



National Technical University of Athens
School of Rural and Surveying Engineering

STUDY, RECOMMENDATIONS AND RELATED TRAINING CONCERNING INFORMAL BUILDINGS IN KOSOVO

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Content

My thanks to Statens Kartverk and
to Helge Onsrud

My Thanks to all of you

- International trends
- Content of the study
- General information
- Overview of the daily challenges
- Progress achieved
- List of identified issues
- proposal



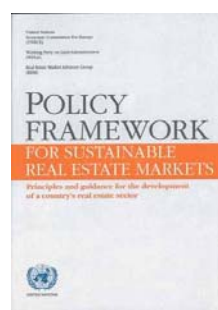
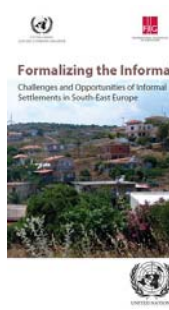
Hernando de Soto's theory

It has been shown that clearly defined properties, property rights and responsibilities, as well as access to services, opens doors to private foreign investment and has a direct effect on lending practices and national economies.



UNECE WPLA

Unclear property rights and complex land use regulations, a lack of policies for the provision of adequate affordable housing, have caused uncertainty, an impediment to foreign investment, high formal housing prices and finally the creation of informal settlements where the majority of real estate is outside the economic cycle and represents a large amount of dead capital



Identified causes

Causes	Montenegro	Albania	Former Yugoslavia Republic of Macedonia	Greece	Cyprus
Migration/urbanization	yes	yes	yes	yes	-
Centrally controlled / bureaucratic planning	yes	abandoned	changing	yes	-
Ecological or other Constitutional concerns against development	yes	-	yes	yes	-
No housing policy	yes	yes	yes	-	solved
Refugees/displaced	yes	-	yes	-	solved
Minorities, Roma	yes	yes	yes	yes	-
Unclear property rights	yes	yes	yes	yes	-
Inefficient property registration/planning systems	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
Market pressure/profit goal	yes	yes	yes	yes	yes

Types of ID & formalization perspectives

Type	Montenegro	Albania	Former Yugoslavia Republic of Macedonia	Greece	Cyprus
On state land	<i>Yes after the provision of a plan and case by case consideration and direct negotiations</i>	<i>Yes purchase or lease</i>	<i>Yes purchase or lease</i>	<i>No? There is some legally owned & registered land which is now claimed by the state</i>	-
On private land that belongs to another owner	<i>Yes After direct negotiations</i>	<i>Yes compensation provided</i>	<i>Yes long term lease agreement</i>	-	-
In violation of zoning	<i>Yes following a thorough revision</i>	<i>Yes</i>	<i>No The planning authorities have the responsibility to check</i>	<i>No Formalization in forests, coastal zone, etc, is not possible</i>	<i>No</i>
Without building permit in the unplanned areas	<i>Yes following a thorough examination and detailed planning provision</i>	<i>Yes planning will follow legalization</i>	<i>Yes planning & infrastructure will follow legalization in the land which is designated for construction</i>	<i>Yes but only for 30 years requiring planning to be provided until then ~1,000,000 constructions</i>	<i>No ~40% of the single-family houses belong to this category</i>
In excess of the building permit within planned areas	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes ~1,500,000 constructions</i>	<i>Yes ~130,000 ~80% of condos</i>
Total Size	<i>130,000</i>	<i>500,000</i>	<i>360,000</i>	<i>>2,500,000 + those in forests, etc.</i>	<i>?</i>

Legalization Framework

	Montenegro	Albania	Former Yugoslavia Republic of Macedonia	Greece	Cyprus
Responsible agency	Ministry for Spatial Planning & municipalities	Ministry of Public Works and Housing ALUIZNI special agency	Ministry of Transport & Communication & Municipalities	Ministry for Environment, Planning & Climate Change	Ministry of Interior
Date of law adoption	?	2006	2011	2010, 2011, 2013	2011
Popularity of the project	?	positive	positive	Rather negative	Rather negative
Detailed seismic vulnerability controls prior to legalization	yes	-	-	yes visual control (by private sector)	(no need)
Detailed controls for environmental and construction standards prior to legalization	yes	-	(by authorities) on-site visual controls	on-site visual controls by the private sector	- (legalization of ID happens within the plan only)
Infrastructure provision	-	Not clear yet	At a later stage; funds from legalization	Basic infrastruc- ture exists already	(exists already)
Speed (expected time for legalization)	10 years Estimate time	Declaration fast Next steps are slow; bottleneck: registration	Declaration Fast Planning inspections: delay	Slow Due to insecurity (previous Law was unconstitutional) and high costs	Slow due to high costs Rather negative acceptance
Affordability for primary housing	Doubtful-not inclusive legalization	positive	Yes Fee for housing: 1 Euro/m ²	doubtful Especially due to the crisis	Doubtful Not much participation

What is the estimated economic benefit of formalization for Greece?

The Cost of a Lack of Formalization in the Real Property Market in Greece is

- slightly over **\$1 billion** “real” USD for each of years 1 to 5,
- approximately **\$1.5 billion** “real” USD for years 6 to 10, and
- approximately **\$2.3 billion** “real” USD for years 11 to 25

of an analysis period of 25 years.

This is the **annual “Cost of a Lack of Market Formalization in Greece” today.**

The 25-year net present value (with the discount rate equal to the weighted average return rate of the asset sectors) is approximately **\$25.6 billion** real USD.

What is the estimated economic benefit of formalization for Albania?

- The Cost of a Lack of Formalization in the Real Property Market is about **\$381 million** “real” USD for each of years 1 to 10, approximately \$700 million “real” USD for years 11 to 20, and approximately \$818 million “real” USD for years 21 to 25 of our analysis period.
- We did not analyze the economic **COSTS to achieve formalization**, the **time it would take** to achieve formalization, the **political will** necessary, and **how the benefits would be achieved**. We need to work more on that.
- **Producing a road map to formalization** for a specific nation includes many speculative factors that would muddy the usefulness of the purpose of that analysis, which was essentially:
 - “What is the economic benefit of formalization?” and
 - “Why we believe in that”

The most critical issues for a reform

- Political Will to secure tenure, recognize private rights
- Adopt Fit-for-Purpose procedures to reduce costs and times while providing reliability
- Raise Awareness about the expected benefits
- Get professionals and citizens involved



Relevant documents about Kosovo

1. Law No. 04/L-174 on Spatial Planning, 2013;
2. Responsibilities of Spatial Planning Authorities as well as Principles and Procedures for Public participation in Spatial Planning, 2014;
3. Law No. 04/L-188 For Treatment of Constructions without Permit, 2014;
4. Law No.04/L-110 on Construction;
5. Draft Law For Treatment of Constructions without Permit, 2016 (new Law)
6. Concept Document on the Issue of Treatment of Constructions without Permit
7. Published papers and interviews

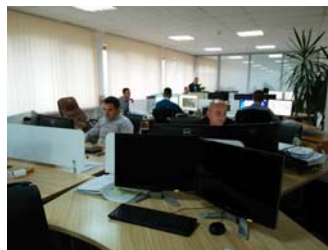


Causes

Estimate: 350,000-450,000 unpermitted structures

(174 informal settlements; of these 36 are Roma):

- result of economic and political changes
- rapid population increase in the cities in search of opportunities
- war, conflict: need for reconstruction
- challenges in the transition process, in establishing private ownership rights
- cumbersome authorization processes, non-efficient planning & construction permitting (6 years for a permit in 2000)



Threats

- Unregistered real estate: insecure land tenure
- Extra-legal procedures: great rate of informality in REM , great risk
relationships matter more than rules
- Markets that are bedeviled by unclear property rights and mainly unclear land use regulations discourage the involvement of the private sector and governments face challenges to establish coherent economic development strategies



Threats

- Challenges in the funding mechanism:
every country of the world will never have enough public funds to efficiently address adequate housing issue for all
- Need for private foreign investment
- Dead capital
- Problems in the National Economy and the lives of the property owners (e.g., extent real properties, inheritance, access to credit / collateral, insurance against natural disasters, or even use property as proof)
- Environmental and social challenges



Types of unpermitted buildings

Various types of unpermitted buildings:

1. Roma informal settlements
2. unpermitted single family houses in urban and rural areas with or without a **certificate of ownership**, built with or without construction permits;
3. illegal building extensions in excess of construction permits;
4. multi-storied constructions of good quality built on private land with or without **certificates of ownership**, and with or without building permits both for residential and mixed uses

This may be built either on legally owned parcels or on state land, or on protected land, or on land that belongs to social enterprises, or on land with high risk. Ownership titles maybe are in hands of original land owners, or in hands of the investor, or in the state/LA

Daily challenges in real estate market

- Population: 1.9-2.2 M
Area: 10,908 km²
~39.1% forest, 52% agriculture, 31% pastures, 69% arable
land types are not yet defined in all 38 municipalities
- 350~450,000 informal buildings; ~18,000 registered buildings;
90% of new RE sales based on trust:
lack of: ownership titles and/or compliance certificate
Instead: "internal contract" or "pre-agreement"
- Difficulty in getting reliable market sales data, especially for sales 3 or 4 years ago
Sources:
notaries (started operation in 2012)
municipal tax offices - not sufficient; no data in rural area
- Prices are rather inflated despite the level of informality,
due to the increased demand
- Rural land: average of 250 euros/m²



Daily challenges in real estate market

□ In Pristina (fixed zoning)

rural: 1 to 15 €/m²,

urban: 50 to 2000 €/m²

New apartment prices: 450 to 2000 €/m².

Large informality problem, even in new constructions
most popular size and value of apartments in Pristina are
of 80-85 m², for 820 €/m²

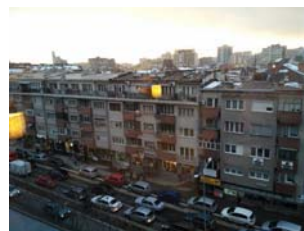
If paid cash in advance through a bank, there is 10%
discount

□ Fushe Kosove

from 500 - 700 €/m² in 2006/2007 down to

400 - 600 €/m² in 2016

expected to raise following infrastructure
development



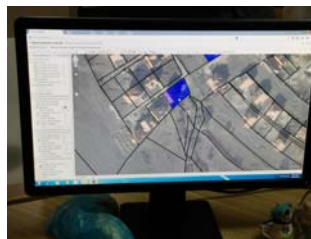
First come, first served

- No foreign investment in REM (due to a lack of political stability and corruption), not possible to register?
- Dynamic local market: increased demand in urban areas; housing standards
- Factors that define the value of each property: location, quality and design of construction; now supply is rather sufficient, so buyers are able to choose
- Transaction tax is not yet applied
- Each investor cooperates with the same notary repeatably, to improve integrity and transparency; **the buyer & the investor are NOT in a position to check**- fraud cases noticed in the near past; notaries will establish a data base
- 38 notary offices; Local investors continue to exceed the permit 10%;



Daily challenges in real estate market

- Average size of urban parcels:
400 m2 but are illegally subdivided into
200 m2, **need to merge**
- rural parcels: >1000 m2
- Merging of urban parcels for development
purposes is made either "in good faith" or
with a "pre-agreement" at a notary
**"Pre-agreements" are NOT registered
in the cadastre**
- Based on good faith people build and sell
- Property annual tax: ~ 0.15% of the registered
value on the deed;
all tenants pay taxes regardless of illegality;
notary fees: fixed

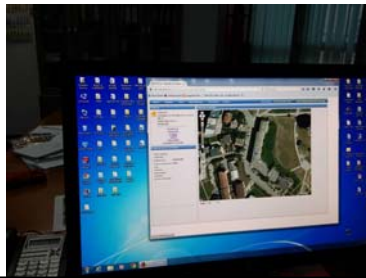


Access to Credit

- Although there are potential buyers, construction companies lack of documents and proper deeds and are financed with instalments according to the documents they provide each time
- New units cannot be mortgaged, therefore old apartments stand as collateral for access to credit for the younger generation; new constructions represent a dead capital
- Mortgage loans are not practical for the buyers; the interest rates are ~12%.
Instead, they buy through the investor and obtain financing for 5.9%, since the investor pays the rest
- NPLs are about 10%;
- First residence owners are not protected but usually evictions are not made during the winter time;
- limited interest to buy from auctions; the general practice is the Bank to buy the real estate at not less than 1/3 of the estimated value and to make agreement so that the tenants will pay rent or pay-back the loan with an option the property to be returned
- There is a demand from young people to buy houses, but there is no affordable housing policy, no subsidies for young families

Ownership Rights

- those built (totally or partially) on state, municipal and may or may not have the unlimited right to use or have built on public, protected land, national parks
- those build on land that belongs to social enterprises and have only the unlimited right to use
- those constructions that have ownership problems due to unregulated inheritance issues



Proposal: purchase of state/municipal, etc land

- purchase of land that may belong to the municipalities, the state, or various other owners
- For such a purchase the defined price of land may vary (experience from other countries)
- E.g., first and only residence of the applicant the value may be low/symbolic depending also on the total financial status of the applicant. In other cases, it may just be the market value
- about 3% cannot be legalized. No plan for resettlement though; ~ 10,580 buildings will be demolished???



Demolitions are not popular:

- social impact (need for resettlement)
- Economic impact (asset loss & cost for treatment)
- Environmental impact: CO2

Costs to obtain ownership rights and legalization

- In case it is the first and only residence of the applicant and the land belongs to state agencies the value may be low/symbolic depending also on the total financial status of the applicant. In other cases, it may just be the market value
- It should be affordable for the poor/low-middle income
- Legalization fee as well. The costs for preparing the documents is high therefore required documents should be reduced



Ownership Challenges

Data derived from Mitrovitsa:

- 40% -60% of applicants may have land ownership problems
- ~30-40% of the above are built within municipal land while the rest is a mixture of land that belongs to the municipality, water department, forest, or social enterprise
- The project must become inclusive in terms of recognizing land tenure and **ownership rights** and make properties **marketable**

Ownership rights

- 60 years ago, some occupants were given the unlimited right to use the land and to construct legally a house there-on
- but the transformation update was never accomplished in the cadastre: today the registered owner is still the municipality.

In rural, unplanned areas even if they have the unlimited right to use the land, the construction is considered to be temporary?
- Establishing free-hold ownership, instead of right to use or lease, is the optimum and desirable solution for the occupants as it will provide security of tenure and it will act as an incentive for more investment on the real property and make it **marketable**
- The Cadastre agency alone cannot change the ownership of land without a relevant legislation

Inheritance issues

- Inheritance issues require update, as well.

Application for legalization of a house may be submitted by anyone; however, he/she has to obtain a legal right on the construction.

For such cases this legal right may be obtained through **adverse possession**, if there is no other faster procedure.
- In case of co-owners, it is preferable that any of them will be able to submit an application for legalization



Irrigated rural land

- **Subdivision of agricultural land is still permitted** without any exception or limit; construction is not permitted within agricultural lands. Subdivision should be forbidden.
- Eight municipalities are in problem. High productivity land is protected by Law is within 105 cadastral zones, and is of an area size of **25,000ha**. 83% of the agricultural land of Kosovo falls in the 1st to 4th (higher) category classes.
- the Law for Privatization has not always successfully provided farmers with clear property rights.
- Data from many **Land Consolidation projects have not been registered** in the cadastre ?
- There are **5,000 illegal constructions on high productivity rural SOE land** all around Kosovo
- Along the road network, at the periphery of the cities; environmental balancing measures???



Take care of ownership rights

- The state still allows apartment to be sold without a legal framework in place to **distribute shared-ownership on the land parcel and the common parts of the building to all individual units**. The common expenses are to be divided according to these shares
- If this is to continue, those who have the ownership rights should be responsible for the **maintenance** of the construction and this will become very complicated in future
- The **civil code** may define how to **merge parcels** and the free-hold ownership of the individual units of a building and the **obligatory acquisition of shared ownership on the parcel and common parts of the building**, and should define the responsibilities for the costs and the rights in case the building will be destroyed

Example

Example of merging land parcels:

- land owners merge the parcels with the help of a notary: a new cadastral unit is created
- this unit gets a new cadastral code number; the previous cadastral codes are deleted
- land owners become co-owners of this new land parcel. Their share is estimated according to the value of each parcel
- the development agreement between the land owners and the investor must be registered in the cadastre. In this agreement the new units are distributed to the land owners and the investor. Each individual unit should acquire shares of co-ownership in the land and common parts
- the investor and or the owners start selling the new units (even prior to any construction): each new pre-agreement of sale must be registered in the cadastre.
- The percentage of co-ownership of the new units may be shared according to the development agreement (between the land owners and the investor) but then this percentage should be shared among the individual units (e.g., proportional to the unit area size and other parameters).

Gov and international donors managed some successful pilots for the Roma communities

- Priority was given to resettle those living in substandard informal settlements; urban regeneration projects planned for job creation as well



- Four pilot municipalities: Roma settlement in the Pristina centre, Roma Machala of Mitrovitsa, Alibra of Gjacove, Istog municipality

Initiatives to formalize the informal

- Priority to formalize the urbanization process
- Strong commitment of several Ministries
- In Kosovo, unlike other countries it is easier to raise funding for projects; the larger challenge though here is to find the land necessary for resettlement purposes
- Compilation of the Spatial Plan for Kosovo, the Regional Map and the Spatial Plan for Special Areas
- Compilation of the Municipal Development Plan, the Zoning Map and the Detailed Regulatory Plans
- Construction reforms in 2011



Initiatives to formalize informal settlements: Spatial reform

The strategy has 3 axes:

1. New law No. 04/L-110 for Construction, 2011
2. **Pro-growth planning:** New law on Spatial Planning to streamline permitting; instead of detailed city plans zoning plans were developed and permits are issued according to the zoning.

Kosovo has been rated by the WB as the **3rd best country in the world** during that period.

The development conditions are fixed, but *regulations for the municipalities are still under development and need to be approved.*

3. New law to handle the problems of the past and provide occupants of unpermitted real estate with the certificates of occupancy.

Construction reforms

- WB doing business 2015: 44-point improvement compared to 2011
- Development agreement between land owners and the investor **must be registered** in the cadaster; the bank should provide **access to credit** based on the registered agreement. The new units may be **sold even prior to completion** and new **agreements should also be registered** at the cadaster; access to credit should also be provided; following issuance of occupancy permits **new titles** should be delivered to the buyers of the new units
- It is questionable whether the existing personnel is adequate to provide individual inspections in the various phases of the new constructions in all municipalities; it may be advisable to **consider that the responsibility for the compliance with the permit should be transferred to the private sector**

List of Comments to take care

Investors noticed: there is still too much bureaucracy & lack of inter-agency flow of info:

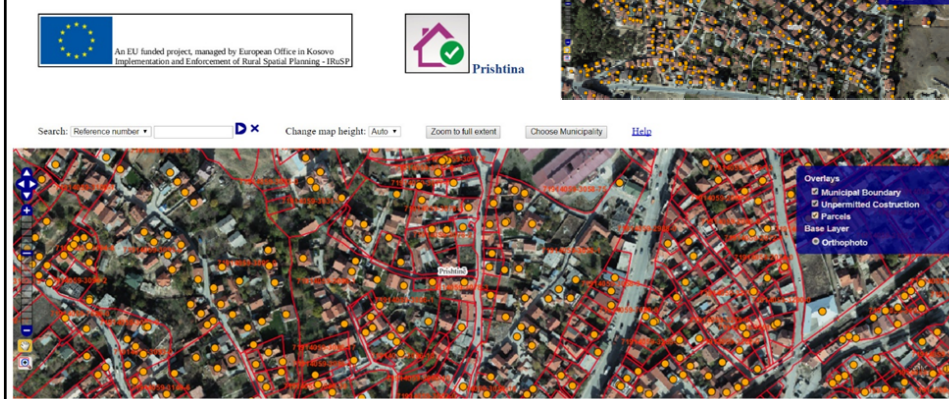
- need for more original docs that will last longer
- Pre-agreements are stored at the notary offices but not possible to check every office
- The tax system needs to improve its records of property owners. In Pristina tax office property owners are registered only by name and family name. Tax registry / cadastre
- Notaries should be connected to the cadastre system
- a more improved cadastral website needed: municipal urban plans / cadastral parcel size
- Still urbanistic plans (of 2004) may be used since the urban development municipal plan (of 2012) is not ratified? Confusion
- In practice a building permit for category II takes 6 months

Banks noticed: need for improved professional ethics

- The risk for demolition creates extra costs to banks (thorough document control needed) investors still build one extra floor without a permit!
- Unfortunately there is about 20-30% of bribing in every project; court decisions ?not always independent
- Keeping priority records at the municipal cadastral offices in cases of debt and foreclosure is very critical and needs special care

The inventory: A major achievement

- Orthophoto, August 2013
- Sept 2015 completed? 450,000



Legalization

- Law No. 04/L-188, February 5, 2014, for the Treatment of Constructions without Permit
- Introduces a “planning amnesty”; it is only possible to register a building in the Cadastre if the registrant has either ownership or use right on land
- Categorization of constructions (I,II,III); Application fees are *100 euros (except <100m2, social scheme, rural objects <400m2)*; to be registered by GPS coordinates, name of owner/occupant, registry reference number, type and stage of construction, connection or not with services, and information about its registration in the tax registry.
- Deadline 2013? Demolition List
- *Anyone with clear ownership rights must be enabled to sell or mortgage the land; all other controls may follow*

How popular is the Law?

- How fast, affordable, inclusive, popular and appropriate the procedures are
- Obtain public feedback about the reforms
- First stages of the reforms have been highly successful; what is left is to collect the *necessary information* about each construction and register the property rights
- Prioritize information for registration and access to credit
- procedures are long, not always affordable and difficult to be handled in such large numbers



Challenges

Deadline for legalization: August 2013 & future monitoring

Informal development may continue until the new system is well-established and the economy is formalized

1. No deadline until later...following the spatial & permitting reform
2. Strict periodic monitoring through satellite images ~300,000 USD or less each time and automatic change detection and control by the agency/Ministry
3. High preservation penalties/taxation or demolition (all too difficult to implement)
4. Raise awareness about the monitoring
5. Any general economic reform (income tax measures, the use of credit card, etc) or black market formalization will gradually reduce the rate/chances for informal development

Required documentation?

- Dwelling 100 m² and rural objects up to 400 m²: location plan; site plan; technical prescription including data on construction surface, number of floors, the height, compiled by the construction architect or engineer; 4 photos (or more)
- **Category I:** three (3) printed and digital copies of: location plan; site plan; fire protection plan for facilities >450 m²; foundation, floor and roof plans; sections at 1:50 scale; elevations, including the neighboring buildings; structural plans and sections; water installation plan; electrical installation plan; mechanical installation plan; 4 photos
- **Category II:** above + stability report; **Category III:** tbd
- *Individual on-site inspections* ???geological risk?? distance/openings from neighboring buildings?? Low risk constructions **C I** should be registered directly, based on the documents submitted by the possessor; the involvement of a surveyor /engineer is useful but simplified procedures would reduce the costs for the possessor; *inspections and detailed documentation may follow at a later stage;*
- **For registration, what is necessary is: Clear Ownership rights?? C I**

Data necessary for property registration

- Ownership title/pre-agreement documents, identity data of the owner, documents that prove no arrears to the state, photos of the building and digitalization of the land parcel and building footprint on the orthophoto might be enough for property registration to the cadastre. This should be submitted by a professional (private surveyor/engineer)
- A construction permit should also be registered-if the construction will be mortgaged, or if an operational permit is requested; if it does not exist it may be noticed as pending but should not block transactions
- For provision of construction permits to existing simple buildings an inspector from the private sector, preferably a civil engineer, should define the size and year of construction, the materials, and ensure stability of the construction. An architect may be need occasionally for legalizing interventions at specific historic buildings.
- For simple constructions a visual stability inspection is sufficient. For larger constructions and multi-storied buildings the responsible investor/constructor should provide all necessary documents and undertake the risk.

Challenges

Old constructions already registered in the cadastre?

- Considering that there are no ownership problems, those should be considered legal, to be transferred and mortgaged
- If more documents are needed for certain activity/operation in the future, that may require accumulation of people, such as restaurants, schools, hospitals etc, an operational permit will be required.

Old constructions not registered in the cadastre?

- Provide ownership rights and register, if not a political issue



Proposed procedure

- Prior to the call for legalization, the ministry should delineate on the orthophoto the areas that will be **highly protected** and where no legalization (recognition of tenure rights to ownership, and/or planning amnesty) is to be allowed.
- protected areas should be periodically monitored by automated methods
- Legalization procedures should be open and web-services should be used to eliminate the costs
- Detailed measurements of the land parcels should not be required; Digitization on the orthophoto is sufficient.

Proposed procedure

- Notaries should play a critical role and be paid a fee
- By a ministerial decision, or law, notaries should be asked to input the data from their records into the “legalization data base”
- An application is designed by the KCA so that notaries will have access to the cadastral data base and fill out the special forms
- Name and data of the notary, number of the unit within the building, the name and other data of the occupant as mentioned in the document, the percentage/type of ownership, the floor number, area size of the unit, value



Proposed procedure

- Constructors should be called, by post mail, to submit the information they have about each building they have built
- An application should be prepared for the constructors, too
- Name and data of the constructor, number of floors, date of construction, condition/safety/stability standards, type of roof, photos, connection with electricity, water supply, sewage, fire protection, number of construction permit, digitization of the footprint of the building/parcel, all documents and plans
- This information will be again linked to the number and coordinates of the building as in the orthophoto



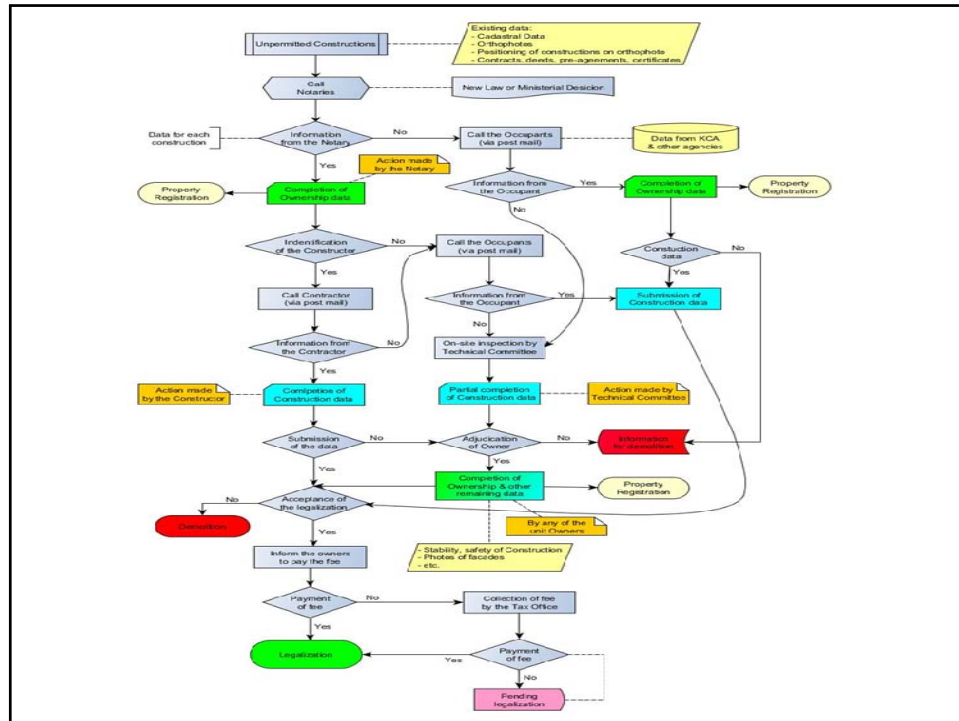
Proposed procedure

- For the remaining properties: the owners/tenants/occupants will be directed to submit all data that they keep in their own records and any other proof that provides evidence of undisturbed tenure for a certain number of years.
- The tax office has the contact information and the address of all occupants for the majority of the urban and rural constructions
- Buildings that will be registered by the owners/ tenants/ occupants may be the majority of single family houses (category I), but may also be multi-apartment buildings built totally informally by “legal” users, or built illegally by squatters
- Application to use web services or directly to the municipalities

Proposed procedure

- KCA should check the information related to ownership/tenure rights for those buildings that are within the legalization zones; if this fulfills the requirements of the law, the owner will be asked to pay the fee (if any) and KCA will proceed with the registration.
- For the remaining constructions for which no one will be able to submit data, a team of municipal employees, or even volunteers, should go on site with a tablet and collect all possible information about the constructions. During the on-site visit there is a chance to meet the occupant and get more information





Web services

- Entrance to the system may be through a mobile phone or a tablet. The orthophoto map will be used as a basemap. There, the user (notary/constructor/occupant, etc) will be able to digitize the land parcel
- Documents may be scanned (or be provided directly through the state administration/notaries/constructors as attachments); photos of the documents may be submitted as attachments, as well



