

Informal Urban Development: A Continuing Challenge

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ABSTRACT

Informal development is an important problem caused by various factors such as: rapid economical and political changes, inadequate planning and housing policy, out-of date legislation and public structures, etc. This situation has created important challenges in many cities, especially post-communist ones in Sothern and Eastern Europe.

This study presents a typology of informal settlements, reviews the traditional policies and presents the emerging trends in legislations and regulations in various countries.

Furthermore, it provides an in-depth analysis on the challenges associated with this phenomenon in Albania, demonstrating the complexity of the situation and the need for a sensitive solution. It explores the strategies to respond the existing informality, the legal framework of the formalization, the role of central government and local agencies and the need for structure upgrading.

KEYWORDS: Informal settlements, Albania, Legalization, Urbanization, Policy responses

1 INTRODUCTION

Informal development is not a new issue for Europe especially the Sothern and Eastern part of it. The rapid economical and political changes happened in Europe during the last three decades resulted in an influx of immigrants searching for better opportunities. This situation leads to the increase of unplanned or informal development. Several developed countries have attempted to address the informality through affordable policies and land use control. Anyway, informal development is still a major problem in developing countries due to a tendency to secure land and housing without any coordination with zone planning and regulations. Currently the World Bank finances many projects seeking to address the problem on land policy, especially illegal and informal settlements.

The term 'informal' is used to refer to buildings or building extensions constructed without conforming to existing urban plans and without the necessary building or occupancy permits; such buildings constructed prior to current control requirements; building constructed on state-owned land and lacking the necessary permission, etc. (Joint FIG, 2007). UN Habitat (UN-HABITAT, 2010) has defined informal settlement as: 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 current planning and building regulations.

Illegal buildings are not registered, taxed, mortgaged, or transferred causing the lack of land tenure ownership, lack of basic utility services, environmental, social and economical problems. These constructions represent the 'dead capital' of the country's economy, as defined by De Soto (De Soto, 2000). Driven mainly by poverty and social exclusion, informality is typical for post-communist cities and mainly concentrated in sub-urban areas of big cities.

The aim of this study is to explore challenges and opportunities of urban planning and its ability to formalize the informal developments. Based on the experience of several neighbour countries, such as Greece, Macedonia, Montenegro, and Albania, it outlines:

- the typology of informal settlements based on their major characteristics,
- the traditional policies and current trends in dealing with informality
- provides an in depth study on the causes, size, strategies and frameworks for the Albanian case.

The methodology followed includes literature review of previous publications and an in-depth study of recent legislation and regulations, as well as interviews with informal property owners and local authorities. Investigating the policy framework, this study will try to give recommendations for improvements through an efficient, transparent and formal environment.

2 CHARACTERISTIC OF INFORMAL DEVELOPMENT: TRADITIONAL POLICIES AND CURRENT TRENDS

The spatial distribution of informal housing is not equal in varies countries. It is a path-dependent process, embedded in historical social norms, and specific institutional patterns that combine new elements with different adoptions of existing organizational forms and practices (Tsenkova, 2012). Furthermore, there are distribution differences even within the same country based on internal migration, creating some regions with a high rate of informal development and others that is not an issue of concern. Regardless to the site specific circumstances that generate and fuel the phenomenon, informal housing activity is tightly connected with serious drawbacks in the process of planning and allocating the scare land resources in a sustainable way (Serafeim Polyzos, Dionysios Minetos, 2007).

Different combination of factors such as: massive population movement from internal migration due to economic causes, natural disasters such as earthquakes and floods, migration from other regions, out of date legislation, inefficient and centrally-driven planning policies, unplanned land use, lack of transparency in land management, lack of social and affordable housing policy, time consuming legal processes for obtaining permits, and a need for rapid development, have lead to unplanned urban development in informal units for different countries.

The experience and different studies, (Tsenkova, 2009) (UN-HABITAT, 2010) (Andoni, 2007) (Potsiou, 2012), have shown that the illegal housing development is making it difficult to establish legality in construction sector, as well as causing additional environment and social problem such as:

- Lack of necessary infrastructure provisions, fresh water, sewage system, electricity connections, public schools, hospitals, recreation areas, etc.;
- Deterioration of landscape quality, local water contamination, degradation of costal zones, deforestation, desertification, landslides, flooding, poor drainage, exposure to various hazards, etc.;
- Extra costs for environmental improvement;
- Informal real estate market;
- Lack of land tenure ownership, corruption, lack of transparency in land management issues;
- Conflict arouse due to unclear legal rights on land;
- Social exclusion of low income people living in informal settlement;
- Government challenges with incomplete land registration, constraints in land supply, etc

Several tools have been have been applied in order to address this problem in short term, as well as for its future elimination. Reviewing the literature and the historical developments, there are several traditional tools used such as: central development control through sophisticated planning and permitting procedures; high penalties and strict punishment; demolitions; denial of private rights and property registrations; social housing; etc. Three major approaches can be identified: Ignorance, Demolition, and Legalization. The first approach, ignorance, is mainly typical for centralized regimes' countries. Ignoring informal development lead to the informality extension causing important economical, social and

environmental challenges. The demolition approach has been employed in different periods of historic development. Various studies do not recommend the adoption of this approach. This is due to the fact that informal development is considered as a response to the lack of effective state policies. The legalization approach is considered the most convenient and popular and approach in the last 20 years, and has been adopted by several countries.

2.1 The case of Greece:

The informal development date back to the early 1945, after the adoption of the first Housing law (1923) and General Building code (1929). It was mainly caused by population movement seeking for better opportunities after the II World War, and as a result mainly concentrated at the periphery areas of big cities. According to UN-HABITAT (UN-HABITAT, 2010), between 1946 and 1966 an estimated of 380.000 informal houses were build around Athens and Thessaloniki. This was considered as the '1st generation of informal settlements' with low- income people buying land parcels and building with no permission.

The major cause of informal development in Greece resulted to be the inefficiency of the planning system, over regularization of land, centrally controlled and complicated procedures, unclear property rights, as well as migration, poverty, and increase in housing demand. According to several studies (Chryssy Potsiou, Ifigenie Boulaka, 2012) (UN-HABITAT, 2010) (Potsiou, 2012), the planning policy are extremely centralized, complex, bureaucratic, time and cost, consuming leading to a great extend of informality.

The informal development mainly includes:

- Single family houses, build in non-planned areas, mainly on legally owned land without building permission, or in violation of the building permits;
- Informal settlements on planned areas in violation of building regulations, including 1-2 room extensions, the change of use of semi-opened areas, underground areas, etc.;
- Informal settlements within the city, build by Roma or illegal immigrants;
- Construction on legally owned land claimed by the state mainly on forest and mountain areas.

A new legislation framework for formalizing some illegalities within the planned areas was adopted in 2010 (Law 3843/2010) for 40 year period, and in 2011 (Law 4014/2011) for formalizing the informality in non-planned areas for 30years. According to the first statistics and public opinion, the high fees and the 30 years formalization duration is considered to be a great weakness (Chryssy Potsiou, Ifigenie Boulaka, 2012).

2.2 The case of Montenegro:

The 1st generation of informal development dates since the early socialism, due to the natural disasters happened in the areas. The informality in Macedonia had a great extend especially after the mid 90' changes. Factors such as: poverty, unemployment, migration, lack of clear property right, out of date legislation, centrally and bureaucratic planning policy, lack of social housing policy, lack of coordination between central and local government, market pressure, and desire for a better living, created an expansion of illegal settlements. More than 80% of the houses were considered informal due to lack of building permits or exceeding of the specifications.

The informal objects in Macedonia area can be categorized according to: the land built (private or state owned land); location (sub-urban areas of cities); use (residential, commercial or mixed); building standards (slums to luxury villas); size (small to huge parcels, small houses to large hotels); etc. The typologies are as following:

- Single family houses in sub-urban areas
- Extensions or excess of building permits
- Upgraded buildings with no permits
- Refugees settlements build on private of state owned land

- Good quality buildings for residential and commercial purposes
- Second vacation houses

According to the official data from the cadastre, on the territory of Montenegro there are 39,922 illegally built structures, of which the largest number is in the Capital city of Podgorica, 16,430 structures (Potsiou, 2012). The main challenges associated with this phenomenon are related to the lack of water supply network, lack of electricity network, lack of risk prevention on natural disasters, lack of pollution prevention measures, insufficient funds in the local budget for investments, etc.

After 50 years of informal development, the state took some drastic measures by adopting the Law on Construction of Objects incorporated in the Criminal Code (2008), considering illegal construction a criminal act. The approach employed, including demolitions, strict measures (imprisonment), denial of registration in cadastre, denial of utilities connection, high fees and penalties, and expensive on-site investigations, was not providing a positive and permanent solution to this problem. The legalization framework expected the owners to afford the formalization process through bank loans, in order to pay high communal and administrative fees, the field controls, survey plans and seismic vulnerability reports, etc. (Potsiou, 2012). The formalization process consist of two main phases: Phase 1 including the identification of illegal buildings, the orthophoto production, the compilation of the detailed survey building plans, and the contract with the municipalities; and Phase 2 including the compilation of the detailed urban plans, the controls certifications for seismic vulnerability, the issuing of occupancy permits to use the buildings, and the final legalization (Potsiou, 2012) (IIBW, 2011). The process is expected to last more than 10 years.

2.3 The case of Macedonia:

The informal development in Macedonia started even before the establishment of the new official state, around Skopje, due to natural disasters occurred. The earthquake of 1963 and the overflows of Vardar river (1962) damaged heavily most of the buildings. Due to the inefficiency of social housing and planning policies, most of the citizens ended building up houses for their own use. These buildings were considered illegal since owners had no ownership rights, but at most land-use right. It was estimated that by 1981 about 160.000 citizens lived in such self-made houses (Potsiou, 2012). The war of Kosovo in 1999, crisis, the lack of social stability, the rapid urban migration from rural areas, poverty, lack of housing policy, unclear property rights, and the desire for better housing effected the expansion of illegal development in the main cities of FYROM.

Recent studies (Joint FIG, 2007), (Potsiou, 2012) concluded on the following challenges caused by informal development:

- Environmental challenges: exposure to floods or other environmental hazards
- Infrastructure access challenges: lack of basic infrastructure such as clean water, electricity, roads, public transport, etc, as well as lack of basic educational and social services.
- Challenges with registration: including registration of land, housing and residents.

In 2011 a Legalization Framework was adopted. The municipalities are responsible for legalizing building up to 10.2 m tall, while the Ministry of transport and Communication coordinates the rest. The legalization fees are affordable (1 Euro/m²), and the process is inclusive and favourable to all due to the possibility to purchase the land or adopt a long term lease plan. The procedure is still on its initial stages but it resulted to be attractive: 350.000 requests were submitted within 6 months (Potsiou, 2012).

3 THE FORMALIZATION POLICY OF ALBANIA

3.1 Background

Urbanization in Albania is developed through three main phases, shaped by the historical, economical and social developments. Between World War II and 1990, Albania was under a centralized

regime, enforcing centralized planning and controlling. According to historical data, 80% of the populations used to live in rural areas with 5-7 m² area/person.

After the fall of communist regime, in 1991, the country experienced tremendous political, economical, and social changes. The collapse of the regime activated a migration movement from eastern mountains to the western coastal areas. With a lack of land regulation plans, as well as with no experience and knowledge about 'ownership rights', people occupied land and started building their own houses informally. This is considered as the first phase of informal development, 1991-1997. The migration rates were extremely high that approximately one apartment blocks of 20 dwellings was build in Tirana area each day (UN-HABITAT, 2010). The existing legal framework was unable to cope and control the 'growth'.

The second phase saw a consolidation of informal development with the creation of typical informal areas in the cities' periphery. Meanwhile, the informal sector started to operate in the cities centres by upgrading the existing buildings and redeveloping the land.

Albania is now experiencing the third phase of urbanization which includes the formalization of the sector. This phase embrace major challenges not only on the design of a proper, all inclusive and attractive legal frameworks for the formalization of more than 350.000 settlements, but even on the infrastructure improvements in these areas.

3.2 The Odyssey of Formalization

In Albania it is estimated that approximately 6-8 billion USD have been invested in informal construction and more than 40.000 hectares of land is occupied illegally or informally (Andoni, 2007). The creation of secondary cities around the big ones has lead to the following challenges:

- Lack of connection with basic infrastructure causing supply problems for electricity, fresh water, drainage system, sewerage system, etc. This situation has lead to many illegal connections creating serious health problems.

- Lack of public and social services such as: education, health care, parking, traffic management, etc.;

- Poor conditions of the roads and unorganized public transport translated into traffic jam, noise and pollution;

- Most citizens living in informal settlements are not legally registered in the place they are living, creating chaos in the social and economical activities;

- The illegal occupation of private land has complicated the first registration process. This leads to major challenges with the expropriation compensation;

The Albanian government has considered the informal development as a response to inefficiency state policies, employing these approaches to address it in short and long term:

- 1- Demolition: this approach has been adopted time by time, especially before the fall of communist regime and nowadays in the coastal areas. Various studies do not consider this as a feasible approach due to the fact that 2/3 of buildings in urban areas are informal developments.

- 2- Ignoring the problem: the approach was employed for 15 years, and the result was a grow of informal development

- 3- Legalization: is considered as the needed approach to convert the dead capital into the economy, increase local revenues, reduce social problems, health problems and environmental problems, bring many families back to formality and improve the state image.

In this framework, a law for legalization was approved by the Albanian Parliament in 2006, having as main principles:

- Legalization: issuing the ownership title

- Equality: fixed legalization fees, despite the economical and social status

- Compensation: a fair compensation for the registered land owners, based on the land value prior to informality

- Urbanization: Providing infrastructure in the new developed areas.

ALUIZNI is the responsible national agency for the legalization of:

- Informal settlements in sub-urban areas
- Informal extensions of existing legal buildings without permission, usually within the city.

According to the formalization law, the process was based on self declaration within a time frame of six months. More than 350.000 declarations were submitted, out of which 80.000 were multiple-dwellings apartments and shops (UN-HABITAT, 2010).

The process, which aimed to reactivate 6-8 billion USD dead capital, was sustained by the World Bank, Organization for Security and Cooperation in Europe and USA academic centres (ALUIZNI, 2009). It was operated in two main phases:

Phase 1: Aerial photography production, orthophoto production, and identification of informal areas

Phase 2: On site inspections to produce gen-plan, floor plans, etc., as well as further office procedures to complete the formalization process.

ALUIZNI requires land occupiers to make several payments, including: (1) A legalization service fee, which the agency uses to cover administrative costs; (2) An infrastructure impact fee, which is transferred to the nearest local government unit and is set aside for infrastructure development in the area; (3) A fee for the lot ownership transfer, 80% of which is transferred to a central government fund for the compensation of legitimate owners while 20% is transferred to the nearest local government unit to be used for infrastructure investments; (4) Fines in case of illegal additions or modifications (i.e. size increases) of the blueprint during construction of an approved project, which are transferred to local government units; and (5) Fines in case of delays in self-reporting informal construction (ALUIZNI, 2009). It is important to state that for buildings up to four floors there are no seismic and vulnerability inspections, the responsibilities are covered by the owners.

The formalization process embraces several major challenges itself, especially in retrofitting the infrastructure and providing appropriate services. For this reason, it is important to study and compare the policies adopted by different neighbours' countries. The following tables summarize the main elements of the formalization process for Greece, Montenegro, Macedonia and Albania.

Table 1 Causes of informal development

Causes	Greece	Montenegro	Macedonia	Albania
Inefficiency of the planning system	√	√	√	√
Centrally controlled and complicated procedures	√	√	√	
Unclear property rights	√	√	√	√
Migration	√	√	√	√
Poverty	√	√	√	√
Environmental concerns	√	√	√	
Complicated permitting procedures	√	√	√	√
Out of date legislation		√		√
Lack of social housing policy		√	√	
Market pressure		√		
Desire for better housing	√	√	√	√
Increase in housing demand	√	√	√	√

Crisis			√	
Lack of social stability			√	

Table 2 Which types of informal settlements can be formalized

Type of informal settlements	Greece	Montenegro	Macedonia	Albania
Settlements on state land	no	yes	yes	yes
Settlements on their own private land	yes	yes	yes	yes
Settlements on private land that belongs to another owner	not addressed through regularization	yes	yes	yes
Settlements in excess of the building permits	yes	yes	yes	yes
Settlements without building permits	yes	yes	yes	yes

Table 3 Features of legalization framework

	Greece	Montenegro	Macedonia	Albania
Responsible institution	Ministry of environment, Spatial, planning and climate Change	Municipalities & Ministry of Spatial Planning	Municipalities & Ministry of Transport and Communication	ALUIZNI
Date of legal framework adoption	2011	-	2011	2006
Detailed controls for construction standards and environmental issues	On site visual controls	yes	On site visual controls	-
Detailed seismic and vulnerability controls	yes	yes	-	-
Public acceptance	neutral	-	positive	positive

3.3 Future Challenges

After the widespread of the informal development over the past 20 years, the government policy focus on the legalization and integration of approximately 127 informal areas as soon as possible. Even though the successfully engagement of citizens in the process, there are several challenges to be faced and properly addressed in order for the government to regain the trust of the citizens.

1- Albania should modify the legislation framework to allow for changing the category of "land use", as well as to allow for rearrangement of parcels and ownership rights.

2- The zones with overlapping of legal private right, issued by the first registration and later on recognized by the legalization process, should be addressed.

3- The current planning and permitting procedures should be flexible. It is clear that in order to unblock the market and prevent future informal development, some standards and regulations should become more flexible and user-oriented.

4- The planning system is old, out of date and no longer used. It should be updated and become visible, public accessible and user-oriented.

5- The growth in housing demand, caused by population growth, will lead to a higher density of house development. It is important to provide alternative solutions to meet the housing needs saving a balance between private and public areas.

6- The complexity of the process needs knowledge and experience sharing between countries to identify the best and efficient practices.

4 CONCLUSIONS AND RECOMANATIONS

Recognizing the main challenges caused by the rapid urbanization in an important step towards the practical solutions. Informal development, as one of main challenges faced, is a reflection of the countries' culture and historical developments. However, the need for an appropriate legal framework to establish the basis for the formalization process is strongly supported by many countries affected by this phenomenon.

This study aimed to give a general picture of the informal development in Albania and neighbour countries, in a quantitative manner by providing some evidences on causes, typologies and effects of the phenomenon. It is an evidence that nowadays the informal settlements build are not the houses of low income citizens, providing by themselves better opportunities. The new generation of informal buildings is typical of mid-class citizens speculating to build second houses for vacations or other tourism infrastructure.

Comparing and reflecting on the policies adopted by the countries studies, several conclusions, recommendations and future lessons can be drawn:

- The legal framework adopted should be clear, transparent, with simplified procedures to allow full transparency for the public
- The empowerment of local authorities in controlling and managing the legalization procedures has resulted a better practice compared to a centralized process
- It should be given an important safeguard to the environment. The Albanian practice has shown that due to the lack of this practice, most of its coastal areas and agricultural land has been destroyed by illegal settlements
- A social housing policy, as well as a controlled housing growth policy to stop the future informal development is necessary. It is important to fulfill the housing demand while saving a healthy rate between private and public spaces
- The planning laws and regulations, as well as the general building rules should be updated time by time to be aligned with the current need growth

The policies adopted and other potential solutions to improve the real estate market, the planning systems, the formalization procedures, etc. should be published and shared between countries. The experience gained and the lessons learned, can help decision makers in many countries facing similar challenges.

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