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The legalization process challenges on Illegal constructions in Kosovo

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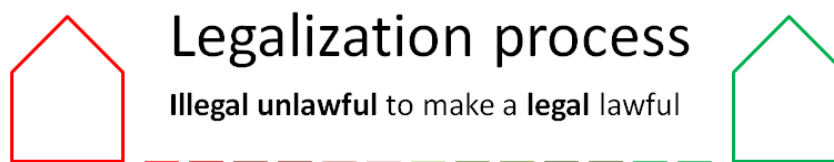
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Abstract. A crucial point during the transition process of a country is the rule of law. This process is not easy and is often followed by negative outcomes. Illegal, uncontrolled and unplanned construction is one of them. This spreads process is usually very fast and spreads rapidly across the whole territory of the country. Similar to other countries of the Balkan Region, Kosovo has been dealing with this issue as well and has undergone a treatment process of equipping those buildings with legalizing permits. The law for constructions treatment without permit entered into force in 2014 and is implemented by the Ministry of Environment and Spatial Planning. As a result some building owners responded positively to the process and applied, however that number is not at a satisfying and in the recent months the process for legalization permits is being faced by a low number of applications. The main objective of this research is the identification of the actual challenges in the legalization process and how to turn them around to success. This will be achieved through data collection from legalization applicants and interviews with representative legalization officers from the Balkans who managed to have better results through a more simplified legalization process.

Keywords: Illegal Constructions, Legalization Process, Informal Settlements, Kosovo, the Balkans

1. Introduction

This paper deals with constructions that are built without permits and which represent opportunities to be integrated into formal settlements through a legalization process. The phenomenon of illegal constructions is not only related to Kosovo but with all countries that have emerged from different crisis. The Majority of those buildings are built without any documentation and don't even match the minimal conditions for construction standards. In order to enable the integration of those buildings into formal settlements, they need to pass through a legalization process. The essence of a legalization process is to make the construction lawful (legal) whereby it is confirmed that the prior construction has been unlawful or illegal [1].



The widespread phenomenon of illegal buildings forced the government to undertake a temporary process of legalization. The main drive for Kosovo to implement the legalization process was the signing process in Vienna in September 20, 2004 of the “Vienna Declaration on Informal Settlements in South Eastern Europe” (signed also by Albania, Macedonia, Montenegro, Serbia), which aimed to put a joint agreement between the countries for actions that (a) will regularize (legalize) and improve informal settlements in a sustainable way and (b) will prevent future illegal settlements [2]. Kosovo made steps only 9 years later, when it enforced the law for construction treatment without permit on 2014. The first part of the process began with a declaration which brought a large number of applications, however the second part of the process turned out the opposite way. The process

desperately needs to increase the number of legalization applications in order not to fail, which is also a challenge of this process. The first part of the paper includes a brief history and causes of illegal buildings in Kosovo, and the legalization process in the Balkans. The main focus of the paper is shown in the last part which highlights the process workflow in Kosovo and the problem that is faced by the process.

1.1 History and causes

Illegal construction has a long history in Kosovo, especially during the socialist period (1945-1990), however the actual boom went off after the war in 1999, when over 200,000 houses were destroyed [3]. The damages, poor infrastructure and hopes for a better perspective, led people to migrate from rural to urban areas and build, in most cases illegally. The lack of local and central institutions in parallel with the lack of commitment to manage and tackle this issue, enabled this process of non-permission building to thrive.

2. Legalization process in the Balkan

The main drive for Balkan countries to implement the legalization process was the ‘Vienna Declaration on informal settlements in South Eastern Europe’. Some countries have started this process immediately with the signing of the declaration while others started later on.

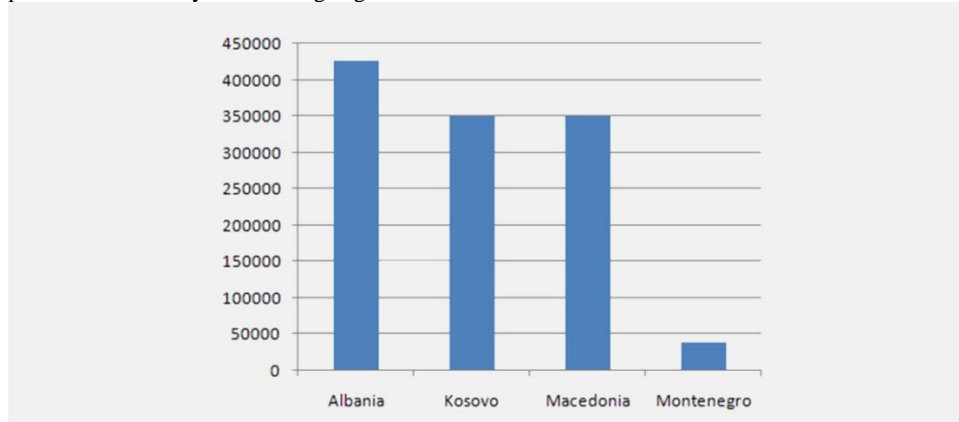


Figure 1.0 Number of submitted request in the Balkans

Source: Regional Conference on Informal Settlements (02.11.2015), Pristina

In Albania, a special agency (ALUIZNI – Agency for Legalization and Urbanization for Informal zones Integration) has been established in 2006 to carry out the legalization process. Legalization aims to activate about 6-8 billion USD of ‘sleeping capital’ to the formal market. Albania has simplified procedures comparing with other Balkan Countries. Around 430,000 request were submitted. However the legalization process in Albania is moving slowly and the main issues are related with the non-coordination of the institutions involved in the legalization process. There is no independent agency with experts that would deal with the constructions built in public properties, since firstly they need to legalize the property and afterwards the illegal constructions. Albania has also failed to prevent the illegal constructions through 2006 - 2015, whereby the country has seen over 100,000 new illegal sites.

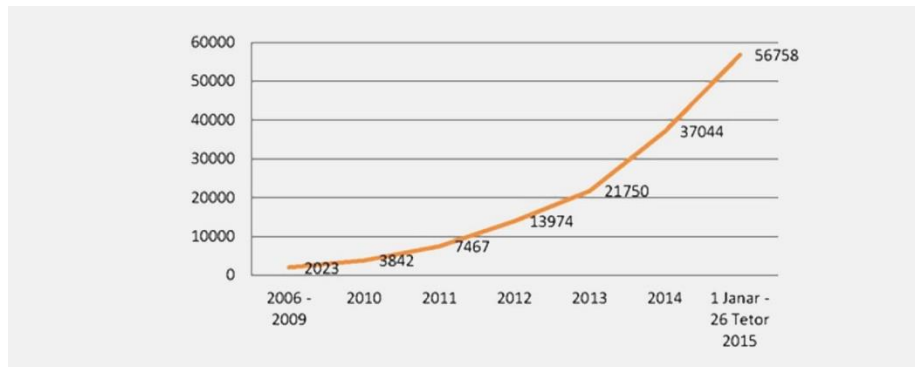


Figure 2.0 Number of Legalization Permit in Albania 2006-2015

Source: Regional Conference on Informal Settlements (02.11.2015), Pristina

The number of illegal buildings in **Montenegro** is lower compared to Kosovo, Albania and Macedonia. The fee for legalization is higher than other countries in the Balkans. Around 40,000 request were submitted. But the total numbers of illegal buildings can be estimated around 130,000. In **Macedonia** the legalization law has been adopted in 2011. The Ministry of Transport and Communication is responsible for legalizing the facilities of importance for the Republic in accordance with the Law on Construction or other laws of facilities of health institutions for tertiary health protection and of electronic communication networks and devices. Municipalities are responsible for legalizing houses up to 10.2 meters high. Especially, the main goal is to make the process as simple and short as possible and at the same time attractive to the citizens. The symbolic charge is 1 euro per square meter for all, payable in 12 instalments. [4]. The deadline for submitting requests for legalization of the illegally built building was 30 September 2011. Around 350,000 request were submitted to date. Furthermore, until today 14% of the legalization permits have been realized. [5]

3. The process in Kosovo

Kosovo has developed a law which is based on the Croatian law for illegal buildings treatment with a purpose to treat the unpermitted constructions. The right to apply for legalization of illegal buildings have all citizens whose building has been identified in the digital orthophoto made in 30 August 2013, but not limited to when it was built. Categorization of construction is based on the Law on Construction; the categorization is in the form of I, II, III of the Urban and Rural Areas.

Moreover all dwelling houses up to one hundred square Meters (100 m²) and Agricultural buildings up to four hundred square Meters (400 m²) are released from payment. All the other building have to pay municipality administrative taxes and support application for legalization along with required documents. The process begins with the identification and registration of the buildings that don't have permission and afterwards becomes published in the municipal and national registry.

All the buildings that meet the criteria's for legalization will be granted a permission from the process and register in the Cadaster, while all others that don't obtain permissions will be demolished [6]

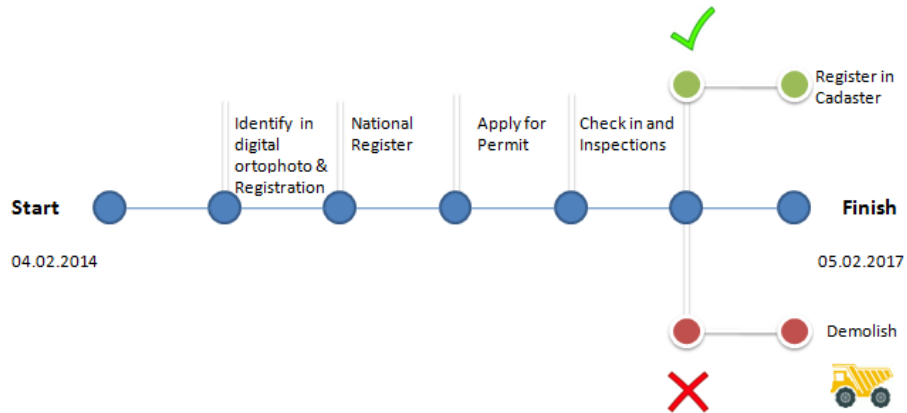


Figure 3.0 the legalization process scheme based on Law L/04-180.

3.1 Process workflow in Kosovo

The approval of the law of treating illegal constructions, marked also the registration of illegal buildings in Kosovo. The first phase of the process for the identification and registration of illegal buildings has finished enrolling over 350,000 buildings. The capital of Kosovo, Pristina resulted with the highest number of around 45,000: [7].



Figure 4.0 GIS Image, red point shows illegal buildings in Pristina
Source: Municipality of Pristina

After the registration process of illegal constructions and the publication of the National Registry, the second phase for application has started. This application permit round has brought in a low number of applicants, while most of others for various reasons don't want to continue the procedures.

4. Objective

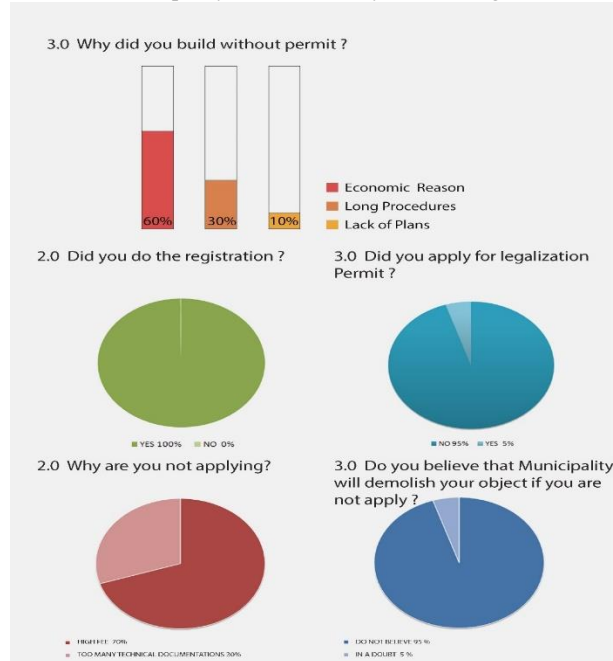
The main objective of this paper is to identify the major obstacles that building owners have when they apply for a legalization permit. Also the research will expand to advise on how to avoid long and complicated procedures, through experiences from neighboring countries and also what to be taken into consideration from the legal framework.

4.1. Method

The main methodology that was used on this research included interviews through questionnaires with a case example of 50 people applying at the Municipality of Fushe Kosovo, who were going through the process.

Some of the questions to be asked:

- Why did you build without permit?
- Did you do registration of illegal building?
- Did you apply for permit? If not, why?
- Do you believe that municipality will demolish your building?



Conclusion

The current law 04/L-188 on the treatment of illegal constructions does not give any opportunity for a successful outcome of the process. All the countries that have applied the law with a deadline, have shown a non-successful process. Changing this law is a must, and Kosovo has to do this fast since it's in a good position to learn from other Balkan countries that were part of the process for many years. A key factor to an improved performance of the legalization process would be the simplification of the legalization procedures, and the immediate attention to preventing other illegal constructions happening throughout Kosovo.

Recommendations

Stop the capitalization of social crisis through illegal construction.
 Immediately halt illegal constructions throughout the country.
 Lower the fees and simplify procedures to make the process easier for implementation.

Different categorization:

- Illegal Constructions which are built in urban areas should be categorized different from rural areas.

- Illegal Constructions which are built for social reason should be a categorized different from profit reason.
- Illegal Constructions which are built in accordance with the percent of land usage and construction lines of Municipality should be categorized differently from others which extend the percentage of land usage and construction lines.

Fulfillment of the conditions for legalization should be in accordance with the economic potential of the citizens and society.

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