



Economic Commission for Europe
Committee on Housing and Land Management
Working Party on Land Administration**Eleventh session**

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Items 3 (c) of the provisional agenda

Review of the programme of work for 2018-2019:**Studies on selected topics in land management and land administration****Draft technical guidelines on Informal Development:
formalization of informal construction in the ECE Region****Note by the Bureau of the Working Party on Land Administration***Summary*

The technical guidelines are an activity of the Programme of Work of the Working Party on Land Administration for both 2016-2017¹ and 2018-2019². A concept paper for the development of the Technical Guidelines on informal development: formalization of informal constructions in the ECE Region (ECE/HBP/2018/Inf.12)³ was prepared jointly by the Working Party and the International Federation of Surveyors (FIG), UN-Habitat and other partners and was presented at the seventy-ninth session of the Committee on Housing and Land Management in October 2018. Based on the concept paper, draft Guidelines were prepared.

This document contains the draft executive summary of the draft Guidelines. The Guidelines examine the causes of informal development and informal construction in the ECE region and assess governments' policies to address this issue. Based on the assessment, the Guidelines provide recommendations for member States for addressing the issue of the development of informal settlements due to informal construction.

The Working Party is invited to take note of the status of these Guidelines and requests the Bureau to finalize the draft. The Working Party is also invited to approve the publication of the Technical Guidelines as an official publication (in English and Russian, digital and print) after it is finalised by the Bureau. The final Guidelines will be presented to the Committee on Housing and Land Management in October 2019 for endorsement at its eightieth session.

¹ ECE/HBP/WP.7/2015/7, Annex I

² ECE/HBP/WP.7/2017/6, Annex I

³ <https://www.unece.org/index.php?id=47538>



I. Executive Summary

1. In the developing world about 40% to 70% of urban dwellers live in informal settlements and there are more than 50 million informal dwellers in twenty member States of the ECE. This burdens the lives of all affected peoples and hampers the economies of these countries.

2. There is no simple solution to preventing and formalizing informal development. The problem is linked to the national level of economic wealth, in combination with the level of social and economic capital in society. On the other hand, solutions are a function of consistent land policies, good governance, and well-established institutions and systems. There is a continuing need for guidelines and tools to address informal urban/suburban development and to reduce the phenomenon.

3. There are many definitions of “informal development” and “informal settlements”. For clarity, this guidance document derives experience from the informal development in the ECE region and mainly the type of development that is in general “fairly good quality” permanent constructions, where occupants have invested their earnings to serve their housing needs, as well as their kids’, for a certain number of years. In addition, these are not considered as “slums” and deal with informal urban development with illegal construction. In many countries such type of informal construction was tolerated in the absence of affordable and social housing policies. Such construction represents a significant amount of unused, non-productive capital, that with appropriate policy measures may be gradually converted into productive capital to support national economy. The guidance uses the term “informal settlements” as defined by the United Nations (UN, 2001)⁴: i) residential areas where a group of housing units has been built on land to which the occupants have no legal claim, or which they occupy illegally; ii) unplanned settlements where housing is not in compliance with current planning and building regulations (unauthorized housing).

4. Many countries have not yet managed to develop required policies, institutions and capacities to prevent informal development. There is therefore a need to improve relevant land related institutions as well as provide professional education at all levels in order to create local expertise and culture, organise sharing experiences and raise public awareness about the importance of land management tools (cadastre, spatial data infrastructures, property registration, property valuation and taxation, planning, private sector development, professional ethics, etc.).

5. As a response to many challenges spawned by informal development, governments undertook formalization projects. The projects tended to focus on integrating informal development in the economic circle by “privatizing” the occupied state- or municipal-owned land by providing ownership titles to the occupants, and on registering the titles to encourage formal property transactions, mortgaging and fair taxation. Many also focus on revising zoning, planning, and permitting regulations and standards, as well as on regularizing and upgrading of informal settlements and individual constructions when needed.

6. These guidelines for formalizing informal construction are designed to assist in alleviating land related problems, which prevent countries from achieving their social and economic goals for the advancement of all. They offer clear steps in the process, set priorities for recognizing informal tenure rights, provision of clear ownership titles and registration and describe the expected challenges, benefits, and rationale for how a

⁴ United Nations, 2001. Indicators of sustainable development: Guidelines and methodologies. Available at <http://www.un.org/esa/sustdev/publications/indisd-mg2001.pdf>

formalization program should advance, in addition to what should be done before, during and after such a program.

7. The primary purpose of these Guidelines is to show the process by which the formalization of informal construction can be accomplished. The Guidelines stress that if the root social, policy and administrative causes that created the informality in the first place are not addressed, then informality will again begin to appear. Therefore, governments are challenged to solve the problems associated with: (a) the existing informal urban development and (b) measures to prevent the phenomenon of informal or illegal construction in the future.

8. In general, the existing informal settlements need to be formalized and integrated into the economic circle timely, affordably and inclusively in order to maximize benefits and ensure that no one is left behind (FAO, VGGT)⁵. Moreover, such settlements should be gradually upgraded in terms of safety and service provision as appropriate.

9. The challenge of eliminating the phenomenon in the future is complicated as it requires a series of comprehensive and consistent land policy and economic reforms that influence the tools for the good management of land. Some of these tools are: property registration, pro-growth planning and flexible development permitting, property valuation and fair taxation, affordable housing policies, as well as other issues relevant to the establishment of well-functioning and transparent real estate markets, the existence of funding mechanisms, professional education, professional ethics and the role of the private sector (UNECE, 2010)⁶.

10. The Guidelines outline three phases within the proposed formalization process:

- (a) The Strategy Phase;
- (b) The Preparation of the Framework Phase; and
- (c) The Formalization of Constructions Phase.

11. The *Strategy Phase* includes the following steps:

- Organize the necessary support and political will
- Analyze the existing informality within the local real estate market
- Carry out cost benefit analysis and determine the consequences of no action
- Agree on an appropriate formalization strategy
- Develop a communication plan
- Draft a strategy report.

12. In short, this phase gathers support, analyzes the problem, proposes the solution, and communicates the overall plan for an adequate application of the formalization process.

13. The *Preparation of the Framework Phase* is set up in a series of logical steps based on the specific plan of action that was considered most appropriate within the strategy phase.

14. The steps within the *Preparation of the Framework Phase* include:

⁵ Voluntary Guidelines on the Responsible Governance of Tenure. Available at: <http://www.fao.org/tenure/voluntary-guidelines/en/>

⁶ Policy Framework for Sustainable Real Estate Markets. Available at: <https://www.unece.org/index.php?id=11059>

- Define areas and categories eligible for formalization
- Determine the legal and regulatory issues
- Define the appropriate actions for formalization
- Define the registration process
- Design the draft formalization process and establish penalties and fines
- Determine the involved institutions
- Determine and implement the administrative system to:
 - Activate the communication plan
 - Prepare the specific legal framework
 - Allocate appropriate administration and technical facilities
 - Provide technical aspects relating to constructions
 - Form a committee of controls and acceptance
 - Develop methods of citizen and government compliance
 - Test for reasonableness.

15. This phase designs and creates the infrastructure to be used throughout the entire formalization process. The framework for formalization must be carefully defined and set up. All the provisions such as, development of a legal framework, organization, the approach for the formalization process itself, institutional and professional responsibilities, budget planning and many more related details will require description and development.

16. Following these steps, the *Formalization of Constructions Phase* begins. This includes a wide variety of administrative and legal functions, fee collection, registration, and monitoring as appropriate. The overall process should be transparent, inclusive, corruption free, sustainable, and flexible enough to adjust too many unusual situations. These steps include:

- Submitting and processing documents and marking the location of each building on the inventory base map
- Controlling of documents
- Registering of informal constructions when appropriate
- Taking legal actions when required
- Establishing and collecting penalties if necessary
- Monitoring and assessing the formalization process.

17. The outcomes should be that: informal settlements are eliminated; informality is minimized; informalities are brought within the formal land market; informal constructions are registered; and the residents of these housing units are empowered and able to more fully utilize their assets to their benefit. Special attention should be paid to discourage future informality by adopting appropriate planning and permitting procedures, affordable housing policies, flexible regulations, etc. Until these sectors are fully improved it is anticipated that some informal construction may occur again, thus it is important that the legal framework should be flexible enough to integrate it in the economic circle smoothly.

18. A number of activities are recommended in parallel with the formalization programme. Formalization should be an independent process and should not be delayed during the implementation or improvements in these systems, but the broader success of the

factors of production will be advanced by strengthening all the supporting pillars of the formal land markets. These include accomplishing the registration and titling processes for informal assets, improvements to the urban planning process, a fair and efficient permitting of constructions process, and improved monitoring systems.

19. Throughout the formalization process most of the key elements to prevent future informality have been considered, should be enhanced, and are as follows:

- (a) Keep ownership rights secure, and property title registries current;
- (b) Continue to keep the planning and building codes relevant to the current and evolving needs of society, and the environment;
- (c) Consider and protect the rights of the most vulnerable groups;
- (d) Apply only appropriate fee structures including real estate taxation (if it is employed), as well as utility, infrastructure legalization, formalization and other methods of taxation and revenue generation.

20. After formalizing the informal constructions and minimizing the root causes of informality creation, the long-term benefits of a stable, transparent, inclusive and fair land market will begin so that all members of society can benefit.

21. The Working Party is invited to take note of the status of these Guidelines and requests the Bureau to finalize the draft. The Working Party is also invited to approve the publication of the Technical Guidelines as an official publication (in English and Russian, digital and print) after it is finalised by the Bureau. The final Guidelines will be presented to the Committee on Housing and Land Management in October 2019 for endorsement at its eightieth session.