



## Policies for formalization of informal development: Recent experience from southeastern Europe



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### ABSTRACT

This paper presents the updated findings of a series of research studies conducted within the last seven years by the author on the problem of current informal development in five southeastern European countries with varying political and cultural backgrounds: Montenegro, Albania, Former Yugoslavia Republic of Macedonia, Greece and Cyprus. The paper briefly reviews the main complexities and the variables associated with the issue in an effort to identify how these economies currently respond to informality in terms of regulations, priorities, and legislative and political approaches. It briefly investigates the causes, extent and impact of the problem and it analyses the adopted formalization policies with a purpose to identify good practices and remaining weaknesses.

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### Introduction

Extensive international research and experience derived from individual in-depth studies show that the current illegal or informal development in the European region results from several causes including: A rapid urbanization and massive population movement due to internal economic and political migration (poverty, conflicts, sanctions, marginalization); natural disasters (earthquakes, flooding, etc.); climate change; migration from other regions; a lack of social and affordable housing policy; an increased local and international market pressure and the need for rapid development.

Additional major causes are: A desire for modernization and improved housing standards; a misuse of power by the state; the unwillingness of politicians to fully adopt modern land policies for the transition from central planning to market economies; and the failure or reluctance of state agencies to implement the necessary reforms. Public mistrust and weak professional ethics result from delays and confusion in restitution of rights; inefficient, centrally driven and bureaucratic planning; corruption and lack of transparency in land, construction, permitting and other property issues; and unfair and unrealistically high property taxation.

Illegal development does not always result in slum conditions. The types of illegal buildings vary from single family houses up to ten-story, multi-family buildings with or without commercial uses. They may appear within industrial zones, agricultural lands, forests,

natural parks, coastal zones and protected areas as well as within urban areas (Tsenkova et al., 2009). Normally, people only choose to occupy illegal housing, or to construct illegally, where no other affordable reasonable choices are available.

Illegality in construction may refer to a lack of legal title to ownership, as in:

- squatting on state owned land;
- squatting on private land, which belongs to some other owner.

Illegality may also refer non-permitted construction, as in:

- construction in violation of zoning regulations;
- construction without a building permit;
- construction with a building permit but without an occupancy permit due to violation of the building permit or of the construction regulations;
- lack of operational permits, in case of commercial constructions.

This research aims to investigate the recent policies adopted in southeastern European economies intended to deal with informal development and its impacts. The methodology followed for this research includes literature research and identification of attempts to strengthen informal rights to land and real estate and legalization of informal development in the region; internet research on relevant problems identified in five southeastern European countries; and on-site visits in all five countries.

Interviews were conducted with politicians in the various involved ministries (Finance, Environment and Planning,

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Agriculture, etc.), decision-makers in the relevant state authorities (land administration, tax authorities, municipalities, etc.), local experts in the public and private sectors (civil engineers, planners, surveyors, etc.), occupants of illegal buildings, NGOs and minorities, real estate agents, constructors, and other interested entrepreneurs.

### Current trends and major principles

This section briefly investigates and presents the current international trends and major principles intended to address or prevent the problem of informal development such as legalization versus demolition, system reforms, and pro-poor solutions.

The major principles of a free market economy include access to land and property rights for all; security of tenure; access to fundamental financial services such as mortgage and credit; and fair property taxation (UNECE, 2005). Access to adequate housing, with sustainable access to natural and common resources, clean drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage facilities, site drainage and emergency services, are also considered to be fundamental human rights (UN CESCR, 1991). In countries where the phenomenon of illegal construction is extensive governments have three practical options to consider: legalization, demolition, or denial of their existence. No politician can continue to ignore the problem; it has economic, social, and environmental impacts.

It has economic impact: Informal constructions are not within the economic circle resulting in “dead capital”. Informal constructions cannot be transferred, inherited, mortgaged or rented legally (De Soto, 1989, 2000). Moreover, informal constructions are not recorded in government databases and may not be taxed.

It has social impact in that these unplanned neighbourhoods receive hardly any of the basic services. For instance there may be no schools, clinics, police or fire protection, public transportation, fresh water, electricity and so on.

It has environmental impact in that there is usually no control of land uses, no waste collection or treatment, no funding for improvements, and so on.

Extended demolition informal residential buildings is an unpopular measure in democracies and it rarely makes economic, social or environmental sense considering the energy required and the huge costs for demolition and required landscape redevelopment. Perhaps most of all is the excessive social and financial cost in the dislocation of residents and the need for their resettlement. Therefore, the usual approach is legalization (often based on a self-declaration process) of as many as possible of the illegal constructions. Illegal development, as a major social phenomenon, indicates a need for system change.

Legalization, where feasible, can be a tool to support not only housing needs, but the real estate market and the national economy, as well. Recognition of existing informal tenure, provision of ownership titles, simplification of planning requirements and of construction permitting procedures, and lowering costs and legalization fees are among the measures adopted by governments in order to formalize markets and activate the “dead capital” blocked in informal constructions. Laws should be improved and procedures for implementation should be simplified towards a fast (non bureaucratic), transparent and inclusive legalization (Potsiou, 2010).

In defining legalization zones, within which legalization will be conducted usually following minimum norms and standards, constructions should also be judged according to their environmental (natural and cultural) impact. Constructions in specific protected zones e.g., areas of specific natural beauty, coastal zones, archaeological sites, common use land, public squares, river routes, or

in high risk earthquake or landslide areas, may be denied legalization. However, the extent of such denials should be realistic and may vary according to the local situation and the specific economic conditions and priorities. Buildings constructed illegally in order to serve a social need for housing may be dealt with differently (by applying scalable fees) from those constructed purely for commercial benefit. Illegal constructions built for commercial benefit (not strictly for “need”) that are proven to create serious environmental damage that cannot be recovered through physical improvement and penalty fees, may require demolition. In addition, illegal commercial buildings that may accommodate large numbers of people (e.g., hotels, schools, restaurants, state agencies, multi-purpose buildings of private sector, apartments intended for sale, etc.) should be judged according to safety and public health considerations prior to legalization and issuance of operational licenses (Potsiou, 2012).

Experience from multiple legalization initiatives in the past (e.g., in Italy, Turkey, etc.) that aimed to legalize informal constructions built up to a certain date, without dealing with the causes and improving policies and practices, shows that each legalization act has in fact encouraged a new generation of illegal development in the following years (Panunzi, 2007; Ozer et al., 2007). Therefore, a parallel revision of the standing land policies and practices is also essential as legalization proceeds. In addition, technology has advanced significantly since those initiatives were applied. With these technologies all new construction can now be easily monitored, especially in protected areas, providing for the elimination of future illegal construction.

It should be emphasized that there is a need for a holistic and consistent approach. Legalization must be accompanied by systematic and consistent recognition of private rights and title issuing on rural, forest and urban lands and houses. Neighbourhood upgrading, infrastructure provision, resettlement in case of demolitions, affordable planning and affordable housing policies, and revision of land-use regulations in recognition of current market needs are subjects of major concern. Mixed uses in rural and forest lands may be considered while recognizing various customary rights of use and profit in these lands. In any case, there should be increased public participation; and automated environmental monitoring and construction inspection in protected areas.

It is worth noticing that the role of the state's participation in housing construction has decreased in favour of the private sector. Planning principles and objectives have gradually changed from “controlling development” to “facilitating growth towards poverty reduction and sustainable prosperity of all” and from detailed centrally driven planning for “protecting the environment” towards new principles for “sustainable development and adoption of adaptation and mitigation measures to face climate change”. Current policies require that new planning principles for economic growth and for climate change should be adopted. Such principles should be compatible with the goal of sustainable growth. According to UN HABITAT (El Sioufi, 2010), environmental/climate change measures should also make economic sense (to be considered as a good business opportunity for job creation, and to support economies of scale). The role of local authorities is changing rapidly addressing questions like: “How do we take the local administration out to the community and bring the community in? How can we determine which traditional tasks of the local administration can be entrusted to the citizen?”

On-site inspections and police measures are no longer considered appropriate or successful measures as they are costly and very often encourage corruption. Instead, reasonable citizen involvement leads to the success and progress of the reforms. Controls and monitoring of rules enforcement, where needed, may be mainly achieved by citizen involvement (El Sioufi, 2010) and by automated methods with minimal state-employee involvement (Ioannidis

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