authority by self-government law § 45 to issue local by-laws.

Each municipality usually has a department responsible for supervision, issuing and monitoring of the development of new spatial plans. There is no law that says that a municipality should have a special department for supervision of development of a plan, but this type of practice became common in most of the municipalities. Local authorities usually hire permanent experts to work in this department.

The law on spatial planning and construction §§ 35, 134 gives the legal right to delegate the production of a plan to a private or a public planning company that wins the tender. When a plan is completed the elected officials from the local assembly vote for acceptance the plan. It takes 24 month to produce a new general plan from the decision to approval. It takes 18 month to make the small changes of a general urban plan.

The implementation of a new plan is often interrupted by the changes of law and new policies and regulations on the state level. Montenegro has a frequent change in the law system as country's development is progressing. These frequent changes prolong the planning process

and unfortunately do little for improving informal development. The municipality of Bar is a good example of prolonging of the development of a new spatial plan. The existing plans for different areas in the municipality of are from 1980s or earlier. There is a big need for a new spatial plan in the municipality because of all the changes in the terrain in the past two decades. The local government is working on the development of a new spatial plan, but the planning process is slowed down because there are no guidelines on how to deal with existing informal settlements. The local government is waiting for the central government to create a law and the guidelines on how to deal with informal/illegal buildings. The expected new law needs to include what are the conditions for including an informal/illegal building in the plan. If the building is included in the plan it means that a building permit should be given to the owner. The conditions for giving a building permit to an informally/illegally-constructed building should be described in the new law and the guidelines from the government.

The law on spatial planning and construction §§ 6, 16, 42 and 43 allows public participation in the planning process, meaning that citizens might object and comment on a suggested new spatial plan. The local administration is responsible for managing the public participation in the planning process, but there are no guidelines for how to involve the citizens into the process. From my fieldwork I have learned that people are little involved in the planning process at the moment. They feel that there has been too little information available for them and they do not believe that their opinion would matter. At the same time I got an impression that people are willing to participate in the development of their local environment. A public participation can be very important in terms of dealing with the informal development. The more people are involved in the development of their living environment the more they will be willing to follow the laws. Public participation is also very important for strengthening the transparency and limiting the corruption. All the respondents in my interviews said that they think that the level of corruption is very high and they do not trust the government to make the decisions benefiting the citizens and not the authorities.

## 4.4 The process for obtaining a building permit

The first step to gain a building permit is to send a request to the municipality. The municipality makes the decision based on the existing plans (general and detailed). A building permit can be granted for construction in areas that are regulated for the purpose of construction. For example if an investor applies for a building permit for a house in an area that is regulated for housing in the valid urban plan, a building permit can be granted. In this case there is no need for developing a new urban plan. If the area of intended construction is not regulated for housing in the valid urban plan then a new urban plan needs to be developed.

In the areas with no existing plans the decision is based on the local study of location. The municipality also decides on the boundaries of the project based on the local study. The rules are saying that the municipality should pay for the local study, but in practice the municipalities do not have the financial resources and this obligation is transferred to the investor. The amount that the investor had to pay for the study is compensated later under the installation of electricity, water and other connections. The sum the investor had to pay for the study is subtracted from the installation costs.

There are several assessments that need to be done to proceed with the building permit application:

1. The technical conditions of the area of construction, which is described in the detailed urban plan.
2. Conditions for connection to water system. The company that provides the water in the area needs to provide a detailed plan of the installation.
3. Conditions for connection to electricity. The company that provides the electricity in the area needs to provide a detailed plan of the installation.
4. Conditions for connection to telephone line. The company that provides the telephone line in the area needs to provide a detailed plan of the installation.
5. A geotechnical study to assess the seismic risk in the area.

After all the assessment is made the investor takes the project to a licensed private company to develop the project. The project has to include the architectural design, the technical construction, water and electricity installation, fire protection and the telephone line installation.



When the project is finished the investor can take it to the municipality. The municipality decides which other licenced company can do the revision of the project. When the project is again approved by the second licenced company it can go back to the municipality. The municipality then needs to check that the project contains all the necessary approvals from the public services: water, electricity and telephone line, approval from fire department, sanitary approval, approval for connections to the road network, a conformation that there are no the place of construction does not contain any cultural and archaeological valuables.

After all the approvals are confirmed the investor can finally apply for a building permit (Attachment 2). The whole process of gaining a building permit can take up to a year. I was told by a source in the Municipality of Bar that a building permit costs 10 000 EURO per 100 m<sup>2</sup>. One of the respondents told me that is cost her 40 000 EURO to gain a building permit for a two story house.

After the owner is granted the building permit it is necessary to apply for a use permit for the building.

All in all it adds up to a long-term and costly project for the investor.

In this description of the application process for gaining building permit I used the information that I learned from the authority representatives during my fieldwork. Later when I did some more research at home I came across a report made by The World Bank “Doing Business in the South East Europe 2011” (The World Bank Group 2011), which describes all the necessary procedures for gaining a construction licence. This report is a useful guide for the foreign investors who are interested in doing business abroad. The World Bank uses an example of the procedures for gaining a construction licence for a warehouse; most the procedures are the same as for construction of a family home or a hotel. I decided to include a summary of procedures described in the report as an attachment (Attachment 3).

## 4.5 The local cadastre

The development of the Cadastre system in Bar was affected by the country’s geopolitical situation over the time. Throughout the history the territory of Montenegro was ruled by different empires. From the early ages and until the early 19<sup>th</sup> century Montenegro became

occupied on several occasions by the Ottoman Empire. During the 19<sup>th</sup> century the coast of the Montenegro, including Bar, was occupied by Austria. The country's political and social development was influenced by these occupations.

Montenegrin property registration system was divided in two different systems. The first system was adopted from the Turkish registration system and the second was adopted from the Austrian registration system. Bar was operating with both of the systems for some period of time. One part of Bar had a system called "*tapu*" or Montenegrin adoption of the word "*tapia*". This system was adopted from Turkey. The principal of this system was to collect the deed (the original value of the property) from the property. This form of Cadastre was dismissed because it lacked the systematic registration of property. The second system was based on the land books and was adopted from Austria. The information about the property was systematically registered in the land books. This system was considered to be more reliable than the Turkish system. The modern property registration system is based on the land books registration system.

The modern cadastre consists of four parts or four lists A, B, V and G or in Montenegrin A, Б, В and Г. The A-list (A-list) contains data about the registered land parcel (Attachment 4). The B-list (Б –list) contains the information about the holder of the rights to the property. The V-list (B-list) contains the data about the physical objects situated on the parcel. The G-list (Г-list) is the hypothec, which means the data about the mortgage. The G-list also contains information if a construction does not obtain a building permit. It is legal to register buildings constructed without a building permit because there is no law saying otherwise.

To register property in Bar costs 13 euros. To do the registration the rights holder needs to contact a licenced private agency that can make a survey and collect the data necessary technical for the registration. When this survey is done it is sent to the cadastral office and an engineer who works at the cadastral office double checks the data before registering.

In 2010 the Ministry of Sustainable Development and Tourism made the guidelines for the registration of buildings without a building permit. This can be counted as the first step to formalization of informal/ illegal buildings.

When I first started to look in to the issue of registration of illegal buildings a question that I got was "Is it right to register illegal buildings in the cadastre?" Commonly, when a building is registered in a cadastre it means that it is an evidence of its legal existence. A registration

usually demands that an object is legally developed or built. Therefore it is difficult to accept right away that a property can be registered when it lacks all the necessary legal documentation and even permission for its existence. It might seem that the government is encouraging people to build regardless building permission from the municipality. The premises are the same for registration of legal and illegal constructions. The alternative solution would be not to allow registration of illegal/informal buildings. But is this alternative better than the first one?

According to the law in order to be connected to the public services such as water and electricity there has to be a building permit for the construction and also a registration in the cadastre. For example law on spatial planning and construction Article 75<sup>5</sup> says:

*Construction site, or structure where works are executed without building permit and a main project or structure which is constructed without building permit and main project, cannot be connected to the technical infrastructure (electrical energy, water supply, sewage, road and other).*

In the reality the situation is very different. The companies that provide the services get paid for doing the job so for them avoiding the rules means more income. The registration is only required for building an infrastructure. This means that there are no instant consequences for people who build without a permit. This entails there is no need for registration in the cadastre as long as the investor has enough money to get the necessary connections. At the same time when there is no registration and no overview of how many entities there are who are using the power line or the water system leads to poorer quality of the connections. When people are connecting illegally to these services they become overloaded. This affects the quality of life in areas with illegal constructions.

From the point of the local Cadastre the most important element of informal development is the absence of an updated spatial plan for the municipality. In their opinion the registration is only providing the data about the existing constructions, but a detailed urban plan is defining the illegality of a construction. The registration of the property in Montenegro has also the purpose of collecting taxes. The local government uses the money from the collected taxes to provide infrastructure in the whole municipality. Without the collection of taxes the local

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<sup>5</sup> The translation of the law was found on the webpage of Montenegrin Investment Promotion Management (MIPA 2011)

government is left without financial resources to provide the infrastructure because it does not receive financial support for this purpose from the central government, as I was explained by the local authorities in Bar.

## Chapter Five

### Findings and analysis

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#### 5.1 Introduction

It turned out that presenting the information from my fieldwork became rather difficult.

Maybe I should have given more consideration to that at an earlier stage of the work.

Anyhow, my data comprise the three elements observations, interviews with the officials and interviews with the residents.

As I was searching the answer for my research questions somehow the first of these questions became my main concern. Understanding the reasons for informal/illegal building activity and the situation of informality in the relationship between the builder and the local authorities became the main issue. This is what I am trying to report in this chapter.

Finding a good structure of the report turned out to be problematic for me, but I ended up with the following organization: after this introduction I give a description of how my fieldwork proceeded. In chapter 5.2 I give examples of typical interview situations with local residents and with authorities. In chapter 5.3 I give a presentation and discussion of the main findings using some specific examples from all the research areas. In short- I try to reach and report an understanding drawing upon all my sources of information.

I decided to separate the description of my findings into the main areas where I did my study. I found that it appropriate to describe the areas of Ulcinj and Sutomore separately. The reason for this is that the areas are so distinct. While the areas such as Susanj, Polje and Utjeha have more similarities; therefore I decided to include their description in one chapter.

After that, in chapter 5.4, I present a summary of the dominant responses from the local people to my main concern, which is the issue of informality/ illegality.

## 5.2 The fieldwork

My fieldwork consisted of two main activities, observation and interviews. The interviews with the local people enabled me to gain a better understanding of the way the local people think and perceive their environment. Observations were an important part of my research work. Through observation I was able to see the local environment and understand the living conditions in the research area. I learned about the existence of illegal buildings from the reports and conversations with the experts before I went to do my fieldwork. To be able to see the conditions in the research area myself made a very big difference on my impression, interpretation and general understanding of the situation. The reports made by the professionals only portray the missing elements in the research areas, such as the connection to the municipal sewage system and the water system. But the reports do not portray all the actual existing elements in the research area. The interaction with the local people and their environment gave me an opportunity to see both the missing and the existing elements, which I can base my discussions and conclusions upon.

In this thesis I touch a very sensitive subject of illegality, which means that it is not always possible to get all the needed answers from the interviews. With this in mind I did not have fixed expectations of how the research process would be, and what kind of results I would get in the end. My attitude was quite open-minded and explorative. My main goal was to do as many interviews as possible during my three week stay in Bar. I decided that it would be both interesting and important for the research to interview people who did not have the building permit for the construction of their house, and with those who had. I was hoping that by interviewing people from these two groups I would get a better understanding of the problem and different perspectives of the local people on the problem.

It was difficult to foresee how many interviews I would get because I did not speak the local language and did not have any personal contacts who could help me to get in touch with local people. Fortunately, I was able to do enough interviews with local people and authorities to understand the situation and to collect the necessary information. At least I feel so myself, and hopefully I will be able to convey my understanding to the reader.

It was interesting to interview both the local people and the authorities. But I must say that for me interviewing with the local people was the most exciting part of the fieldwork. Regular

people are not restricted by their working environment and professional position to express what they think and feel. While an authority representative is bound by his position and has to modify him/herself.

Given the circumstances, the best way to interview local people was to go from door to door and ask if I could talk to the people who were living in the house. I must point out that my key to people's homes was my translator, because she was local and knew what was the best time to do the interviews and how to approach people. The fact that she spoke the local dialect was also important because people found it more comfortable to speak to the fellow local person, than if she was from another part of the country. Montenegro is a small country with strong rural traditions and values. My translator explained to me that it is important for people to know where people they meet come from. This social norm is similar to the Norwegian. In Norway we also ask people we meet who they are, where they come from and who their parents and grandparents are. At least this was, and in some places still is, a traditional attitude in rural areas. This helps us to get an impression about a person's background and establish our relationship with him.

The interviews usually started with an introduction from my translator. First she would greet the potential respondent and introduce herself. Then she would explain that I was a student of property rights and administration from Norway, and that I would like to ask them some questions for my research about land administration in Montenegro. She would also point out that the interviews were confidential and I will not use their names, the name of the street and number of their house in my research. Sometimes people refused to be interviewed, sometimes they asked to be given examples of questions I intended to ask, and sometimes they agreed to talk to me straight away. People's reactions to me were different. Some people were interested and curious, and others were sceptical. Some people would offer us something to eat or to drink. Some people then would ask me a lot of questions about my studies and the research, the country I came from and what I thought about Montenegro. They would also ask my translator how she knows me and about her job and background. The introduction part of the interviews was important because it helped to set the mood of the conversation and to gain the trust of the respondents. The duration of the interviews varied a lot, because some of the respondents had a lot of time and information they wanted to share, while others were very short and did not have much time to talk to me. Very often people had guests in the house at the time of the interviews. This enabled me to talk to several respondents at the same time. It could also be difficult to interview several people at once because it became more like

a focus group, research rather than an in-depth interview. My questions provoked vivid discussions among those who were present during the interview. From this I learned that the issue of illegal constructions and land administration concerned people a lot and that it is an issue that is important to them. At the end of the interviews people would usually ask me more questions about Norway and other subjects not related to the research. I always ended the interviews by thanking the respondents for their time and hospitality and my translator used the opportunity to ask them for advice on where we should go next. People would usually tell us which of their neighbours were at home and most likely would talk to us. It was very useful to ask people for guidance because it helped to save time and gave us better chances to find new respondents.

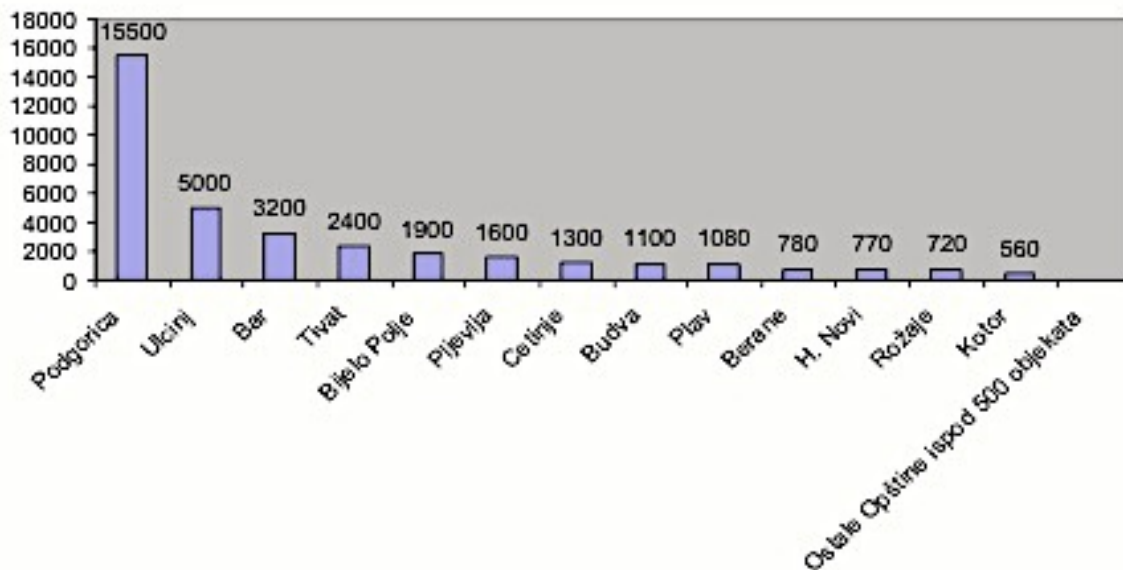
The interviews with the representatives from the local and central authorities were more official and did not need that much introduction process every time I came to talk to them. I did not need a translator every time I did these interviews, because some of them could speak English. All the meetings with the authorities had to be arranged beforehand. First I established one contact in the Municipality of Bar in the urban planning department, with the help of Helge Onsrud. Through this contact I was able to arrange other interviews with the authority representatives both in Bar and in Podgorica. There is a strong tradition of the hierarchic division in Montenegro. It was important for me, to be able to interview the authorities, to be recommended by someone with the same hierarchic position or above. As I was explained by my first contact, if I would have tried to arrange interviews with the authorities on my own I would most likely be dismissed. This is a cultural norm that I had to respect in order to get the information I needed for the research. My contact in Bar municipality contacted the authority representatives who I wanted to interview and explained who I was and the purpose of the interviews. The time for the interviews with the authorities was very limited because the interviews were supposed to happen during the working hours and I was the extra appointment on their schedule. This is something I had to consider when I made the interview guide. My main goal of the interviews with the authorities was to collect enough information to understand the situation from the perspective of the authorities and collect the background information about illegal and informal development in my research area.



### 5.3 Informal and illegal construction on the coast of Montenegro

In my first research question I ask for the reasons for the increasing frequency of informal and illegal constructions on the coast of Montenegro. It is important to mention that the issue of informal and illegal construction does not only concern the coast of the country, but the whole country. According to the official data from Real Estate Administration of Montenegro there are 39,922 informal constructions in the country. The largest number of this type of constructions is in the capital Podgorica 16,430, which is more than 50 per cent of total number of constructions. Bar has the third biggest amount of the informal constructions in the country, which counts 3200 structures. However, according to the local experts the numbers provided by the Real Estate Administration are incorrect, due to the poor monitoring of informal development. The experts believe that the number of illegal buildings in the country is as high as 100 000 (Strategy 2008). Table 3 shows the estimated number of illegal constructions in the country. It is important to note that the table shows very different numbers of illegal constructions in the country than I mentioned above. It is also important to note that both the table and the numbers were found in the same report made by the Ministry of Sustainable Development and Tourism. During an interview with the urban planning department I was told yet another number for amount of illegal buildings in the country.

Table 3: Estimated number of illegal buildings in Montenegro (Image found in the Plan for Converting Informal Settlements into Formal Regularisation of Building Structures with Special Emphasis on Seismic Challenges (Strategy 2008))



I was explained that there are two possible reasons for the difference in the numbers presented by The Real Estate Administration and the numbers presented by the experts. The first possible reason is that The Real Estate Administration collects its statistical numbers based on the number of registered cadastral units. This data does not reflect the reality of existing structures because many people choose not to register their constructions. The second possible reason is that there is not enough focus on collection of the statistical data. The government does not have enough financial resources to hire the experts and to provide the necessary technology for collecting the data.

During an interview with the cadastre office in Podgorica I was told that there are only 30 per cent registered buildings in the country. During an interview with the Cadastre in Bar I was told that most of the people chose to register their constructions independently from its legal status. This contradiction of the facts from the two municipalities made me confused and I do not dare to say which is right about their statistics. Because of the absence of reliable statistical data it is difficult so say exactly how many illegal buildings there are. I assume that there are more than the numbers estimated in the table above. The one thing is certain; there is not enough cooperation between the establishments that are supposed to monitor the construction of buildings and the registration authorities.

I learned from the urban planning authorities in Bar that illegal construction started during the 1990s. Montenegro went through a lot of changes in the past two decades. The country experienced an abrupt exposure to free market economy after the fall of communism in Europe and the Balkans. This had a big impact on the property market and urbanization of the country. The urbanization started very quickly, without the country being prepared for it.

Urbanization is one of the main reasons for informal development worldwide. The world's urban population increased from 220 million people to 2,8 billion people in during 20<sup>th</sup> century (Strategy 2008). There are more than 3,3 billion people living in urban areas and it estimated that this number would grow to 5 billion by 2030 (Ibid). Urbanization is not necessarily a bad thing. Most of the economical growth and development happened when the world society started living in the cities. The biggest challenge is to be prepared for the growth.

Urbanization in its self does not cause the informal development, but it is the misbalance between urbanization and governance that causes development to go in this direction. As the numbers above show, the urbanization is happening very quickly and it is unlikely that it will slow down in the nearest future. This type of misbalance between the urban development and the governing we can see in many countries in southern Europe.

In the 1990s Montenegro experienced a financial crisis. During this time the government stopped financing the urban planning departments. This financial crisis led to the stop of production of urban plans. There was no production of new urban plans for 10-15 years. Urban planning was a neglected subject until the country became independent in 2006. No production of new urban plans meant that there was no regulation of land for construction. It became difficult or even impossible to gain a building permit for construction because the land was not regulated for this purpose. People stopped applying for building permit before building their houses. Many of my local sources suggested that the bad financial situation enforced corruption, which made the construction without building permit easier.

According to the local planning authorities in Bar, the existing urban plans for the municipality are from the 1980s or earlier. And in their opinion this is one of the main reasons for continuing of illegal construction.

From my conversations with the local urban planning authorities I learned that it is possible to gain a building permit for construction. Polje, Susanj, Utjeha and the centre of Bar are

amongst such areas. The reason for this is that they were regulated for housing or other type of building activity in the latest urban plan. Since the latest urban plan was adopted the areas have developed immensely. After the regulated space was filled up the construction continued outside the plan's boundaries. It is more common to find illegally constructed buildings in such areas, i.e. outside the areas covered with approved plans.

However, there is a possibility that the illegal construction occurs in the urbanized areas of the municipality also, for example in the centre of Bar. Montenegrin NGO MANS claims that there is illegal construction going on in the centre of Bar. The organization refers to the construction of an eight story building in the centre of Bar.



Figure 15: The construction site of an allegedly illegal construction in the centre of Bar, May 2011 (Photo: MANS (UNFPA 2007)).

On its website the organization claims that they have evidence of a possible abuse of power by the mayor of Bar. The organization suspects that the mayor abused his power to gain personal profit from the construction of the building. The construction was planned to have a double purpose: residential and commercial. In 2008 the Montenegrin Postal Services announced a public competition for construction of the building. The construction company that won the competition belonged to the mayor of Bar. The construction was agreed to be completed six month after the signing of the contract. The construction company breached this agreement and the building process had not started yet. The agreement was modified several times since 2008. According to the original agreement the building was supposed to consist of five floors, but later the number went up to eight floors. The local department of

urban planning approved these modifications although they did not comply with the original agreement. The organization claims that the construction company had a privilege of knowing the final solutions on the detailed urban plan, being owned by the mayor. This knowledge enabled the company to manipulate the construction process and its profit. MANS submitted their evidence on this case to the Special State Prosecutor for Organized Crime. The case is currently under investigation.

During my fieldwork I witnessed a lot of construction activity in both urbanized and non-urbanized areas of Bar. It is difficult for me to say whether the construction was legal or illegal in the centre of the town, because I do not have any reliable information about it.



On-going construction of apartment buildings in the centre of Bar, an urbanized area.



On-going construction in Sutomore, a non-urbanized area.

Figure 16: Examples of on-going construction in urbanized and non-urbanized areas in Bar municipality (Photo: Lena Hellenen)

## 5.4 The different locations

### 5.4.1 Sutomore

All of the areas where I did the research had different levels of infrastructure and accordingly different types of challenges connected to the infrastructure. The first area I visited was Sutomore.



This picture was taken at the foot of the mountain. The road starts by being wide and narrows as it swings up the slope of the mountain. There are no pedestrian lanes and the general quality of the road is poor.



This picture shows the road higher on the slope of the mountain.





This picture also taken at the foot of the mountain, not far from the place where the picture above was taken. The road stops in this area and there is no road connection to the houses that are further up the hill.

Figure 17: Example of the roads in Sutomore (Photo: Lena Hellenen)

The area is situated on the slope of a mountain and at the same time close to the seaside. According to the inhabitants the area is very attractive for the tourists during the summer period. The area is densely populated, but lacks a developed infrastructure. The roads are of poor quality and very narrow without any pedestrian pathways. There is no space for more than one vehicle on the road. In some parts of the area there was no road for the vehicles, figure 17 illustrates such part of the area. The bad quality of existing roads and absence of a road in some areas means that it is difficult and even impossible for emergency transport to reach an area. I was told by one of the local people that there had been an accident when a house started burning and the fire truck could not reach the house because of the absence of a road that was wide enough for it. There is no connection to the communal sewage system either. People solve this problem by making their own cisterns in the ground or make the pipe connections that go straight into the sea. There were also not enough streetlights and parking space. There was however a connection to the water system. As I was told both by the local authorities the companies that provide connection to the water are not supposed to provide the connection for illegal buildings, but the companies do it anyway.

The responsibility to provide the infrastructure in the municipality rests with the local authorities. The central government does not provide the municipalities with the financial means for this purpose. This leads to that the local authorities often do not have the financial

means to provide the necessary infrastructure. The local authorities are also bound by the urban plan for provision of infrastructure. For example the area of Sutomore consists mostly of illegal buildings, which means that they are not registered in the urban plan. The local authorities cannot provide an infrastructure in an area that according to the urban plan is non-inhabitant. At the Municipality of Bar I was told that the most recent urban plan for Sutomore is from 1987. The inhabitants provided the most of infrastructure in the area themselves.

#### 5.4.2 Ulcinj

Ulcinj is situated right by the seaside and is perfect for summer tourism. The area is packed with small and big privately owned hotels. According to the Municipality of Bar this area does not have an updated urban plan and most of the hotels were constructed illegally.



Figure 18: Hotels and restaurants on the seashore in Ulcinj (Photo: Lena Hellenen)

This area is similar to Sutomore in terms of infrastructure. There is no connection to the municipal sewage system in this area. Mostly, the sewage is being collected in the septic tanks, but sometimes it is led straight in to the ground or into the sea. The use of septic tanks is not a bad solution for a sewage system, because when it is made correctly it is an environmentally friendly solution. The disposal of the waste straight into the ground or to the sea, however, is causing pollution in the area. This is harmful not only for the environment, but also for the tourism industry. There is a connection to the municipal water system in some parts of the area and no connection to the water system in others. In the areas where there is



no connection to the water supply system people use wells or collect rainwater. According to the description in the Plan for Converting Informal Settlements into Formal the water sometimes even brought in by tanks (2011c). The quality of roads in Ulcinj varies in different parts of the areas. In some parts of the area the roads are narrow with enough space only for one vehicle and lack the sidewalks. In other parts of the area the roads are wider and in better condition. The access to electricity also varies throughout the area. All the streets that I visited in Ulcinj had the connection to the electricity and to the water supply system.

I had a chance to interview an owner of a smaller scale private hotel, which was under construction at the time of the interview. The owner did not live in the area permanently, but came from another country to open a hotel in Montenegro. During the interview I was allowed to come into the house and see the finished rooms. The total area of the house is approximately 400m<sup>2</sup>. The house has three floors and a basement. The finished house will have nine rooms in total. One of the floors will be for the owner's family use and other two will be rented out to the guests. The rooms for the guests are equipped with a shower and a kitchen. They are suitable for families and couples. Several of the rooms have a beautiful view to the sea. I was explained that the intention was to open a hotel that only takes visitors during the summer and focus mainly on the tourists from foreign countries. The owners are aware of the seismic risk in the area and took it into consideration when the plan for the building was made.

The owner told me that the house was being build without a building permit, because no one else in the area had a building permit for construction. I asked if the owner was afraid of any possible negative consequences because the hotel was illegal, and received the following answer "I think that there will be no negative consequences for those who care to leave enough space for the road and sewage system to be constructed in the future. When the urban plan for the area is ready we will get the building permit, but it will be expensive. I saw that everyone else is building without a building permit and no one gets any problems, and I decided to start building as well." The owner then continued to explain, "I am just waiting that it will be announced on the news that the new urban plan is ready for the area, and then I can do all the necessary procedures to make her building legal.

The land, on which the hotel was constructed, was bought by the owner with the intention to build a hotel. However, the person who sold the land could not give any reassurance whether or not it would be allowed to build on the land. The owner explained, "*In my opinion it is not*

*good that everyone is building illegally. I would like to have all the necessary legal papers for the construction. To have all the necessary permissions would provide me with the security the authorities would not demolish the house.*

Even though most of the constructions appeared to be high standard, the lack of sensible areal planning was obvious. The area is situated on a slope of a mountain and many of the buildings have the potential of a great view of the sea. Some of the buildings were constructed very close to each other, in the way that one blocked the view from another the buildings. Many of the buildings had balconies that were probably meant to enjoy a nice view of the surroundings. To me it looked like the balconies lost this purpose because the only thing that could be viewed is the interior of the neighbour's house or a wall (Figure 19).



Figure 19: Unfortunate placement of the buildings, Ulcinj (Photo: Lena Hellenen).

### 5.4.3 Susanj, Polje and Utjeha

One of my intentions was to interview people who had built their houses legally. There are two reasons for this. The first reason is that I wanted to find out why some people chose to build legally, whilst many others built illegally. The second reason is that I wanted to hear what people who built their houses legally thought of all the illegal construction near them.

I was told by the municipality offices that the number of illegal construction was estimated to be much smaller than in Sutomore and Ulcinj.

These three areas were different from Sutomore and Ulcinj because they were only used for residential purposes, not for renting to tourist. The reason for this might be that the areas are situated further from the sea than Sutomore and Ulcinj.

The general environment and atmosphere in these areas was also very different from Sutomore and Ulcinj. Especially I noticed this in one part of Polje. Generally it was nice to walk around and explore the areas where I did my study. But in one particular neighbourhood of Polje walking around was a less pleasant experience. There were many houses that were surrounded by big fences or guarded by very angry dogs. This made it very difficult to approach the houses. It was also more difficult to find respondents for my interviews in this particular area.

My translator grew up not so far from this neighbourhood, and she did not expect that it would be difficult for us to find people to interview. She explained that this area was very different when she grew up. There were no big fences or any angry guard dogs. She was very surprised by the transformation that had taken place.

During the interviews with the inhabitants of Polje I was told that there are many people from the northern part of the country choose to settle in this area. Unemployment and poor economy in the north of the country enforced the migration of people to the coast. This information was confirmed when my translator and I approached people in that particular area to ask for an interview. The translator told me that she could hear from the people's accents that they were from the north of the country.

It was not easy to find people who were willing to answer my questions. As soon as the translator explained that the questions were about the house, people said that they were very busy at the moment. Fortunately we were able to find a few people who built without the building permit and were willing to answer my questions.

I would like to use as an example an interview with a man who came from north of the country. The respondent was sceptical at first to speak to us. We reassured him that everything he said was confidential and I would not reveal his name or the address where he lived. We were invited into the house during the interview.

The man told me that he bought the land that had not been previously developed and started the construction of the house in 2007. He chose not to apply for the building permit before starting the construction. The owner explained that because everyone else in the area built without building permit, he also decided to build the house without it. He said that due to the lack of financial means he did not know when he would be able to finish building the house. He saved up the money to build the house. When the savings were not enough the construction company, where he worked, helped him with the building materials. He explained that the materials were given to him on a down payment agreement with the company.

He said that for him it was less expensive to build a house without the building permit. I think his decision of not applying for the building permit was based on two factors: that the building permit is expensive and that everyone else is doing it. Although he said that he was not afraid of any negative consequences, I could sense that he was not completely honest about it. I found it interesting the he said that people are still building a lot of houses in the area without applying for building permit. They are not afraid of any negative consequences because there never were any inspections from the local authorities. But he and the neighbours hope that their houses will be legalized soon, because they heard about an upcoming legalization project in the municipality.

It was noticeable that the house was not finished. The floor was not built yet and the foundation of the house was covered by the carpets. The heating system was not finished either. The walls were not painted yet. Nonetheless, the house was already connected to the water and electricity supply. I asked the man how could he connect the house to these services since the construction was illegal. He explained that he and two of the neighbours bought the necessary equipment to connect to the electricity and water. Then they dug the ditches for the water pipes. He said that the company that provides the water had an action with the purpose to enable the owners of illegal buildings to connect legally. This is the only time during my fieldwork that I heard about such an action. The man said that the electricity is “weak” and the water supply stops for two hours every day during the summer months. There was no permanent solution for the sewage yet, which means it is led directly into the ground.

On my question if the house was registered in the cadastre the man hesitated to answer the question. Then he said that the house was registered. He also said that he paid taxes, but could not remember the amount. From the way the man hesitated answering some of the questions

and from his body language I could see that he may not be telling the truth. After the interview the translator told me that she also had the suspicion that he did not say the truth all the time during the interview. She could also see that he was hesitant and the type of words he used also made her suspicious. In my opinion this interview is a good example of the challenges one faces researching a sensitive subject. I had to accept what people were saying to me, but at the same time I could not always be sure whether they told the truth. While speaking with both the inhabitants and the authorities, I wondered whether they sometimes said things that they thought I wanted to hear. Maybe people felt a responsibility to present the country, the neighbourhood and themselves in the best possible way.

After speaking with people in Susanj, Polje and Utjeha I got an impression that the local people were not very satisfied that people were came from the north of the country and building their homes illegally. In their opinion this led to a negative development of the areas.

Generally there were more legal houses in these three areas than in the others. I noticed that most of the houses in that area looked very new and modern. A typical house had two or three floors. At the time of my visit there was some on-going construction activity. Due to the difficulty of approaching people I did not collect information about the on-going construction. The houses that were constructed legally had the connection to the municipal sewage system and the water system. The roads in these areas were noticeably better than in Sutomore and Ulcinj.

## 5.5 Summary and discussion of the main findings

I did not find an exact answer for why some people chose to build legally or illegally. I think that it depended on different circumstances. For some of the people the decision was based on their personal conscience and sense of respect for the rules and authorities. Some people inherited the house and the decision on construction belonged to their parents.

Most of the people who did not have a building permit told me that it was not possible for them to build the house legally because of the absence of a modern urban plan. They thought that they would not be granted a building permit because the area of construction was not

regulated for building. A few respondents said they applied for the building permit, but it took such a long time to wait for it that they just decided to start building.

One of the respondents explained me the situation in the following way, *“Here it is like in the Wild West, a man puts a flagpole in the ground and says, “The land is mine!” so it becomes his and he can build however he wants”*.

The local authorities had also admitted that the “out-dated” urban plans contributed to the illegal construction. They also said that some people just did not want to be bothered by the process of application for the permit, because it took a lot of time. And that the people have a perception that it is expensive to gain a building permit. I asked the authorities if they thought that the procedures are expensive. To this they said that in it is not expensive to apply for a building permit.

I asked the local people what they thought about the procedures for getting a building permit. The majority expressed that in their opinion the procedures are very complicated, expensive and time-consuming.

After studying the application procedures for gaining a building permit, I can agree that they require a lot of patience and not least financial resources on the part of the applicant.

In some cases people also seemed to be little informed about the rules on construction. For example I spoke with quite a few people who added a floor or an annex to the existing building, without asking for permission from the municipality first. They told me that it was not necessary to apply for permission to do this. To confirm this information I asked the local urban planning authorities, and they said that people are “just ignorant”. My impression was that people might be both ignorant about this type of rules, but also ignoring the rules intentionally.

Some of the respondents inherited the house from their parents. Those who did not have building permits said that it was not necessary to apply for a building permit 20-30 years ago. The local authorities disproved this statement, explaining that it was necessary to apply for a building permit at that time as well. None of these respondents, except for one, had problems with inheritance of building even if it was built without a permit. The one respondent that had problems with making the inheritance legal had a complicated family situation, which, as I understood, contributed most to the problem, rather than absence of licence for construction.

I did not go into detailed research of the issue of the inheritance, since it did not appear to be affected by the presence of building permit.

Some of the respondents said that they just saw that everyone else was building without the building permit and they also decided to do the same. My impression was that people think it will be fine in the end, because there are so many illegal houses, that the authorities would not demolish anything. There were, indeed, densely populated areas that consist of illegal buildings. Most of the buildings were family homes. The local authorities' said that it would not be acceptable to demolish the family homes. They would have to respect the international conventions on the human rights. If the government decided to demolish the illegal constructions they would have to provide people with an alternative place to live. However, they would consider demolishing other types of illegal construction. This would depend on the location of the construction and how its purpose complied with the regulations of the area. In my opinion, if people would need to be relocated to a new area regulated for housing, it would be very expensive for both the government and for the people. It would only create more chaos and cause more illegal construction.

The most common answer I received from people is that the authorities did not provide them with the possibility to build legally. People said it was the responsibility of both local and central government to provide good conditions for development of the area. These thoughts merged into an attitude that the construction without building permit is not really illegal in this type of situation. People were generally expecting that when the new urban plan would be finished, their houses would be included in the plan.

My general impression was that people did not separate the right to own the land from the right to develop it. I learned that during the socialist time the government provided public workers with accommodation, usually apartments. Otherwise it was still traditional to buy land to build a family home. This still remained a tradition in the sub-urban and rural areas. People viewed the construction right as their traditional right. I would like to quote a response that I received from one of the respondents, because it summons up the typical responses that I received on the question about what people think that the authorities should do to improve the situation:

*“The area must be legalized [referring to the legalization of illegal buildings] and it should not be expensive, because people have already paid for the infrastructure. The government*

*should stimulate the payment and provide good conditions for payment. It is better when 50 houses pay a normal amount, instead of 3 houses paying a lot”.*

When I ask the officials about their opinion on illegal/informal construction in the country I also received some interesting answers. One of the authority representatives said the following:

*“If someone has build a house without the authorities realizing it, we should pop a bottle of champagne and congratulate him with the new home!”*

I got the impression that the authorities realize the problem and that the system is not working as it should, and at the same time they see the human side of the problem. I was told, by several authority representatives, that illegal construction is a way for people to solve their living problem. If the allegations about the authority representatives being involved are true, it might also be a good reason for their human compassion for the illegal constructors.

People were obviously taking risks by building without building permits, whether they were aware of this or not. The authorities have not yet made final decisions about how to deal with illegal buildings. Some of the owners could risk demolition; others could risk financial penalty or even imprisonment. During my fieldwork I had a chance to speak to a lawyer from Podgorica, who specializes on the cases about construction. He told me that in his experience there are very few people who have suffered consequences for illegal construction. Nonetheless there have occurred cases when illegal constructors were sentenced to imprisonment.

The security of tenure means that one is protected from forceful evictions from their land and shelter by the state. The state however, has the right to evict people when their settlement is in contradiction with the law of the country. This is, in fact, the situation in Montenegro. The law on spatial planning and construction of 2008 Article 167<sup>6</sup> says *"Buildings constructed without building permits until the effective date of this law, which does not fit into a planning document, will be removed in accordance with the law."* The law contains only this one sentence concerning the illegal construction. However, this one sentence is enough to give the state the right to prosecute people who built illegally. At the same time if the governments, both central and local, do not provide adequate land administration and guidelines, which is a

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<sup>6</sup> The translation of the law was found on the webpage of Montenegrin Investment Promotion Management (MIPA 2011).



violation of the rights of the citizens. The international human rights law states the seven components of the right to adequate housing, which are linked to the land: (i) secure tenure, (ii) availability of services, materials, facilities and infrastructure, (iii) affordability, (iv) habitability, (v) accessibility, (vi) location, (vii) cultural adequacy (Augustinus & Benschop 2011).

This one sentence does not say anything about legalization of buildings that were constructed illegally before 2008. This means that they can also be removed if they do not “fit” in the planning document. I was told by the authorities, both in Bar and in Podgorica, that after this law was passed the illegal construction decreased, but some of them admitted that the global financial crisis might have also been the reason.

The areas that I visited during my fieldwork were very nice, and the standard of most of the houses was very good, as far as I could tell. People told me that they were aware of the seismic risks in the area and consider possibility of an earthquake while planning the construction. For example in Sutomore almost all of the respondents experienced the earthquake of 1979. One of the respondents answered the following on my question if he feels that his house is safe in case of an earthquake “*We feel good when we are shaking*”. It is important that people are following the technical standards for construction with consideration of a possible earthquake. This will limit the possible damage a minor earthquake can cause, but if earthquake reaches the higher levels on the Richter scale greater damage is unavoidable.

There was a lack of reliable information about how many people are registering their illegal buildings in the cadastre. I found it difficult to give a concrete answer to why people chose to register or not to register their buildings. I can conclude that it is an open access for people to register both legal and illegal buildings. The decision depends on people’s conscience and their awareness of the possibility to register. After speaking to the inhabitants I got the impression that they prefer to wait until the authorities come to them and offer legalization of their buildings, rather than approaching the municipality themselves. This kind of attitude seems to be the consequence of the socialist era. One of the representatives from the Municipality of Bar explained to me that during the socialist rule the public authorities were closed for the citizens. And people still believe that the direct contact for guidance and advice

is inaccessible. Some of the authority representatives were also convinced that people want to avoid paying taxes; therefore they choose not to register.

There is also a lot of mistrust to both local and central governments. Most of the people I spoke with said that they believe that there is a lot of corruption on both levels. Looking back at the examples that I included of the government officials allegedly being involved in illegal construction, I am not surprised about the people's opinion.

After listening to the opinion of the both sides, I could conclude that there is a mutual scepticism; and it is very unproductive and weakens institutions.

Pollution is one of the negative effects illegal/informal construction has on the local environment. I did not include the question about what the local people are thinking about the pollution in their neighbourhood in my interview guide. I did, however, ask some of the respondents what they thought about this issue. I cannot say that the responses were unambiguous. Some of the respondents seemed untouched by the subject and some expressed a slight concern. In my opinion there is little awareness about the pollution of the environment. The main sources of pollution in the areas with a lot of illegal/informal buildings are the lack of proper solutions for sewage system, and disposal of wastewater and garbage. Another source of pollution is poorly organized road network. Most of the roads in areas with informal settlements were built by the inhabitants, which means they lack proper planning with regard to the environment. Construction in unregulated areas causes also destruction of natural habitats and biodiversity. It is especially big issue in the areas that are close to the national parks and in the coastal areas.

The development of the tourism industry is positive for the economy of the country and for the private economy of the citizens. The industry is developing rapidly and it also has negative impact on the local environment. The central government and the local governments need to support the development of tourism and at the same time monitor it in order to avoid environmental degradation. People need to be sensitized about the importance of environment protection and possible solutions for doing business in an environmentally friendly way. The government need to take the responsibility for sensitizing people; otherwise they cannot expect any change in people's habits and attitudes. The authorities need to be more proactive and find the ways to engage people.

## Chapter Six

# Regularization of illegal buildings and land titles on the coast of Montenegro

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### 6.1 Introduction

In this chapter I will describe and discuss the solutions proposed by the Ministry of Spatial Planning and Environment representing the Government of Montenegro, for solving the problem of illegal/informal construction. Although the final decisions are yet to be made, the Ministry is working on a proposal for regularization of illegal/informal constructions.

Before I move on to the main part of this chapter I would like to give a short presentation of the concept of regularization. I feel that it is important for understanding of the following information.

### 6.2 The concept of “regularization”

The issue of illegal, informal and irregular property exists in most of the developing countries and countries in transition. The solution for this issue is believed to be upgrading of the infrastructure, regularization of tenure and urban poverty alleviation programmes.

When discussing the concept of formalization it is nearly impossible not to mention the Peruvian economist Hernando de Soto. Some of the world’s most important publications such as Times, The New York Times and The Economist rated de Soto as the one of the most influential innovators of the century. His book “The Mystery of Capital” received a lot of attention from fellow experts on the subject, politicians and scholars. De Soto’s approach to the issue from an economic perspective contributed to the awareness of the impact illegal construction has on the economic growth of a country. Previously the subject of illegal construction was viewed from the social and political perspectives. In his book, de Soto explains how the illegal construction stimulates the growth of informal market, which prevents the formal market from developing. He referred to illegal and informal development

of the land as “dead capital”. In his opinion this “dead capital” has the potential value that can help people out of poverty. He suggested that if the land ownership, land titles, land use and other assets would be regularised, people would have something to participate with in the formal market. De Soto’s new perspective on the issue provoked an interesting debate amongst the experts.

In 2001 the journal *Interplan*<sup>7</sup> published a discussion on the book “Mystery of Capital”, in which several experts express their opinion on the book. Dr. Shlomo Angel (2001: 2) expressed the positive aspects of the book as follows “*de Soto does point out, correctly, that because most informally-held assets have deficient property documentation and do not confirm to laws and regulations governing their construction and use, they are not used optimally: for example they cannot be traded for their full value on the market and they cannot be used as collateral for loans.*”

De Soto’s theories received some critic as well. For instance lawyer and the city planner Edesio Fernandes said, “*First, while discussing the importance of legalizing informal settlements, he has failed to question the very nature of the legal system that has generated urban illegality in the first place. Second, existing research in several countries has already proved that, political and institutional conditions, residents in informal settlements can share a perception of security of tenure, have access to (in) formal credit and public services and do invest in the housing improvement even without having legal title. Third, research has also shown that, while the recognition of individual titles can indeed promote individual security of tenure, if it is not promoted within the context of a broader set of public (...) policies, legalization may also aggravate the process of socio-spatial segregation, in that many of the original beneficiaries of the programs would not have remained on the legalized land, which should be the ultimate objective of regularization programs-especially those promoted in informal settlements in public land*” (Fernandes 2001: 3).

I agree with Fernandes that de Soto paid little attention to the formal institutions, such as the formal legal system. When formal institutions fail to provide practical and fair solutions for the citizens, people resort to informal solutions. I observed this co-relation both in Uganda and in Montenegro, although these two countries have different levels of development.

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<sup>7</sup> *Interplan* is a journal published by the International Division of the American Planning Association. The journal covers news and issues in a variety of international planning topics. Organization’s webpage: [www.planning.org](http://www.planning.org)

I also agree that it is not necessarily so that people are apprehensive to invest in the development of their land or construction if they do not have the official legal titles. Based on my experience, I would say that one glove does not fit everyone. Every country has its own political atmosphere, culture and social norms. This affects people's attitude towards the necessity of legal titles. For example in Montenegro investments seemed to depend more on people's financial situation, rather than the existence of a legal title. People's attitudes may also depend on the way they acquired the land. People who purchased the land through a legal transaction may feel secure and thus more interested in investment. People who occupied the land illegally may not feel secure enough to be willing to invest in it. Dr. Durand-Lasserve wrote, *"It is worth to noting that, in such settlements, middle-income and high-income groups are well protected against forced eviction, because of their political influence and their cultural and economic capacity to regularize their situation."* (Durand-Lasserve March 2006)

De Soto argues that the legal title will give people opportunity to enter the legal market by using their formal title as collateral. In my view it is only one aspect of the problem. We should not forget that people are not only poor because they cannot access the legal market, but they are poor because of the sum of different circumstances. I would say that unemployment is one of the most important reasons for poverty. Collateral is not the only prerequisite for loan. The debtor needs to prove his/her ability to pay back the loan with the interest rates. Even if the person can offer the land and the constructions on the land as security for a loan, it is unlikely for a bank to give a loan if the person does not have a stable source of income. It is also very risky for a person with very limited financial resources to take up a loan. It is a common for developing economies to have high interest rates on a loan and the markets tend to be very unstable, which implies the risk both for the debtor and the creditor.

I agree that a legal title can be the key to the market and financial success. However, it needs to be in combination with the help from financial, legal and political institutions, in addition to a source of income.

Regularization programmes are traditionally based on tenure legalization and provision of individual freehold (Royston & Durand-Lasserve 2002: 10). This type of regularization process can be costly and time-consuming if the capacities of administrations involved are limited, the land related information is out-dated or insufficient and where the centralized registration procedures are complicated (Ibid). This description of circumstances by Royston

and Durand-Lasserve is a good fit for the situation in Montenegro. In the following chapter I will describe the methods chosen by the Montenegrin government and give an analysis of those methods.

Royston and Durand-Lasserve describe the conventional responses to the irregularity, which I found relevant for the example of Montenegro (Ibid). These responses include:

- Tolerance by the public authorities of the existence of dual system (formal/informal), but absence of a clear strategy regarding irregular settlements.
- Attempt to adapt land law to the situation and needs of developing cities.
- Tentative, top-down land policy and institution reforms.
- Integration of informal land and housing delivery systems into the share of formal activities through large-scale registration and tenure upgrading and legalization programme.

These responses did not prove to be successful so far, but the last regularization strategy is still an on-going process. It is a big challenge to create a regularization programme that would fit all the social groups in the country with their needs and resources. Regularization programmes have been criticized for being too focused around individual ownerships, because it is discriminative against the customary rights. They have also been criticized for giving the priority to the upgrading land tenure systems, because it negatively affected the urban poor. The recent reports on best practices show that the best results are achieved when the citizens living in irregular settlements are involved in the process of decision-making. The results are the most positive when the public is presented with a range of alternatives instead of being forced to acceptance of decisions made without their involvement (Augustinus & Benschop 2011).

Previously in this thesis I discussed the negative effects informal/illegal construction has on tenure security. After I was done with interviewing people living in illegally/informally constructed buildings and started to analyse the responses, I realised that most of them did not feel as insecure as I would expect. I think that the fact that most of the illegal/informal construction happened on the investor's private land offered a level of security. I think that Durand-Lasserve (March 2006) explained the differences in perception of tenure security in a very good way:

*“Overall, responses to tenure insecurity vary according to local contexts, to the types and diversity of irregular settlements, to governments’ political orientations, to pressures from civil society in general and from concerned communities in particular.”*

However, it would be wrong to state that the tenure security is not an issue in Montenegro, even if not all the inhabitants may experience it that way. The local inhabitants may not always see the connections between illegal construction, lack of title and security of their rights.

The strengthening of tenure security is one of the components of a regularization process. The security of tenure can be achieved through the less time-consuming and expensive measures in comparison with a regularization programme (Royston & Durand-Lasserve 2002: 14). The security of tenure can be accomplished by administrative or legal measures against forced evictions, for example by the provision of titles (Ibid). However, the security of tenure alone is a rather “temporary” measure, which can be a good solution in cases when the government does not have the capacity to pursue the regularization process (Royston & Durand-Lasserve 2002: 16).

## 6.3 The strategy for regularization of illegal/informal constructions

### 6.3.1 The government’s solutions

The government of Montenegro chose regularization of illegal buildings as a solution to the problem. In 2008 The Ministry of Spatial Planning and Environment developed a proposal for dealing with the illegal buildings called *“Plan for Converting Informal Settlements into Formal and Regularisation of Building Structures with Special Emphasis on Seismic Challenges”*. The document was given a short name “Strategy 2008”.

The first objective of the Strategy 2008 is to provide updated topographical data, in addition to identify the amount and location of illegal buildings. The updated topographical data will be used for entering illegal buildings in the cadastre.

The Ministry’s strategy is to divide the existing illegal buildings into two categories:

1. Structures for which the spatial planning documentation exists

## 2. Structures for which the spatial planning documentation does not exist

The first category is again divided into the following sub-categories:

- Buildings that obtain the necessary planning documentation, but the owners are still keeping the informal status of the structure.
- Buildings that obtain the necessary planning and the owners wish to regulate the status of their structures.
- Buildings that obtain the necessary planning, but have not been verified through the same documentation.

To regularize this type of buildings it would be necessary for the owners to provide the documentation from a licensed construction company, stating that the building is constructed according to the technical regulations, norms and standards for design. The buildings that are not compliant with these requirements would be considered for reconstruction or demolition. If the building would be approved for reconstruction, the owner can apply for a building permit. The documentation of reconstruction design would be a requirement for obtaining a building permit. After the reconstruction is completed the owner would be granted a use permit.

The owner would also have to provide documentation stating the ownership of land and the structure, as well as the right to build on the land.

The owner would need to document the payment of administrative fees for regularization of the building and registration of payment for infrastructure services.

The Ministry has also suggested a timeframe of five years for attaining the necessary documentation and for applying for regularization of the building. If the owner fails to provide the necessary documentation during this period of time the building will be demolished. The Ministry then suggests two other measures that can be used to force people to regularize their illegal buildings. The first suggested measure is to raise the property taxes up to five times until the building would be regularized. The second possible measure is disconnection of the buildings from the infrastructural network.

The buildings that belong to the second category cannot be regularized until an urban plan for the areas is adopted. Based on the new urban plan the local authorities will make a decision on regularization of the building. If the building “fits into” the new urban plan, then it can be



regularized, otherwise the building will be demolished. If the building “fits into” the new urban plan the owner will have to provide the same documentation for regularization as the owners of the first group.

The Strategy 2008 also includes the possible solutions for regularization of the buildings constructed on the municipal and state land. The possible solutions are long-term lease of the land or purchase of the land through a loan from a foreign financial institution.

To make the application process for gaining building permit more efficient in the future, The Ministry suggested that the building permit should be merged with the use permit.

The implementation process consists of eight steps (from the Strategy 2008):

1. Creation and implementation of PR and Marketing strategy
2. Legal basis-amendments to the applicable legislative framework or adoption of special legal act
3. Preparation of updated topographic-cadastral plans and orthophoto surveys
4. Surveying of the structures and examination of the static and seismic stability of the structures
5. Creation of the database
6. Producing of planning document
7. Implementation of the plan
8. Urban design

### 6.3.2 A critical analysis of Strategy 2008

#### **The first step - gaining an overview**

I agree that the first step in the regularization process should be collecting information about the areas with illegal/informal constructions. The collection of information should be divided into two steps: (i) to obtain an overview of the areas, (ii) to do the inventory of the areas. An overview, in form of updated topographical data, is important in order to locate the illegal/informal constructions in order to be able to proceed with a controlled regularization process. The maps should be available both for the central government and the local governments. After the local governments have access to the updated maps they can send

surveyors to do the inventory. The inventory should involve information about the buildings on more detailed level, for example the size, number of floors, connection to the public services etc.

In my opinion the guidelines for registration of illegal/informal constructions in the spatial plans and in the cadastre should be developed simultaneously with the first step. It would be easier to move on to the next steps of the regularization project if the local authorities have the overview of the situation and the guidelines for registration. Otherwise the authorities would be sitting with the fresh maps without the tools to move on to the next steps.

### **Registration of the illegal/informal buildings**

I think it would be a better solution to register all of the buildings in the cadastre and on the spatial plans even without them being regularized first. This would give the authorities the necessary knowledge of existing illegal/informal buildings in order to monitor the regularization process. It might be a challenging and time-consuming process to convince the citizens to participate in the regularization project. The government would need to collect the statistical data to be able to monitor the process. It would not be possible to do this if the buildings are not registered. A process like this needs close monitoring otherwise it could be difficult to implement.

The guidelines for registration should be the same for the whole territory of Montenegro. The registration system should also be the same for all the municipalities. One land registration system would make the information accessible for different types of use and more reliable. After the new registration guidelines are established it is most likely that the municipalities would need assistance to adapt to it. The solution could be to establish special divisions with experts who have the special knowledge about the new system, which can assist the municipalities with advice and monitoring of registration.

### **Motivation of the public – the rewarding approach**

It is suggested to motivate people by raising their taxes by five times while the buildings are not regulated. I think that higher taxes are only going to provoke negative reaction with the citizens and lead to that people would avoid paying the taxes altogether. The government

should not forget that there are different social groups, with different financial resources, that are living in illegal/informal buildings. It should be taken into consideration that some people would not be able to afford to pay high taxes and to pay for the regularization process.

In my opinion the strategy to encourage people to regularize their property should be reverse, a rather “carrot approach”, than a “punishment approach”. I would suggest lowering the taxes for those who regularize their illegal/informal constructions. The taxes are important for the local government because they are mostly self-sufficient, therefore the solution might be to lower the taxes for a certain period of time. It could also be possible to reduce taxes to the limit that the local governments can tolerate, either by themselves or with the help from the central government. I think that people are likely to be tempted by the idea to pay less, even if it does not mean that the amount would be reduced extensively.

It is also important for people to see what their taxes are being used for. Right now there are many accusations towards the government of being corrupt that are discouraging for the people. In my view the most important encouragement for people would be to see a government that is proactive. People need to see that the money that they are paying contributes to the progress in their local environment. My impression of the local people was that they have a strong sense of community and belonging. There were many respondents who expressed during the interview that they would like to see the local government investing in its domain. I think that the authorities can appeal to the people’s wish for improvement of the local environment. The authorities should also be more active to involve people to participate in the planning process. It would encourage the democratic processes in the country and lead to transparency.

The Strategy also suggests punishing people, who are unwilling to regularize their property, by demolishing the building or by cutting the building off the public services. In my opinion the demolition should happen only in special cases. The demolition could be appropriate if the building is constructed in the areas that are protected by the environmental law or in especially dangerous areas. In the extreme case when people are opposing regularization it could be an option to cut the building off the public services, but the type of construction should be taken in consideration, as well as the financial situation of the owner. In my opinion there should be a difference in treatment of buildings that are meant for living and for business/industry.

It is also suggested in the Strategy that buildings that will not pass the safety requirements should be demolished. There are many illegal/informal buildings that were built two-three decades ago and the technical requirements have changed over the years. These buildings might have been built by the past standards, but will not correspond with the new requirements. This could create a problem for the regularization process because it is not given that people would be able to afford the reconstruction. The strategy document does not say anything about a solution for this kind of situation. There are two possible solutions for this kind of issue. The first solution could be to offer the owners a financial help for the reconstruction. The second solution could be to offer the owner to resettle if it is a family that is concerned in the situation.

There are a big number of illegally constructed hotels in the country, especially on the coast. It is in the interest of the owner to regularize the construction in order to do a successful business. However, it is possible that an owner could refuse to regularize the construction. It is important to have solutions for such situations. The solution would depend on the government's approach and attitude towards this type of situation. I think that it is possible to both encourage and to force the owner to regularize the construction.

The disconnection of the building from the public services could be an alternative to force the owner to regularize. It could also be an alternative to lower the guest taxes for the owners who regularize their buildings as an encouragement. Both big hotels and people who rent out rooms in their family homes are obliged to pay tax per bed they are renting out. If this tax can be reduced for the year when the regularization happens, it would encourage the owners to make their construction regular. The reason for that I do not suggest to increase the taxes (for those owners who do not regularize) is that it that in my opinion it could have a negative effect. It is easy to monitor the hotels, but it is not easy to monitor smaller businesses such as renting rooms in a private house. If the taxes will increase, people who are renting out the rooms might stop declaring the rent of the rooms, which would lead to more black-market business.

### **Preventing the illegal/ informal construction in the future**

To prevent the future illegal/informal construction it is necessary for the authorities to establish consequent monitoring routines. There should be systematic updates of the land

information and spatial plans. To implement these measures it is important to invest in the capacity development, both human and technological. From the interviews with the Municipality of Bar I learned that there are not enough experts working on the local level with land administration. This leads to inefficient and expensive regulation processes.

The new technology can be used to engage people in participating in the planning process. It can also contribute to the availability of the information and speed the processes of transactions, registrations, taxation, and other coordination between different institutions.

New legislation should also be priority of the regularization process. It should include a specific definition of illegal construction and the legal consequences for illegal construction. A precise definition will provide clarity and better understanding of the law and requirements for the investor, for the department stating a building permit and for the court in case of a trial over a construction. The legislation should also include specific requirements for development of an existing structure. This kind of law should include not just a legal definition of what is illegal, but also a technical description of what is required for a construction to be legal. Technical requirements can include a building permit, safety demands for the construction, restrictions and fees. All the new regulations should be clear and realistic to implement. They should also include the explanation and guidelines for implementation.

It is necessary to establish land use controls to monitor the development and prevent further illegal construction. Land administration should be used as a tool to strengthen tenure security and for establishing of the communication between the land titles, land use, land value, the market, restrictions and regulations.

One of the main obstacles to motivate people to apply for a building permit is the application procedure. All the procedures for obtaining a building permit and registration of property are awfully long, time-consuming and costly. The process should be made easier and less expensive for the investor. The use of licenced agencies ease the process of application for an investor, although it is costly. The agencies usually sign the authorization agreement with the investor and can act on his/her behalf in communication with the authorities and relevant companies. Usually we associate use of a third person to help us to deal with the paperwork as a service that will make the process faster and with no complications. In countries like Norway the use of such services is a free choice. But in Montenegro is seemed to be a compulsory act.

The system is so complicated that even the local authorities have difficulties understanding the whole procedures. During several of my interviews with local authorities interviewees admitted that even they do not always have the right knowledge about all the necessary procedures.

The local authorities are also imposed to double-check and even triple-check all the surveys that are done by the agencies. The agencies are licenced and, as I understood, take good payment from their customers. This means that the agencies have the financial resources to hire qualified professionals even more than the municipality itself.

The application procedure should involve a check of the surveys by the responsible authorities, but it should be more trust and cooperation between the private sector and the public sector in order to make the system more efficient. The state grants the license to the private agencies and it should be a sign of reliability.

Transparency is the key to a successful democratic system. It is important that the procedures of regularization process are transparent to the public, because it will strengthen the trust of the citizens and encourage them to participate. The citizens should be encouraged to demand more from the government in terms of reliability and responsibility for their actions. There are many examples of authorities allegedly being involved in the organized crime and the abuse of office, some of them are described in this thesis. The public cannot be expected to obey the law if the authorities are not doing it. In February 2011 the first step towards improving the situation was taken by the government. There was assembled an investigative team designed specially for fighting organized crime and corruption and enhancing the ability of law enforcement agencies to work together (U.S. State Department 2011)

### **Market oriented approach**

Regularization of property rights can boost the country's economy and the people's private economy. First of all the registration of buildings and titles will provide reliable and easy accessible information, which can be used by the authorities for better decision-making, by the financial institutions, investors and companies that provide public services, and many other institutions. In the chapter 2.5 I described the decline of investments in the property related businesses in the country. An important reason for this decline is the lack of tenure security. In fact there are not only the foreign investors, but also the local investors are

apprehensive to invest due to the uncertain situation. The regularization of the property rights will provide a more secure situation and encourage both local and foreign investors to bring their capital to the Montenegrin market. Not least could it help to ease the transaction process and the transaction costs.

Secondly the updated land-use regulations and restrictions will also contribute to the predictability and stability for the investors. Regularization will naturally push the market prices up, which can be both a positive and a negative consequence for the local people. At the same time it will encourage a competitive real estate market and encourage the development of infrastructure and general standard. The better standard in its turn would give a lift to the tourism industry of the country.

To avoid further illegal construction the government should cooperate with the financial institutions to develop programmes that can help people who cannot afford legal construction. Such programmes might include loans with lower interest rates and special conditions that give people the possibility to pay it back in a longer period of time. It is important to present people with different options, for example special offers to the first time buyers, people displaced by the war or environmental crisis, and other groups who cannot afford to provide themselves with housing.

It is also important that the authorities emphasize the development of the institutional structure in the country in order to strengthen the democratic processes in the country and to build the capacity to cope with the transition. Over the years the development and strengthening of institutions was neglected and it led to unwanted development in many sectors.

## 6.4 The economy of the project

The implementation of the project will demand big financial resources from the government. Considering the financial situation of the country it would be necessary to ask foreign investors for financial help.

The revenue is expected to come from the collection of the taxes (Attachment 5). It is suggested in the strategy that the taxes should be affordable for the citizens and efficient for the local governments. The establishment of a model for loan possibilities is also set as an

important factor for enabling people to pay the property tax. The Ministry suggests establishing a crediting model for the citizens in order to make sure that they will be able to pay the liabilities that are connected to the legalization. It is planned to involve the Montenegrin banks in the development of a crediting model.

The estimated revenue from the regularization, as described in the Strategy 2008:

- *Communal taxes* (local government income)  
95,000 structures x 100m<sup>2</sup> x 100 euro  
Total: **950,000,000** euro
  
- *Taxes on real estate* (local government income)  
20,000 structures x 1000 euro (for structures where the planning documentation exists)  
App. 20,000,000 euro (annually)  
75,000 structures x 300 euro (for structures where the planning documentation does not exist)  
App. 22,500,000 euro (annually)  
**Total: 42,500,000 euro annually**
  
- *Taxes for integration*  
95,000 structures x 1,500 euro  
**Total: 142,500,000 euro** (the income is divided in equal parts to the municipalities and state)
  
- *Collecting of consumed water (revenue of the water supply company)*  
10.000 structures x 80 euro (annually)  
**Total: 800.000,00 euro annually**

**Note: When calculating a reduction of amounts up to 25% should be taken into account, because of the inability to collect taxes.**

## 6.5 The organization of the project

The Ministry decided to start the implementation of the strategy by developing pilot projects for different areas in Montenegro. The aims of the pilot projects were to do the study of different areas and use the analyses to propose a solution plan and a financing plan of the solution. The solution plan would also include a proposition to new legislation. The first two



projects started in 2010 in areas of Pobjede-Rutke in the north of the country and Canj in the south.

The Ministry established cooperation with the UNDP office in Montenegro to implement three more pilot projects in different areas of the country. The UNDP contributed with financing the projects, planning, executing and offering their expertise. These three pilot projects involved Zabljak in the north, Bijelo Polje and Berane in the south.

Energy efficiency was also included in the agenda of the Strategy 2008. The UNDP and the UNECE were asked for help with the assessment of the energy efficiency in the areas concerned and suggest a plan for improvement of the situation. In addition the UNECE was asked to provide the assessment of the impact informal settlements have on the local environment and suggest a strategy for improvement.

The UNDP experts suggested collecting carbon as a possible solution for improvement of the environmental situation. This solution involved engaging people to invest in carbon quotas<sup>8</sup>.

During my fieldwork I met with some experts from the UNDP who are working on the project. They explained to me that their office is planning on offering financial help to do the orthophoto of the areas involved in the pilot projects. I knew that the Norwegian Centre of Property Rights and Development was contributing financially a project of laser scanning of the whole territory of Montenegro at the time. I asked the experts from the UNDP if they were cooperating on that project, but they seemed to be unaware of it. To me it looked like another example of poor communication between the different institutions in the country. The project that the Norwegian centre was contributing to is cooperating with the Montenegrin Real Estate Administration. The Real Estate Administration is mentioned (Figure 20) as one of the key participants in the regularization project, which means that they should be aware of the different contributors and their tasks. The figure below shows the organization of the project, but it does not include non-governmental contributors. It might be because the strategy document was made before the agreements with the non-governmental contributors.

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<sup>8</sup> After I finished working on this thesis, I received the news from Montenegro that the suggestion about citizen investment in the carbon quotas was set aside. I still decided to include this information in the thesis, because primarily it was a very advertised idea.

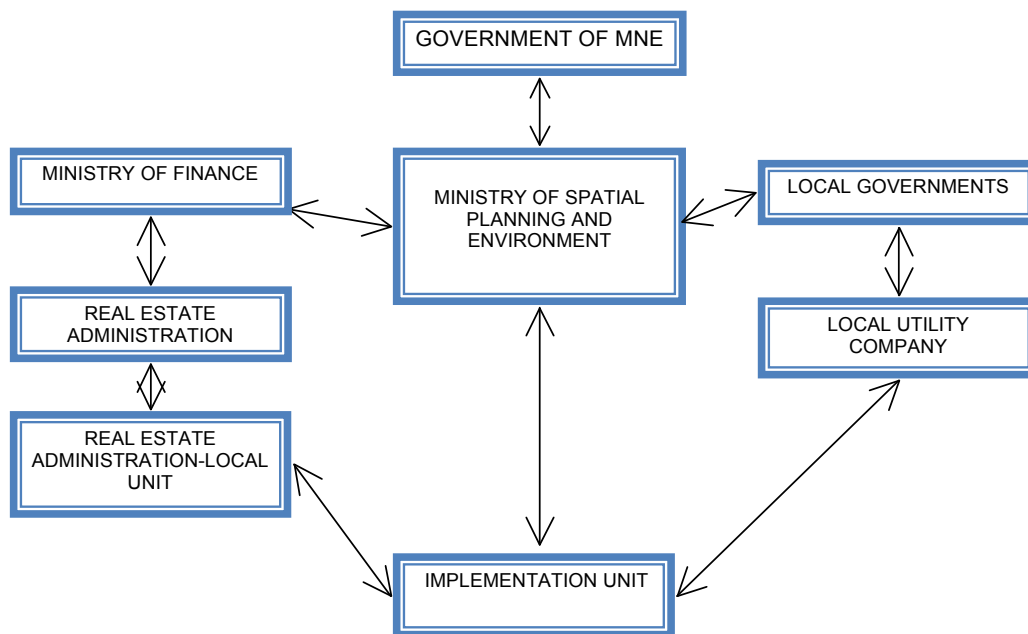


Figure 20: The scheme of organization of the regularization project. (Image found in the Plan for Converting Informal Settlements into Formal Regularisation of Building Structures with Special Emphasis on Seismic Challenges (Strategy 2008))

I also had a conversation with two representatives from the Ministry of Spatial Planning and Environment. Unfortunately they did not give me sufficient information about the progress of the project. From my interviews with the local authorities in Bar I knew that the new legislation about registration of illegal/informal buildings is very anticipated. I asked the Ministry representatives about the progress of the development of legislation, but the answer I received was unclear. I understood that the new legislation was not developed yet and it was still unclear if there will be developed new laws or just regulations. It seemed that the process of the implementation of the strategy had not come far since the development of the strategy in 2008. One of the representatives from the municipality of Bar said to me, *“Constantly you have a feeling that something is going on, but nothing happens”*.

From the Ministry representatives I learned that the collection of information about the inventory has started in some of the areas. The work on the database had not been started at the time of my interviews with the Ministry. The airplane scanning had the deadline in the end of July 2011. According to the latest information that I have from the August the same year this deadline was not met.

## Chapter Seven

### Winding up

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#### 7.1 Introduction

The main goal of this study was to describe the phenomenon of informal/illegal construction in Montenegro and to contribute to the theoretical understanding of the possible reasons for which illegal/informal construction occurs. It was a completely new to me theme and I had a lot to learn. I tried to gain as much knowledge as I could about the issue of illegal buildings, Montenegrin land administration system, culture, traditions and attitudes. I hope that I was able to convey my knowledge to the reader through this academic work.

In this chapter I would like to summon up my work and express my final reflections about the fieldwork and the main findings.

#### 7.2 Concluding remarks on the fieldwork

The theme of illegal/informal construction is very vast and there are many different aspects to it, which could have been interesting to research. If presented with an opportunity again I would make a study in the same areas as I did this time, but with the focus on the financial side of the issue of informal development in Montenegro. It would have been interesting to look into the private economy of the investors. To find out more about how people are financing the construction, considering that it is not common to take a loan for this kind of purposes in the country. During the fieldwork I saw different types of houses that were built illegally/informally. Generally I would say that the standard of the buildings was good, some of the villas and hotels I would even say were luxurious. I assume that this kind of construction demands big investments. Knowing that the rate of unemployment in the country is very high leads to the question - how are people financing the construction?

There can be many different possibilities to finance the construction, for example the money can be acquired illegally or people may receive help from the family members that are better

off. During the conversations with the local people I learned that many Montenegrins go to work abroad and earn more than they would at home. It might also be less expensive to build a house if people are doing it themselves without employing a construction agency.

Also to find out more about the implications informal development is causing on the country's economy in general. I did not give a lot of focus to the transaction of property in this thesis, but it is clearly an interesting question to research. To research this question I would need more time to be able to find agents who are willing to reveal the truth about the way the business is done.

It would be interesting to speak with several hotel owners to hear their perspective on how if the legal state of the hotel affects the way they do their business.

If I had more time and the right connections I would have interviewed the officials who were allegedly involved in illegal/informal construction.

I also did not include the subject of privatization of land in Montenegro. I learned that the privatization started in the late 1990s, but the political instability in the country made the process take longer time. After the land was nationalized people were given the right to occupy the land on conditions similar to ownership. In this work I did not go into the issue of how the privatization could have affected the illegal/informal construction. I was explained in the municipality of Bar that in the areas where I was doing the research there were few illegal buildings constructed on the state land.

All these changes that I have mentioned above demand more resources in terms of time, money and connections and not least some previous knowledge about the situation, which I did not have at the time of my fieldwork. With the knowledge of the situation and better understanding of the social norms that I have today it is easier to see what further questions I could ask and what more I could research. At the same time I think it would still be difficult to interview the hotel owners and the officials because people are afraid of anything that might harm their business or their position.

### 7.3 Concluding remarks on the main findings

Montenegro, like other transitional counties, underwent major changes during the past twenty years. These changes were difficult for people. During the communist rule every corner of society was controlled by the state. The state decided the division of the goods for the citizens and provided people with all the needed basics. The housing was affordable and even free for state employed workers, free health care, stable income and so on. There were many respondents who during the interviews expressed that the life was easier for them then. One day it all started to collapse and life became a struggle because people were no longer provided for by the government. Many of the public services needed to be paid for. The economical crisis in the whole region caused inflation, unemployment and salary instability. Transition from total governmental control to free capitalism meant reformation of urban development. The transitional countries underwent privatization and restitution of property, and first development of property market. This was not always a successful transformation, because the transformation of the market led to illegal development and corruption.

My first research question was to identify the reasons for the increasing number of informal and illegal construction in Montenegro. After research this question I can conclude that the main reason had to be the neglecting of land administration and property sector by the government of the country. There was no development or updating of spatial plans during the past two decades. The local governments did not have regular monitoring and surveying of the areas. For this reason there was no reliable data about the development of the municipalities. The demand for the development ready land was high during that period due to the urbanization and migration from the poorer regions to the richer regions of the country, in addition to the migration from the neighbouring countries due to war or natural disasters.

Another contributing factor was the awfully long, time-consuming and costly procedures for obtaining a licence for construction.

The purpose of my second research question was to find what kind of purpose does the property registration serve in a country affected by the informal development. I found it challenging to draw a conclusion for this question. The reason for this is the contradiction between the experts' opinions and the local inhabitants' opinions on the importance of the registration. There was no compliance between the information I received from the local

people and the authorities whether people are registering their property. Most of the respondent told me that they had a registration in the cadastre, while the authorities told me that there are few people who actually register their property in the cadastre, especially when it concerns registration of illegal buildings. According to the authorities people did not want to register their buildings and titles in order to avoid paying taxes. The lack of registration is a problem for the local governments' not only because of the lost control over the areas, but also because of the lost income. The local authorities are using the revenue from the taxes to provide the adequate infrastructure in the municipality. It is also a problem for the companies providing the public services.

The lack of registration has a negative impact on the country's real estate market and the businesses that are related to the real estate market. Both foreign and local investors are apprehensive to invest in the immovable property. The interest to invest has declined drastically during the global financial crisis in 2009. Registration of titles can encourage the interest to invest again, as it provides the security of tenure and a certain level of stability.

There was little awareness amongst the local inhabitants about the importance and the benefits they might have if they register their titles. People need to be educated about the importance of having a legal title. This type of education should be a part of a formalization process to enable its success.

Education of the public is very important to enable a good governing. It is difficult to make people go through any registration procedures if they do not see what it is good for. They need to be thought that that registration will give them a clear definition of their rights and as a result enable them to better protection of their rights. They also need to be educated to understand the other benefits such as social stability. Through my fieldwork I learned that local people are longing for the stability and better quality in their environment. Over the years people were building homes and other constructions, as they found appropriate for them. This led to a certain amount of tension and dissatisfaction between the neighbours. People are not happy with their living environment because there are no regulations it is impossible to build a good infrastructure such as paved roads, sewage system, water, electricity and street lights.

In my third research question is focusing on the measures the government is taking to stop the illegal/informal development in the country.

The biggest step so far was development of the strategy for regularization of the illegal/informal constructions. The process of regularization is a long-term project demanding human and financial resources. The first step of the strategy was to gain an overview of the situation. The Real Estate Administration of Montenegro, with the financial support of the Norwegian Centre of Property Rights and Development, started the mapping process of the territory of Montenegro. There also were started the surveying process in the northern region of the country. Other than this the implementation of the strategy did not come very far.

The strategy for regularization includes various taxes and fees for the owners of illegal buildings, but it does not include any specific solutions for those owners who do not the financial means to pay for the regularization. It is important to consider the possibility that people simply would not be able to pay all the fees. The system should be flexible and including, otherwise it will be difficult to implement the formalization strategy.

Montenegro's ambition to become a member of European Union demands addressing the problems of the building sector, environmental degradation and social sector. There is no simple solution for the improvement of the situation, as it requires changes on many levels. However, it is possible to enforce the positive changes as long as the government sets realistic goals.

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# Attachment 1

## The Interview guide

### Part 1:

- 1. Purpose of the construction:**
  - Family home
  - Family home + renting out
  - Hotel
- 2. Size of the house**
- 3. Number of floors:**
- 4. How did you access the building?**
  - Bought
  - Built
  - Inherited
  - Renting
- 5. Year of construction:**
- 6. Number of people living in the house:**
- 7. Is the house connected to the public services such as?**
  - Sewage system
  - Electricity
  - Water
  - Telephone

**If no, what is the alternative solution?**

- 8. Is the construction build by the necessary technical standards?**
- 9. Do you feel that the construction is safe in case of an earthquake?**
- 10. What do you think about the quality of the roads?**
- 11. Are the roads in your neighbourhood good enough and wide enough for the emergency transport, such as ambulance, fire department etc.?**
- 12. Do you have access to the main road from your house by car?**
- 13. Do you have parking space?**

**14. Did the local authorities or citizens provide the infrastructure in your neighbourhood?**

**15. Are you satisfied with the infrastructure?**

**Part 2:**

**1. Do you have a building permit for construction of the house?**

Or

**2. Did the previous owner have the building permit for construction of the house?**

**3. Are the building and your ownership registered in the cadastre?**

**4. If there is no building permit for construction:**

- Why not?
- Did you try to apply? / Did the previous owner try to apply?
- Would you prefer to have a building permit for the construction? If not why?
- Are you planning to apply for a building permit in the future?

**5. If the building and ownership is not registered in the cadastre?**

- Why not?
- Did you try to register? Did the previous owner try to register?
- Would you prefer to have a registration? If not, why?
- Are you planning to register in the future?

**6. If the building is registered and has a building permit**

- Why did you/ the previous owner choose to register?

**7. What kind of advantages can you get if you have a building permit and registration in the cadastre?**

**8. Are there any disadvantages?**

**9. If the respondent does not have building permit and/or not registered:**

- Did the authorities ever warn you that there might be negative consequences if you do not apply for building permit and/or register in the cadastre?
- Are you worried for any negative consequences that may occur because you do not have the building permit? (For example that the building will be demolished)

- Are you worried for any negative consequences that may occur because you do not have a registration?

- 10. Did the authorities ever encourage you to apply for building permit?**
- 11. Did the authorities ever encourage you to register the building and the ownership?**
- 12. If the house does not have building permit and/ or registration in the cadastre can relatives/ children legally inherit the building?**
- 13. If you would like to sell the building what kind of method would you use? (For example use a real estate agency, put an add in the newspaper etc.)**
- 14. Do you think that the agencies sell buildings without building permit?**
- 15. Would you use legal help for the transaction of the building?**
- 16. Do you pay property tax (If yes, how much?)?**
- 17. Have you applied for a mortgage from a bank? If yes, did the bank check that you have building permit for construction?**
- 18. Is it easy for regular people to know where to go to apply for building permit and to register a building and ownership and what needs to be done to gain building permit and registration?**
- 19. Are the procedures for application for building permit and registration quick and easy?**
- 20. How long does it take to gain a building permit?**
- 21. Is it expensive to apply for building permit and registration?**
- 22. Why do you think that people are building without building permits?**
- 23. Does it affect you personally that people are building without a building permit?**
- 24. Do you think that it affects the economy and development in the country that people are building without permits and do not register their buildings in the cadastre?**
- 25. What do you think that the authorities should do to motivate people to apply for building permits?**

## Attachment 2

### Application scheme for building permit

361 UI



**OPŠTINA BAR**  
**SEKRETARIJAT ZA UREĐENJE PROSTORA, KOMUNALNO-STAMBENE**  
**POSLOVE I ZAŠTITU ŽIVOTNE SREDINE**

**Predmet: Zahtjev za izdavanje građevinske dozvole za izgradnju objekta**

Obraćam se zahtjevom za izdavanje građevinske dozvole za izgradnju objekta na katastarskoj parceli br. \_\_\_\_\_ KO \_\_\_\_\_, odnosno na urbanističkoj parceli br. \_\_\_\_\_ po lokalnom planskom dokumentu \_\_\_\_\_.

Uz zahtjev prilažem:

- idejni / glavni projekat (četiri primjerka od kojih je jedan u zaštićenoj digitalnoj formi, kao i situacija lokacije u DWG formatu);
- izvještaj o izvršenoj reviziji projekta;
- dokaz o pravu svojine, odnosno drugom pravu na građevinskom zemljištu ili objektu;
- dokaz o ugovoru o uređenju odnosa u pogledu naknade za komunalno opremanje;
- dokaz o uplaćenju administrativnoj taksi u iznosu od 0,1% predračunske vrijednosti radova (žiro račun: 510- 8096777-61-OPŠTINA Bar – administrativna taksa).

U Baru, dana \_\_\_\_\_, \_\_\_\_\_ godine

**Podnosilac zahtjeva:**

\_\_\_\_\_  
(ime i prezime)

\_\_\_\_\_  
(adresa)

\_\_\_\_\_  
(telefon)

\_\_\_\_\_  
(JMBG)

### Attachment 3

The summary of the procedures, time and costs for obtaining necessary licenses and permits for construction

| Procedure   | Agency responsible for the procedure                                    | Time it takes to complete the procedure | Estimated cost of procedure (EUR) |
|---|---|---|-----------------------------------|
| 1. Obtain proof of ownership  | Real Estate Administration  | 1                                       | 5                                 |
| 2. Obtain a copy of the site map  | Real Estate Administration  | 2                                       | 10                                |
| 3. Obtain urban development and technical requirements  | Municipality of Podgorica   | 60                                      | 150                               |
| 4. Obtain a geotechnical study  | Agency on Geological and Geotechnical Survey                            | 7                                       | Free of charge                    |
| 5. Obtain approval of geotechnical examination from Municipality  | Municipality  | 10                                      | 150                               |
| 6. Revision of geotechnical condition report  | Technical Commission, Ministry of Economy                               | 10                                      | Free of charge                    |
| 7. Obtain clearance to connect to the electricity network   | Elektroprivreda Crne Gore, EPCG (Electric Power Industry of Montenegro) | 20                                      | 200                               |
| 8. Obtain clearance to connect to the water and sewerage network  | Water Supply Company  | 16                                      | 274                               |
| 9. Obtain clearance to connect to the telecommunications network  | Telecom Montenegro  | 15                                      | 340                               |
| 10. Pay compensation for utilities provision on construction land   | Agency for building and development of Podgorica                        | 1                                       | 42,452                            |
| 11. Obtain ecological approval from the Ministry for Tourism and Environmental Protection (only for industrial buildings) | Ministry for Tourism and Environmental Protection                       | 30                                      | 7,150                             |
| 12. Obtain traffic approval from  |   | 10                                      | 3                                 |

|  |   |    |       |
|--|---|----|-------|
| Municipality<br>(only for the industrial<br>buildings)   |   |    |       |
| 13. Obtain fire prevention<br>approval                   |   | 15 | 500   |
| 14. Obtain a building permit                             | Municipality of Podgorica   | 30 | 715   |
| 15. Obtain water and sewerage<br>connection              | Water Supply Company  | 10 | 200   |
| 16. Obtain telephone connection                          | Telecom Montenegro  | 7  | 80    |
| 17. Obtain power connection                              | Elektroprivreda Crne Gore,<br>EPCG (Electric Power<br>Industry of Montenegro) | 20 | 300   |
| 18. Request and receive<br>technical control of building |   | 1  | 3,346 |
| 19. Obtain occupancy permit                              |   | 49 | 1,430 |





## Attachment 5

### Financial analysis of regularisation of informal structures

#### On the sample of 5000 structures in the south of Montenegro

#### CENTRAL GOVERNMENT INVESTMENT IN THE PROJECT

|                            |   |                |
|----------------------------|---|----------------|
| 1.                         | Aerial photo survey of Montenegro (the possibility of financial support from Sweden)  | <b>250.000</b> |
| 2.                         | Demolition of the facility<br><br>It is assumed that 5% of the total number of structures will be demolished for the reasons of non- fitting into the plans and because they are located on road infrastructure.<br><br>250 structures (area 100m2) x € 12,500 = € 3,125,000                          | 3.125.000      |
| 3.                         | Housing provision of families from demolished structures in case they don't have any other housing unit (obligations under the Vienna Declaration). It is assumed that 30% of families will not have another housing unit<br><br>75 families X (the average apartment area 60m2x600 euro) 36 000 euro | 2.700.000      |
| <b>Sum: 5.825.000 euro</b> |   |                |

#### LOCAL SELF-GOVERNMENT INVESTMENT

|                          |                                   |         |
|--------------------------|-----------------------------------|---------|
| 1.                       | Preparation of planning documents | 500.000 |
| <b>Sum: 500.000 euro</b> |                                   |         |

#### INVESTMENT OF CITIZENS

|    |  |  |
|----|--|--|
| 1. | Assessment of seismic and static stability of these structures with the development of project documentation by licensed companies |  |
|----|--|--|

|    |  |   |
|----|--|---|
|    | <ul style="list-style-type: none"> <li>• Introduction and analysis of the available project documentation</li> <li>• Detailed survey of the existing condition of the structure</li> <li>• Detailed visual overview of the construction</li> <li>• Based on the results, analysis and evaluation of existing state of the structure, with the appropriate conclusions and suggestions</li> <li>• Preparation of Project documentation</li> </ul> <p>4750 structures x 100m<sup>2</sup> x € 5.0</p> | 2.375.000   |
| 2. | <p>Geodetic survey of structures without building and use permit at the territory of Montenegro</p> <p>5.000 structures x 100m<sup>2</sup> x 0,50€</p> <p>The price of geodetic survey of structures (per facility regardless of the size) from € 100 - € 150</p>  | 250.000<br><br><br><br><br><br><br><b>500.000</b> |
| 3. | <p>Use permit issuing</p> <p>Consent:<br/>Fee: 0.1% x estimated value of structure 40,000 euro x 4750 structures =</p>   | 190.000   |
| 4. | <p>Reconstruction of seismically and statically unstable structures</p> <p>2500 structures x approximately 15,000 €2.500 structures</p>  | 22.500.000  |

|                                 |  |            |
|---------------------------------|--|------------|
| 5.                              | Use permit issuing   |            |
|                                 | Utilities: 4750 structures x 100m <sup>2</sup> approximately x € 160,0 / m <sup>2</sup> = €        | 76.000.000 |
|                                 | Technical inspection of structures: 4750 structures x 100m <sup>2</sup> x 1,5 € / m <sup>2</sup> = | 712.500    |
|                                 | Fee: 0.2% x estimated value of structures 40,000 euro =  | 380.000    |
| <b>Sum: 102.551.250,00 euro</b> |  |            |

### **The costs for individual buildings (approximately 100m<sup>2</sup>)**

Utilities: 100x160 = 16000 euro for a family household.

Assessment of seismic and static stability of the building: € 500

Geodetic survey of the structure: € 100

Issuing of building and use permits: €120

Reconstruction of the seismically and statically unstable structures if necessary: € 15,000

Number of household members (2 adults) - loan debt of € 16.720 with 20-year repayment period at interest rate of 5% = 110 euro per month = € 55 = per household member

### **Financing**

Credit arrangement with the international financial institution with 20-year repayment period with the interest rate of 5%

i. Without reconstruction

Number of household members (2 adults) - loan debt of € 16.720 with 20-year repayment period at interest rate of 5% = 110 euro per month = €55 = per household member

ii. With reconstruction

Number of households (2 adults) – loan debt €31.720 with 20-year repayment period at interest rate of 5% = 210 Euro per month= € 105 = per household member