

Economic Commission for Europe

Committee on Housing and Land Management

Seventy-fourth session

Geneva, 7 and 9 October 2013

Item 5(c) of the provisional agenda

Review of the implementation of the programme of work 2012-2013

Land Administration and Management

Draft Outline of Informal Settlements

Note by the Working Party on Land Administration

Summary

This report presents an outline of a study on informal settlements in the UNECE region. It presents information on how target countries have met the challenge of informal housing and identifies best practices.

The report, to be published in 2014, is in line with the Working Party's programme of work for 2014-2015 (ECE.HBP.WP.7.2013_6).

The Committee is invited to consider the information in this report.

I. Research methods

This publication will examine the practices of target countries as they address the causes and consequences of informal housing. The study is being jointly undertaken by the UNECE Working Party on Land Administration (WPLA) and the International Federation of Surveyors (FIG). The publication will present the results of recent in-depth research to investigate policies adopted in six south-eastern European countries (Albania, Cyprus, the former Yugoslav Republic of Macedonia, Greece, Italy, Montenegro) and three countries from Central Asia and the Caucasus (Georgia, Azerbaijan, Kyrgyzstan).

The research is based on existing literature and site visits in all researched countries. During these site visits, interviews were conducted with:

- politicians in relevant ministries (including those charged with finance, environment, spatial planning and agriculture),
- decision-makers in relevant state authorities (such as land registries, cadastre agencies and tax authorities),
- local experts in the public and private sector (such as civil engineers, planners and surveyors),
- the occupants of illegal buildings,
- private sector actors, including real estate agents and contractors, and
- other relevant actors.

The study documents the extent and nature of informal settlements and identifies causes of the phenomenon and resultant problems. It analyses attempts to strengthen or legalize informal property rights to land and real estate. It assesses which programmes have been most affective in resolving the problem of informal settlements.

The rest of this document presents preliminary findings of the study and a proposed table of contents. The study will be published in 2014.

II. Identified causes of informal settlements

Illegal development does not always result in slum conditions. Illegal buildings vary from single family houses 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. Normally, people only choose to occupy illegal housing, or to construct illegally, where there are no other affordable, reasonable choices.

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

- squatting on state owned land or
- squatting on private land

Illegality may also refer to 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 violations of the building permit or of the construction regulations, or
- construction without an operational permit, in the case of commercial constructions.

Current illegal or informal settlements results from several causes, including: rapid urbanization and massive population movement from internal migration due to economic and political causes (such as poverty, conflicts, sanctions and marginalization); natural disasters (such as earthquakes and floods);

climate change; migration from other regions; the lack of social and affordable housing policy; increased local and international market pressure; and the need for rapid development.

Other contributing causes of illegal or informal settlements are: a desire for modernization and improved housing standards; a misuse of power by the state and its failure to adopt a “pro-growth” planning; 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.

Sometimes, the public may develop outside the public sector, or fail to regularize their homes, because of distrust of the public sector or in the professional ethics of the private sector. This mistrust often results from: delays and confusion in the restitution of rights; inefficient, centrally driven and bureaucratic planning; corruption and a lack of transparency in land management, such as in construction permitting and other property related issues; and unfair and unrealistically high property taxation.

Table 1 shows the major identified causes for the recent informal settlements in Albania, Cyprus, Greece, Montenegro and the former Yugoslav Republic of Macedonia. In the final publication, this and other tables and conclusion will be expanded to include information on Azerbaijan, Georgia, Italy and Kyrgyzstan.

Table 1. Identified causes of informal settlements

Causes	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
Migration / urbanization	yes	-	yes	yes	yes
Centrally controlled or overly complex administrative procedures	no	-	yes	yes	improving
Environmental or constitutional concerns	-	-	yes	yes	yes
Lack of appropriate housing policy	yes	-	-	yes	yes
Existence of displaced persons	-	solved	-	yes	yes
Unclear property rights	yes	-	yes ¹	yes	yes
Inefficient property registration / planning systems to cope with housing needs	yes	yes	yes	yes	yes
Costly/complicated construction permitting	-	-	yes	yes	-
Poverty	yes	-	yes	yes	yes
Desire for better housing	yes	yes	yes	yes	yes
Increases in housing demand	yes	yes	yes	yes	yes

Some interesting highlights from this table are:

- In all target countries, the inefficiency of public administration, the desire for better housing and increased housing demand are causes of informal settlement.
- Montenegro and Greece deliberately limit formal development because of concerns about the environment. In the former Yugoslav Republic of Macedonia, it is difficult convert agricultural land into construction land because of constitutional restrictions, which hinders the formalization of informal settlements.

¹ In contact zones with forest lands

- Montenegro and the former Yugoslav Republic of Macedonia, both formerly parts of Yugoslavia, face similar challenges.
- Greece faces challenges similar to those of countries in transition from a centrally controlled economy to a free market economy, while Cyprus does not.

III. Procedures for formalization

Table 2 shows which types of land can be formalized in the countries studied.

Table 2. Can the informal settlement be formalized?

Type of informal settlement	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
On state land	Yes, via purchase or lease, within legalization zones	No	No, but legally owned and registered land, which is claimed by the state, is identified	Yes, after the development of a plan, on a case-by-case basis with direct negotiations	Yes, via purchase or lease, if not in protected areas
On private land that belongs to another owner	Yes, if compensation to the owner is provided, within legalization zones	Not addressed through regularization; may be resolved through adverse selection laws	Not addressed through regularization; may be resolved through adverse selection laws	Yes, after direct negotiations	Yes, via a long term lease agreement, if not in protected areas
In violation of zoning	Yes, within legalization zones	No	Yes, for 30 years, if not in protected environmental areas or architectural sites	Yes, following a thorough review	Yes, if not in protected areas
Without building permit, in unplanned areas	Yes, with spatial planning to follow legalization, within legalization zones	No	Yes, for 30 years, with provision of a spatial plan for that period	Yes, following a thorough examination of the property and provision of a detailed spatial plan	Yes, with spatial planning and infrastructure to follow legalization
In excess of the building permit specifications	Yes	Yes	Yes, for 30 years	Yes	Yes
Total number of illegal objects	500,000	Unknown (40% of single-family	2,500,000 (1,000,000 in unplanned	130,000	350,000

houses in unplanned areas have no permit, and 80% of condos (130,000 objects) exceed permit specifications)	areas without permit, 1,500,000 which exceed permit specifications)
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It can be noted that in Montenegro, Albania and the former Yugoslav Republic of Macedonia there is a considerable amount of informal settlements on state or private land that belongs to another owner. As the phenomenon is extensive, it was decided that legalization and title provision to the actual residents is the only practical solution. However, in Albania and the former Yugoslav Republic of Macedonia a title can be provided even if a title does not exist; in Montenegro the process is more complicated.

In Greece and Cyprus this is not the case; the majority of informal settlements relate to planning and zoning illegalities. There are not extensive informal settlements on state or private land that belongs to another owner as the right of private ownership is well respected and protected by the citizens in these countries. In addition, such problems can be solved in the courts through the adverse possession principle²; this does not apply to those squatting on state land. In Greece, there are cases where the state claims ownership on private land legally owned, mainly in borders of forest zones; this remains a problem to be solved. This may require a revision of the Greek constitution..

In general, Albania and the former Yugoslav Republic of Macedonia have adopted a more inclusive and pro-growth legalization approach, while in the other countries planning issues are still connected with property registration and titling. Greece has many objects with illegalities, but has not adopted a fast and inclusive legalization procedure, in part due to constitutional and environmental concerns; the same is true in Montenegro where a legalization law has not yet been adopted by the parliament. In Cyprus, amnesty programmes and the separation of planning informalities from property titles has only taken place in the affected areas. (The separation of planning and property titles is important, for example, so that those who own land with an illegal construction can have their rights to the land recognized.)

Table 3 shows the basic elements of the legalization and formalization frameworks framework.

Table 3. Formalization and legalization Framework

	Albania	Cyprus	Greece	Montenegro	The former Yugoslav Republic of Macedonia
Agency responsible for legalization	ALUIZNI, within the Ministry of Public Works and Housing	Ministry of Interior	Ministry for Environment, Spatial Planning & Climate Change	Ministry for Spatial Planning; municipalities	Ministry of Transport & Communication; Municipalities
Date of adoption of legalization	2006	2011	2011	-	2011

² This is a process by which legal ownership of land is given to the person actually residing on the land, if the original owner does not take sufficient measures to assert his or her claim to the land within a given period of time.

Public reception of law	positive	negative	negative	-	positive
Detailed seismic vulnerability controls	-	(confirmed by the involved engineer)	yes (visual control by private sector)	yes	-
Detailed controls for environmental and construction standards	-	Included in spatial plan	On-site visual controls by the private sector	yes	On-site visual controls by authorities
Infrastructure provision	Plan for provision not yet clear	Exists	Basic infrastructure exists already	-	To be provided later with funds from legalization
Speed of completion of project	Declaration of informalities was fast; Next steps are slow	Slow	Slow, due to insecurity of owners and costs	To be completed within 10 years	-
Availability of affordable housing	Good	Poor	Poor	Poor	Good, available at 1 Euro/m ²

This table highlights, in particular, that:

- Albania has established one organization responsible for legalization and was the first to begin a legalization programme
- The former Yugoslav Republic of Macedonia has made significant progress towards a pro-growth approach
- Both Albania and the former Yugoslav Republic of Macedonia have adopted a fast, simplified, affordable and inclusive formalization procedure
- Cyprus, Greece and Montenegro do not offer affordable, inclusive and attractive formalization procedures.

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