

URBAN PLANNING IN MONTENEGRO: CONSTRUCTION AND PAYOFFS?



The project is financed by the EU and co-financed by the Royal Norwegian Embassy.



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1. INTRODUCTION

The analysis “Urban planning in Montenegro: construction and payoffs” has been prepared in the framework of the project *Corruption at the local level- zero tolerance!*¹, in order to reveal one of the cornerstones of corruption at the local level- urban planning and to encourage decision makers to take concrete actions so as to protect the public interest. Therefore, this analysis presents a set of causes and effects due to which this area is still normatively unfinished, deficient in human resources and represents a high risk for the occurrence of corruption, and at the same times gives illustrative examples of individual cases and practices of local self-governments which have led and still lead to budgetary imbalances, inadequate management of urban construction land, as well as unsystematic dynamics of adoption and harmonization of planning documents which are under the jurisdiction of the local self-governments.

The method used to regulate the field of urban planning was through drafting of numerous laws and their amendments and changes. Application remains problematic. The questions that should have been resolved through normative solutions, but primarily through the efficient and effective appliance of the law are: have we managed to define firmer obligations and responsibilities of all parties involved in the process of spatial planning; have appropriate normative conditions for necessary transparency of the process been provided

¹ The project is financed by European Union, and implemented by the Centre for Civic Education (CCE), in cooperation with Institute Alternative (IA), NGO Bonum from Pljevlja and NGO Nada from Herceg Novi

through continuous participation of the public during all procedures and practices that are subject of the law; has more effective oversight procedures been established, as well as strong legal basis for investment, as an opportunity for faster development of the society?

Research on urban planning at the local level in Montenegro was conducted during 2013 and 2014, and it was based on the following: analysis of the existing legislative framework regulating this field; reports from competent institutions and international organizations; media and other archives; questionnaires filled by representatives of local self-governments and relevant institutions; use of mechanisms provided by the Law on Free Access to Information; collecting and processing of information obtained during consultative trainings in 14 municipalities encompassed by the project in July 2013; as well as through a Hotline for reporting corruption.

2. CHALLENGES IN FIGHT AGAINST CORRUPTION IN URBAN PLANNING

Spatial development and construction are particularly risky areas for corruption. The land in Montenegro is extremely valuable resource utilized by the state, and for that reason social importance of the protection of the land is especially emphasized. Sustainable economic development is one of the most important goals of the country which, among other things, includes: providing normative preconditions for the creation of the efficient system in the field of special development, as well as functional mechanisms for fight against corruption in this field. In that context, adoption of legislation is just the first condition. Previous experience in appliance of regulations in the field of spatial development and construction shows that there have been significant collisions between the need to protect the space and the need to encourage entrepreneurial initiatives and foreign capital investments. On one hand, all conditions for more effective investments have still not been fully provided, and on the other side the space has been largely devastated just through various forms of corruptive behaviors.

The process of negotiations between Montenegro and EU will dictate required process in this sensitive area as well. Progress Report on Montenegro for 2013 explicitly recognizes the dangers of corruption:

"Infiltration of organized crime in the public and private sectors is a serious cause for concern. The areas of

*construction and spatial planning, education, healthcare and public procurement continue to be extremely vulnerable to corruption*²

Established rules must apply to all, and the problems usually arise in appliance of the rules and (in) actions of the competent authorities. Spatial chaos or development is, in both cases, a change of space caused by human intent. Thus, the space is managed by anyone who changes it, either by following the procedures set forth by the law, or on their own initiative, unlawfully and in order to gratify some personal petty interests.

The legislator states that the reason for adoption of the amendments and changes to the Law on Spatial Planning and Construction of Structures³ is improvement of business operations and decreasing the number of procedures necessary for issuance of construction permit, adoption of mandatory planning documents as a base for investment, and establishment of more effective control. However, it is important to remember that the field of spatial planning and construction of structures in legal system in Montenegro was regulated by the Law on Spatial Plan and Development⁴, Law on Construction Land⁵, Law on Construction of Structures⁶ and Law on City Planning and Construction Inspection⁷, as well as some other by-laws. In one point of time, all of these laws have been in force and every planning document that has been initiated by the law that was in force at the time needed to be finished in accordance with that law, which resulted in prolongation of the validity of these laws long after they have been “replaced” with a so called “new” law. Law on Spatial Development and Construction of Structures adopted in 2008 represents a sort of codification of legislation, which helped in making the situation

2 Progress Report on Montenegro 2013, SEC(2013)411, European Commission

3 Law on Spatial Planning and Construction of Structures, Official Gazette of Montenegro 51/08, 40/10, 34/11, 40/11, 47/11, 35/13, 39/13

4 Official Gazette of Montenegro 28/05

5 Official Gazette of Montenegro 55/00

6 Official Gazette of Montenegro 55/00

7 Official Gazette of Montenegro 56/92

clearer and the application of the law easier, which are preconditions for prevention of deficient practices and corruption.

However, in spite of correct tendencies, the Law did not manage to become objective and effective, which still leads to problems in practice. For a long time now, both domestic and international community have been pointing out to problems in urban planning and corruption in this field. Thus, in the Resolution of the European Parliament from December 13, 2007⁸ it is stated that the European Parliament “*regrets ongoing speculation in property and real estate and its negative impact on the sustainable development of the country, mainly due to weak or insufficient control by the state and local authorities*”, as well as that “*it notes that foreign direct investment in Montenegro is dominated by investment in immovable property; welcomes the adoption of the spatial plan by the government of Montenegro, and calls for its full implementation in order to protect the coast against becoming built up; observes, at the same time, that building inspections play an important part in this and that, in sensitive areas, moratoriums on building should be considered*”.

After decades of inefficient fight against corruption in urban planning which was noticeable through “illegal construction”, numerous institutional and normative actions are taken today. *The progress has been achieved only in fact that the problem is widely recognized by public.* After an expansion in constructions, followed by a large number of buildings built without building permits, a decrease in illegal constructions may be more connected to halt in investments than to the efficiency of the competent state bodies.

Ministry of Sustainable Development and Tourism in its Report on realization of the Action plan for Converting Informal Settlements into Formal and Regularization of Building Structures⁹ acknowledges

8 European Parliament Resolution P6_TA (2007)0624, <http://media.cgo-cce.org/2013/10/evropskiparlament.pdf>

9 Report on realization of the Action plan for Converting Informal Settlements into Formal and Regularization of Building Structures, Podgorica, December 2013, Ministry

by the name of the document itself existence of entire settlements which have been “informally” built. As a key measures for fight against “illegal construction” and therefore corruption, changes of the Criminal Code are emphasized, and according to this Law illegal construction is defined as a criminal offence, and the inspection in this field is again centralized and for some time now there is an intention to come to an acceptable form of the Law on legalization of informal structures. These measures still have limited effects, and optimal system of legalization is still in a form of a proposal. In most cases, the planning documents which were often “modeled with existence of corruption” have been adopted in the assemblies of local self-governments by force of political majority, and analysis of the impact of the political system in this field has not been done. Legitimacy of such decisions was never questioned and this issue has not been dealt with in a proper way, and therefore it was never a subject of legal dispute.

Ministry finds interesting the fact that the Law introduces an obligation for all bodies in Montenegro dealing with urban planning to create a website where they would make publically available to expert and lay public all information about the documents issued in the process of construction of structures. Through numerous normative definitions public is affirmed in this field, but essentially the citizens still do not have a clear picture regarding the situation in the field of environmental and spatial protection. Finally, the importance of making the documents public is meaningless, if from the beginning the corruption has been “transparently modeled into” planning documents through the decisions of the political majority. And when some form of corruption “by the force of majority” in the Parliament becomes a norm, what we are left with is the most dangerous form of systemic corruption- legalized corruption.

Report on realization of the Action plan for Converting Informal Settlements into Formal and Regularization of Building Structures states that according to the records of the

Real Estate Administration of Montenegro there are around 40 000 informal structures.

According to unofficial estimates, the number of informal structures is significantly higher, as the Minister of Sustainable Development and Tourism admitted in one statement: “Legalization of around 100,000 illegally built structures may take seven to eight years”¹⁰. Additionally, there is no official estimate regarding the structure of these buildings, and thus about their square footage or purpose and making of records of informal structures and their categorization implies making of a data base of the buildings, their purpose, structure, square forage, etc.

A “point of congestion” in the entire legalization process and determination of the number of informal structures is the fact that the cadaster of immovable property does not exist, or at least that it has not been established for the entire territory of Montenegro. Namely, a census cadaster exists in a substantial part of the territory. The project of developing the cadaster of immovable property for the entire territory of Montenegro is in progress, but a part of the northern municipalities is not covered by this type of record. The census cadaster is a type of cadastral record of real estate which does not contain graphical data, or information regarding the basis for acquiring of the real estate, which means that there are no cadastral maps for this part of the territory. This situation is the result of decades of neglect of the state about the land as one of the greatest resources and lack of political will to address the issue of protection of land in a proper manner.

Inconsistency between the powers and work of institutions, as well as the poor state of government records which are the basis for efficient and effective performance of activities lead to confusion, lack of systematization and powers of the system of state authorities, which creates the basis for corruption. Local self-government bodies have been additionally weakened in fight against corruption in urban planning, the possibility to

¹⁰ <http://www.vijesti.me/vijesti/drzava-planira-da-stane-kraj-bespravnoj-gradnji-crnoj-gori-100-000-divljih-objekata-clanak-113695>

prosecute usurpers of land have been limited by inappropriate political influence on the work of competent state authorities, as well as by the fact that system has been made even more centralized in recent years.

Further spatial planning and adoption of planning documents require time and financial resources, and for that reason the corruption is moving from “turning a blind eye” to “illegal construction” to the area of legalization of informal structures. Of course, we should not overlook assumed financial profit from legalization process, which is often cited as an argument in favor of this manner of solving of existing problems.

Legal obligation to adopt annual report on the state of spatial planning at the local and national level is important for further development of the system of protection and spatial planning. However, in order to draft a report which should primarily recognize dubiousness of the system of urban planning, undertaken activities and achieved results, sufficient capacity of institutions is required. And the first differences can be seen in understanding the term corruption, as interpretation of corruption varies from body to body. Thus, *Directorate for spatial planning*, which operates within the Ministry of Sustainable Development and Tourism, replies to the question about the assessment of the biggest risks for corruption at the local level in the field of urban planning in the following way: “*legislative framework in this field is based on transparency of drafting and adoption of local planning documents, in line with the legal provisions in the field of urban planning at the local level, and therefore there are no risks of corruption*»¹¹, which indictates that there is a lack of awareness about the risks of corruption in urban planning.

Unlike the competent Ministry, Directorate for Inspection Affairs has a different position. *General Inspector for urban planning* underlined that the biggest risk of corruption in the field of urban planning at the local level is „*INCOMPLETE and IMPRECISE planning documents*

¹¹ Reply sent to CCE on 5 December 2013

leaving to the officials working in secretariats countless possibilities for interpretation of plans which are a base for prescribing engineering specifications for construction or reconstruction of buildings».¹²

When asked about the scale of risk for corruption in urban planning and high-risk areas in the process, municipalities had quite a unanimous position:¹³ there are no high-risk areas (Tivat, Budva and Danilovgrad), there is no room for corruption (Cetinje), there are no risks „if the job is performed conscientiously and responsibly“ (Mojkovac), there are no risks of corruption „due to the specificity of the municipality“ (Plužine), they do not have any information regarding this issue (Kotor). The following response arrived from Municipality Kolašin „all applicants who are entitled to construction according to the planning documents should not be thinking in any other way, but regularly apply and wait for a decision from our service“. It remains to be seen whether it can be concluded from the aforementioned that the applicants are those who are recognized as „high-risk areas“ or that the responsibility for the fight against corruption in this area solely lies with the persons sitting behind the counter. The only municipality which has indicated that there are inevitably risks of corruption is Municipality Nikšić. However, it was explained as „human nature“ and „innate urge to violate the law“, with an additional clarification that the biggest problem is lack of awareness of the citizens, or their misconception that the „oversights“ would not be detected and punished in the further procedure.

Therefore, municipal authorities recognize only the citizens as a potential risk of corruption.

It should be emphasized that municipalities Pljevlja, Bar, Rožaje, Hereg Novi and Podgorica Capital City failed to send any responses to this or any other question from this area to representatives of CCE, in spite of persistence of researchers to get their responses. However, Police Directorate also concludes in its report from

¹² Reply sent to CCE on 4 December 2013

¹³ Replies sent to CCE in the period from 4 December 2013 to 11 February 2014.

November 2013¹⁴: *“It is important to also mention influence over individuals in local authorities, which is especially characteristic for those organized crime groups that invest a significant portion of their assets in establishing of companies that work in construction business. In this context, links between certain members of organized crime groups and individuals in local authorities, which is particularly noticeable at public tenders, indicate existence of corruption. In previous period specific companies linked with members of organized crime groups often participated as partners of local self-governance in building of infrastructural constructions.”*

14 Risk Assessment on Serious and Organised Crime in Montenegro – public version, Police Directorate, November 2013

3. LEGISLATIVE FRAMEWORK

Law on Spatial Development and Construction of Structures from 2008 unifies a number of previous regulations in this field. It is harmonized with EU directives of relevance for the spatial development, such as: Directive 2003/35/EC on procedure and participation of public in respect of the drawing up of certain plans and programs relating to the environment; Directive 2001/42/EC on the assessment of the effects of certain plans and programs on the environments; Directive 2003/4 of the European Parliament and European Council on public access to information on the environment; Directive 2003/105 on the control of major-accident hazards involving dangerous substances; Directive 85/337 on the assessment of the effects of certain public and private projects on the environment, and is partially harmonized with the Directive 89/106/EEC on the approximation of laws, regulations and administrative provisions relating to construction products. Through the negotiation process of Montenegro with EU the issue of urban planning is treated in (directly) through Chapter 23 (Judiciary and Fundamental Rights) and Chapter 27 (Environment).

This Law is based on *two groups of principles*. On one side are principles relating to spatial planning that are based on the principles of harmonized economic, social, environmental,

energy efficient, cultural development of the territory of Montenegro; sustainable development; encouraging balanced economic development on the territory of Montenegro; rational use and protection of space and natural resources; harmonization with European norms and standards, etc. On the other side are the principles relating to construction of structures and are based on the principle of protection of public interest, real estate and property; harmonization with European norms and standards; stability and durability of structures; protection of health, environmental protection and protection of space; protection from natural and technical/technological disasters; protection from fire, explosions and industrial accidents; rational use of energy and energy efficiency; protection from noise and vibration.

However, the Law is still not fully developed, which leads to problems in practice. For example, non-compliance of the building permit with planning documents are according to the Law not grounds for nullity, and this argument can be found in elaboration of judgments of the Administrative Court. Additionally, in the previous version the Law was utterly unrealistic in terms of prescribed deadlines for adoption and harmonization of planning documents at local and state level. It represented a big problem for some local self-governments which are only now at the end of the process of adoption of spatial-urban development plans (SUDP)¹⁵. Competences of the state and local self-government depend on the type and content of planning documents, whereat the Law promotes the goal of decentralization in the field of spatial planning. Planning documents are defined in a manner which should allow the planned monitoring of the status of space, both in terms of themes and meaning, as well as by size, i.e. interventions. Therefore, the planning documents are divided into state planning documents and local planning documents, and in line with this the competences are divided as well.

¹⁵ Spatial-urban development plan of the local self-government defines objectives and measures of spatial and urban planning development of the local self-government, in line with the planned economic, social, ecological and cultural-historical development.

According to the Law, state planning documents are Spatial plan of Montenegro, Special purpose spatial plan, Detailed spatial plan and State location study, whereas urban development and technical requirements for construction of state structures of general interests are regulated by Spatial plan of Montenegro.¹⁶ Spatial plan of Montenegro is a strategic document and general base for the spatial organization and development of Montenegro and it determines objectives of the state and measures of the territorial development. According to the Law, Special purpose special plan is developed and adopted for the territory or parts of territories of one or more local self-governments with common natural, regional or other features, of special significance for Montenegro and which require special development and use regime (national park, coastal commons, etc.) Detailed spatial plan is adopted for regions where structures which are of interest for Montenegro or regional significance should be constructed. Local locations study may be adopted for the regions which are within the scope of the Special purpose spatial plan and which are not elaborated in details by such plan.

3.1 The scope of local planning documents

Local planning documents are Spatial-urban development plan (SUDP) of local self-government, Detailed urban development plan (DUDP), Urban development project and Local location study, whereat adoption of SUDP and DUDP is obligatory. Spatial-urban development plan defines objectives and measures of spatial and urban planning development of the local self-government, in line with the planned economic, social, ecological and cultural-historical development, whereas detailed urban development plan defines requirements for the construction of structures within the settlements in the region covered by the

¹⁶ Spatial plan of Montenegro for the period until 2020 was drafted based on the Decision of the Parliament of Montenegro from 2011 (Official Gazette 45/01) and adopted in 2008 (Official Gazette 24/08)

Spatial-urban development plan, in a manner which enables implementation of these plans. For smaller areas which are about to undergo significant and complex construction or represent particularly characteristic segments Urban development project may be adopted, and Local location study may be adopted for areas which are within the scope of the Spatial-urban development plan and for which it is not envisaged development of Detailed urban development plan or Urban development project.

After the establishment of legal obligation from 2008 in the form of a yearlong deadline for local self-governments to adopt SUDP, more realistic deadline has been set through amendments and changes of the Law. However, these deadlines haven't been met either, and only these days the plans are in the final stage of preparation. Practice has shown that lawmakers lightly prescribed specific solutions, but also that local self-governments proved to be inert in harmonization and operationalization of regulations. *The consequence of non-compliance with set deadlines has at one point of time led to formal legal blockade of assemblies of local self-governments when decision making in the field of urban planning was concerned.* Making of decisions on harmonization of local planning documents represented breaching of the Law, because GUPs were put out of force when the deadline for adoption of SUDPs expired. This situation was resolved at the session of the Parliament of Montenegro¹⁷ with the decision to extend the deadline for adoption of SUDPs. This, certainly, raises the question of coordination of bodies at central and local level, where due to poor communication, proper analysis of situation has never been made and this analysis should have preceded adoption of legislative solutions. This condition of chronic deficiency of the system of urban planning, both regarding legislation and application in practice, creates a wide space for corruption.

17 Law on Amendments and Changes of the Law on Spatial Development and Construction of Structures was adopted on the seventh session of the first ordinary session of the Parliament of Montenegro on May 25, 2011.

From the Law arise competencies and normative base for spatial planning and construction of structures which are located in the decision of local self-governments. There are some examples of serious collisions, unacceptably long deadlines for development of planning documents, and even of violations of legal norms. For example, one decision is made based on the Article 34, paragraph 2 and Article 41, paragraph 1 of the Law on Spatial Plan and Development¹⁸, and in connection with the Article 163 of the Law on Spatial Development and Construction of Structures¹⁹ and Article 48 of the Statute of the Capital City²⁰. Assembly of Capital City Podgorica, on its session held on December 24, 2009 adopted a Decision on Changes and Amendments of the General Urban Plan of Podgorica for the space of the Detailed Urban Plan “Momišići C” in Podgorica based on the Law on Spatial Plan and Development from 1995, and in connection with the Article 163 of the Law on Spatial Plan and Development from 2008. Namely, these are the two laws that have the same name, whereat Article 163 prescribes preparation and adoption of planning documents that have begun before the new law came into force, and they continued implementing the regulations which are in force in time of the adoption of the decision on the development of the planning documents, i.e. in line with the new Law. *It was a conscious decision to adopt illegal decision on the side of the local self-government body*, whereat it is clear that the decision was adopted on December 24, 2009, and that at that time in force was the norm which stipulated that competent local self-government bodies are obliged to harmonize their planning documents with the new law within one year from the date the new Law came into effect. Since the new Law was enacted on July 31, 2009, in the moment when the aforementioned decision was adopted in this local self-government there was an obligation to adopt SUDP, which did not happen due to a objectively short deadline, but after the expiry of the legal deadline they should have stopped

18 Official Gazette of Montenegro 16/95 and 22/95

19 Official Gazette of Montenegro 51/08

20 Official Gazette of Montenegro – municipal regulations 28/06

with adoption of all plans of a lower order, in order to remain within the legal frames, and what has not been done.

This situation has been resolved with earlier mentioned Amendments and Changes of the Law in the Parliament of Montenegro, which prescribed that competent local self-government bodies are obliged to adopt SUDP of the local self-government no later than December 31, 2012. Also, it left a possibility to the local self-government units, until the expiration of the deadline, to start drafting and adopting amendments and changes of the Spatial plan of the local self-government units, i.e. General Urban Plan. By the adoption of the Spatial-urban development plan of the local self-government Spatial plan of the local self-government, i.e. General Urban Plan cease to have effect. This is another example of poor coordination and inadequate analysis of situation, which resulted in numerous normative inadequacies or unrealistic projections which left room for misuse.

Harmonized planning documents, continuous and substantive monitoring of situation in the field, necessary coordination between state and local authorities, simple, clear and complete administrative procedures and appropriate involvement of public in decision making and adoption of planning documents are preconditions for effective and efficient system of obtaining building permits.

The Law prescribes that the Ministry gives approval to the proposal of local planning document, which is an additional mechanism for centralization, but does not guarantee better control- on the contrary, it undermines the principle of independence of local self-government bodies. This is particularly important if we have in mind that the Ministry can adopt the decision on modification of the local planning document. Such legal solution distorts the content of the public debate and decreases its importance, even though the decision will be published on the website of the

Ministry, because the citizens will not be presented with possible consequences in space, and therefore will not be able to make an objective judgment about possible interest relationships which may serve as a base for corruption.

When asked if they consider the obligation to provide opinions and approvals for the local planning documents as good practice, the Ministry of Sustainable Development and Tourism replied by quoting the legal rights and obligations and concluded that implementation of relevant legal obligations results in better quality of local planning documents²¹.

To the question if legal obligation which stipulates that competent Ministry needs to give opinion and approval speeds up or slows down adoption of planning documents at the local level municipality mainly responded that this legal obligation to some extent slows down adoption of required documentation, but that this step is necessary. In that regard, Budva and Cetinje denied that this slows down the procedure and emphasized the necessity of receiving the opinion. Danilovgrad stressed that this legal requirement contributes to higher quality of planning documents. Mojkovac pointed to the risk which may arise in the field of non-compliance of local regulations with prescribed standards and norms if this legal requirement was not applied, whereas Nikšić emphasized that controls in this part are certainly desirable, especially before making the documents publicly available during public debate. Plužine pointed out to correct cooperation with competent Ministry and emphasized that heretofore local self-government did not encounter any problems regarding speeding up or slowing down of the procedure for development of regulations. In Tivat they assess that provision of opinion and approval by the competent Ministry on planning documentation does not slow down the procedure of development of planning documents. Only Kotor stated that this commitment

21 Reply sent to CCE on December 5, 2013

“is often a factor which delays the process of preparation of planning documents” and that “opinions and approvals can often be late for several months”, which is in this municipality important, because according to them, for adoption of planning documents “the attitude of the competent authority regarding the appropriateness of the planning solutions are almost an imperative legal requirement for the adoption of these solutions”, and all of this is because the area of Kotor is under protection of UNESCO and it is regulated by a special law.

The hierarchy of adoption of planning documents is that the Spatial plan of Montenegro and Special purpose spatial plan are adopted by the Parliament of Montenegro. Detailed spatial plan and State location study are adopted by the Government, and local planning document is adopted by the local self-government Assembly. Exceptionally, the Government may adopt local planning document, if the local self-government has not adopted, or does not implement local planning document, which may cause adverse consequences for the environment and space, or if the failure to carry out legally prescribed obligations in the field of spatial development has occurred or would so hinder economic development of Montenegro, or if an agreement thereabout is reached with the local self-government. It can be concluded that the lawmakers through care for full implementation of the law incorporated a mechanism for overcoming the lack of needed capacities at the local level. However, on the other side this mechanism does not represent affirmation of the principle of decentralization and does not contribute to establishment of objective responsibility as crucial in the fight against corruption.

The Law prescribes in detail competences for issuance of a building permit, and the question is how much has this procedure on one hand been simplified, and on the other hand has been a subject of greater control due to corruption. Building permit is issued based on the following documents:

1. the conceptual project or main project with the report on

conducted review, produced in 10 copies out of which seven shall be in the protected digital form;

2. evidence of the ownership right or other right over the buildable land or evidence of the right to construct or other right related to the structure, in case of the reconstruction of the structure, and copies of the plan;
3. approvals, opinions and other evidence determined by separate regulations;
4. proof of regulation of relations in terms of payment of fees for communal equipping of the buildable land and proof of payment of fees for construction of a regional water supply system in the municipalities in the coastal region;
5. proof of liability insurance of the investors and business organizations, legal person or entrepreneur who developed, or reviewed conceptual project or the main project, in accordance with Article 71 of the Law.

The body responsible for issuing building permits is obliged to provide *ex officio* the evidence referred to in paragraph 1, item 2, 3 and 4 of the article. The investor is obliged to pay the actual cost of obtaining the evidence referred to in paragraph 2 of the article. If the competent bodies, i.e. institutions do not submit evidence from paragraph, item 3 of this article within 15 days from the day of the receipt of request for the submission, it shall be deemed that they agree with reviewed conceptual project and the main project. In the process of issuing of the building permit, each separate part of the conceptual and the main project is endorsed by a stamp with the number, date and signature of the reviewer written in, as well as by the seal on each sheet of the project.

When asked to assess the *efficiency and effectiveness of issuing building permits* and whether there is room for improvement, municipalities mainly responded positively, noting different levels of efficiency. Thus, Tivat, Danilovgrad and Plužine, as well as Cetinje, pointed out to the use of the “one-stop” system which according to them contributes to efficiency and effectiveness

of issuing of the requested documents. On the other hand, Budva stated that due to large number of requests for issuing of documents and the fact that only four employees work on this, 60% of cases are resolved within the set deadlines, but that they are working on improving the situation. It should be noted that Budva has the most pronounced problem of the surplus of employees, so the fact that they explained that the permits are not issued in time due to the lack of employees represents a cause for concern. Kolašin, Mojkovac and Kotor have also assessed as positive the effectiveness of the issuance of documents, but with a reservation – namely, Kolašin stated that the problem in issuing of technical requirements and permits is submission of incomplete documentation, which impacts handling of requests in time. Also, the Municipality Mojkovac stated that requests are solved in a short time period, but that they have problems with other bodies from which this local administration needs to request the documents ex officio. In addition, Kotor again pointed out to the exception that exists in this part, relating to structures which are entered in the register of cultural wealth. And finally, Nikšić stated that this municipality is the fastest when it comes to issuing of permits and documents, which can be seen from statistics done for the needs of the World Bank, but that there is room for improvement. The biggest obstacle in their work according to this municipality is non-existence of computer network and outdated archiving system. However, in practice, the system “one-stop” has objective problems, and without networking of the system of records on the local and state levels we cannot expect to have full implementation and control of the process of issuing of building permits.

The existing Law on Spatial Development and Construction of Structures²² has been amended and changed 6 times in the period from 2008 to 2014, and the last change was done in the framework of implementation of measures from the Strategy for fight against corruption and organized crime for the period 2010-2014²³. Although

22 Official Gazette of Montenegro 51/08, 40/10, 34/11, 40/11, 47/11, 35/13, 39/13

23 http://www.skupstina.me/~skupcg/skupstina/cms/site_data/DOC25/ZAKONI%20I%20IZVJESTAJI/180/Zakon/2.pdf

it was generally justified as a process of harmonization with the needs of optimal dynamics of development, the substantial progress in the field of spatial development and construction of structures is slow and is characterized by the lack of political will for stronger reform actions. This type of bureaucratic and politicized area of urban planning represents a fertile ground for various forms of corruption, from central to local level of governance. In the explanation, there is a concrete-measurable indicator: According to DOING BUSINESS report of the World Bank for 2013²⁴, *pursuant to the indicator “dealing with building permits” Montenegro is ranked 176 out of 185 countries. Legislative framework and implementation are not sufficiently effective; the procedure for obtaining of building permits is still considerably expensive, primarily due to high fees set for communal equipping of the buildable land. Unlike many other countries in the world, in Montenegro, fee for communal equipping of the buildable land requires high costs for investors.* What is missing is an overview of improper use of funds collected through the fees for communal equipping, and there is no deeper analysis of the reasons and cause-effect relationship of the long, bureaucratic and unstable process of obtaining of building permits, as are reform of state administration and local self-government which are the core of the problem, and which have finally lead to such an assessment of the World Bank. It is only recognized that: *“Apart from this, there is a need to create normative requirements for improving of the overall business environment- through reduction of conditions and approvals needed for issuance of urban development and technical requirements and building permits.”*

In real time and space The Law normatively prescribes constant making of documentation basis for monitoring of situation in the environment: “Administration authority competent for affairs of spatial development and construction of structures or local administration authority competent for affairs of spatial development and construction of structures shall keep documentation base about space, to serve the needs of monitoring of the status of space and

24 <http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB13-full-report.pdf>

development of the planning documents. The content and manner of keeping documentation base about space shall be prescribed by the Government of Montenegro”²⁵. Regulation on the content and manner of keeping documentation base and information system about space²⁶ prescribes that documentation base about the space is kept for the need to monitor the situation in this field and development of planning documents and that it represents a collection of information and documents about the space in text, graphical, numerical and tabular view. *The main carrier of spatial information is cadastral lot and zoning lot. In practice, these two information are not compatible and do not have to match, so we can construe they may represent a potential source of corruption.* Article 8 of the Regulation prescribes that: “Documentation base encompasses two groups of information, and these are: 1) information from the competence of public administration bodies from the field of spatial development; 2) information from the competence of public administration bodies which are outside the field of spatial development, but which are important for spatial development.”

Here public administration is regarded as to compose of state administration bodies and local self-government bodies, with a precise assessment of their competences. This is an important fact, because full implementation of the quoted norm is of great importance for regulation of the field of spatial planning, which has for decade been basis for corruption. The legislators have predicted numerous control mechanisms with a focus on the control of work of the local self-government in the field of spatial development and construction of structures. This makes the system even more centralized, but not not adequately controlled. Thus, the legislators have envisaged a good method of reporting, where the Ministry and local self-government body are obliged to submit an annual report on the situation in spatial development to the Government or local self-government assembly respectively. It has been prescribed that the report should contain: analysis of implementation of planning documents, assessment of

25 Official Gazette of Montenegro 51/08, 39/13

26 Official Gazette of Montenegro 44/10

implemented measures and their impact on the management of the space, assessment of the protection of environment, information about constructed structures, including buildings which were built illegally, the assessment of the expressed needs of the users of the space, as well as other elements of importance for the space for which the report is made. This practice should be further improved and publicly promoted.

3.2 Problems in implementation

Expert community points also to concrete problems in practice when it comes to spatial development and construction of structures, stating that urban and spatial planning in Montenegro has been regressing for more than 15 years, which can be seen also in parameters such as the quality and content of plans that no longer lay down the obligation to take into account also the financial aspects of the plan, e.g. what are the funds necessary for infrastructure, structures, expropriation. Furthermore, the references of planning companies are questionable; the planning institutions system is incomplete; and urban and spatial planning is treated as procurement with planning becoming a permanent activity²⁷.

Speaking about space management, with emphasis laid on the scope of authority of local self-governments, the expert interviewed underlined that “the practice in regulated European countries is that local governances buy out land, then plan, develop and rent or sell. In Montenegro, only state owned land is sold. Exceptions are expropriation for construction of transport and public utility infrastructure. And even here we have examples where the state pays for expropriation and then seeks a strategic partner (example of expropriation on the route of the highway B-B) to whom it gives a long-term concession for construction and exploitation of the structure. During the concession period, the land comes free of charge. That is not good management”²⁸.

27 Interview with Prof. Jelisava Kalezić, November 26, 2013.

28 Ibid

The level of agreement on the highest risk points for corruption in the urban planning area is quite high (development of planning documents, building permits issuing, etc.), as well as that corruption is possible along the entire process, from planning to materialization. As often as not urban development plan sets one number of floors, while actual number of floors constructed is higher, followed by a subsequent approval, which points to corruptive practices. In cases where in the programming task of drafting a detailed urban development plan, the content, features, urban development parameters are defined in line with the GUP, while verbally an agreement is made with the developer about “what else is needed”, the result is a plan that does not correspond with the programming task on the basis of which the local assembly made a decision, thus creating a chance for systemic corruption.

Loopholes already identified in the Law on Spatial Development and Construction of Structures, where non-compliance of a building permit with the planning document is not a reason for rendering it null and void creates challenging situations in practice. Namely, Article 148 of the said law lays down that “where the urban development inspector establishes that the Law or another regulation has been violated, he shall: 8) propose to the administrative body or local government body to cancel the decision issuing the building permit where it finds that the preliminary design or the main design on the basis of which the building permit has been issued were developed contrary to the planning document and/or urban planning and technical requirements”. This norm should contribute to the full control of legality and appropriateness of the decision on issuing of a building permit. However, the urban development inspector only proposes to the local self-government body to cancel the decision on issuing of the building permit where he establishes noncompliance with the planning document, and has no authority to act directly, which makes this norm inapplicable in practice, and a legal system set up in this way becomes the basis for a systemic or “legalized” corruption.

In an example analyzed, the urban development inspector submitted a proposal for cancellation of a building permit in the form of a decision²⁹ to the Secretariat for Spatial Planning and Sustainable Development of the Municipality of Budva. The Secretariat rejected the inspector's proposal, referring to provisions of the Law on General Administrative Procedure³⁰ where Article 214 reads: "a decision is considered to be final when it cannot be disputed by an appeal. Once the final legal effect takes place, the party may claim its rights unless otherwise stipulated by the law." While Article 215 lays down that "a legally binding decision is a decision that cannot be disputed through an administrative procedure or any other legal procedure and as such grants certain rights or legal interests to the party or imposes certain obligations on the party." In the said decision³¹ the Secretariat claims that it is not authorized to revoke the building permit concerned, and that the legal conditions for revoking it on the grounds of official supervision, laid down specifically by Article 257 of the Law on General Administrative Procedure have not been met. The Administration for Inspection Affairs appealed to the decision of the Secretariat to the Chief Administrator of the Municipality of Budva who then rightly issued a conclusion rejecting the appeal stating that it was made by an unauthorized party. In the rationale, the Chief Administrator referred to the provisions of the Law on Spatial Development and Construction of Structures, Article 148, item 8, laying down what administrative measures and activities an urban development inspector may undertake, but the Law does not lay down that the Administration for Inspection Affairs, as a public body, may appeal in terms of Article 219 of the Law on General Administrative Procedure. It is obvious that the law has to be amended in this part and adjusted to the needs of the supervision and protection of legality. Furthermore, the fact that such big systemic mistakes may pass all instances of checks before

29 Decision of the Administration for Inspection Affairs, Urban Development Inspectorate, Ref. No. 0402/3-718/3-1 of September 30, 2013

30 Law on General Administrative Procedure, Official Gazette of the Republic of Montenegro No. 60/03, 73/10, 32/11

31 Decision of the Secretariat for spatial planning and sustainable development Budva, Ref. No. 06-02-U-977/222/4

the law enters into force opens up a dilemma whether those are (un) intentionally incomplete legal norms.

The 2012 Report on the Status of Spatial Development states that inspectorial supervision in the area of construction of structures on the territory of the state is conducted by three building inspectors. In all municipalities of the northern region, inspectorial supervision is conducted by one building inspector, one inspector in municipalities of Bar, Ulcinj and one inspector for Podgorica, Cetinje and Danilovgrad, with no inspectors employed for municipalities of Budva, Tivat, Kotor, Herceg Novi and Nikšić. Skilled human resources are lacking also in the area of urban development supervision.

Insufficient human resources of the Administration when workload has increased due to the expiration of the Decree on entrusting a part of activities of the Ministry of Spatial Development and Environmental Protection to the Capital City of Podgorica³², which *had entrusted* state administration activities in the area of inspectorial supervision in spatial protection on the territory of the Capital City to the Capital City, as well as lack of coverage of a number of municipalities, notably coastal ones, by inspectorial supervision in civil engineering – requires *urgent* resolution of this issue.

According to the data from the Administration for Inspection Affairs, the report on activities of the spatial protection inspectorate in the period 1 January - 31 December 2013, in terms of the number and the character of actions conducted by urban development inspectors, is presented in a table, as follows:

32 Official Gazette of Montenegro, No. 61/08, 71/09 and 61/10

Report on the work of Spatial Protection Inspection for period from 01.01. to 31.11.2013

	Control upon complaint	Control ex officio	Overall number of controls	Action taken				Procedure suspension			Appeal		Decision enforced	Action taken upon inspector's order	Number of decisions in which costs of demolishing were charged
				Number of official records made	Number of calls	Number of decisions on demolition	Number of criminal charges	Building permit	Lack of competency	Forwarded to another body	Rejected	Accepted			
Ulcinj	199	824	1023	731	185	123	44	97	7	20	4	4	21	81	0
Bar	46	68	114	91	14	2	0	20	6	10	0	0	0	11	0
Budva	58	72	130	132	18	7	0	41	3	5	0	1	0	16	0
Tivat	66	59	125	128	14	14	0	3	3	5	0	0	11	0	0
Kotor	173	233	406	340	64	35	2	42	5	4	0	0	28	30	0
Herceg Novi	275	245	520	312	184	32	24	26	16	42	12	3	0	1	0
Podgorica	7	7	14	7	3	0	0	5	2	4	0	0	0	0	0
Danilovgrad	11	4	15	15	1	0	0	1	2	0	0	0	0	0	0
Nikšić	20	3	23	20	1	0	0	0	1	7	1	0	0	0	0
Cetinje	0	12	12	4	0	1	0	1	0	0	0	0	0	0	0
Kolašin	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0
Mojkovac	0	1	1	1	0	0	0	0	0	0	0	0	0	0	0
Bijelo Polje															
Berane															
Plevlja	26	66	92	68	34	7	0	24	2	9	2	4	0	0	0
Žabljak															
Andrijevica	1	0	1	1	0	0	0	0	0	0	0	0	0	0	0
Pluzine															
Plav	9	14	23	21	9	2	1	9	1	1	0	0	0	0	0
Rožaje															
Šavnik															
SUM	891	1608	2499	1871	527	223	71	268	47	109	19	12	60	139	0

3.3 The character and possible importance of the public

The basic standards of publicity of local self-government activities – transparency in decision-making, participation of citizens and transparency in provision of services – have been met to a limited extent in the area concerned. It can be seen also in the example of the report concerned. Namely, the normative solutions, but primarily through implementation of the laws and secondary legislation, should address better the public that would, in this case, assuming that the report on the status of the spatial development is adjusted to the needs of the public, be an additional and necessary critic, with the objective of improving the quality of the report. When it comes to this measure that is necessary, the legislator is heading towards centralization and lays down the obligation of the local administration body to present the report on the status of the spatial development to the Ministry and the administration body no later than 15 days from the day of adoption. This obligation should also be reinforced by the obligation to file a joint report of the local self-government body, the Ministry and the administration body for the purpose of continuous improvement of coordination in public policies implementation by various administration levels.

The Law on Spatial Development and Construction of Structures lays down that the Report on the Status of Spatial Development is published in the Official Gazette of Montenegro, in one print daily media outlet distributed on the territory of Montenegro as well as on the website of the Ministry, i.e. the local administration body. However, it is not a functional mechanism of public debate and public participation in the process of making decisions that directly influence the quality and character of public policies implementation, thus influencing the quality of life of citizens in local communities. Article 42 of the Law lays down, as a part of the procedure of adoption of a planning document, the obligation of the Government or local self-government body, depending on the authority, to organize a public debate lasting 15 to 30 days. The party responsible for preparatory tasks has the obligation to compile a report on the public debate and to submit it to

the developer, who then incorporates, as appropriate, the remarks and suggestions into the planning document. Also, the report on Strategic Environmental Impact Assessment is placed for public debate along with the draft planning document. Such a norm satisfies the public participation requirement formally, but in practice it is not the case. *Attendance of public debates is poor, organised on shortest legally prescribed notice, and competent authorities are not making any effort to improve and bring the issue of spatial planning closer to citizens. Draft planning documents are presented with excessive use of expert terms not understandable to lay persons who are then deprived of the opportunity to properly consider consequences that a planning document may produce in space.* A public debate institute set up in this way results in two most common consequences. One is creating additional room for corruption that can be hidden behind the overemphasized technical form of planning documents presented in a public debate; the other is a clear space for public speculations on possible intentions of decision makers and construction lobby groups linked with them. Furthermore, most of websites in the area of spatial planning and construction of structures have not been set up, while programs and reports on spatial development, decisions on the procedure of development of planning documents, applications for permits, etc. are very rarely published on the web sites of municipalities, all of which are obligations laid down by amendments to the Law adopted in 2011.

4. ACTION PLAN AND REPORTS ON SPATIAL DEVELOPMENT

Action plan for implementation of the Strategy for fight against corruption and organized crime for the period 2013-2014 is also a part of the legislative framework for the field of urban planning. It prescribes several core measures, from improving of the legal framework governing the issuance of building and use permits, through transparency of work and access to information in the possession of the cadastral units. One of the sub-measures is adoption of the Law on Legalization of Structures and establishing of legal obligation to biannually inform the public on the dynamic and nature of the implementation of the Law. *It is interesting that Action plan, as part of legalization, foresees transfer of right over land through direct negotiation for already constructed structures. This measure carries a high risk of corruption.* The intention to create a National Council for Urban Planning has been foreseen as a sub-measure for improving the normative framework, and it there more in order to pacify a guilty conscience for many mistakes and chaotic situation in the field of spatial development and construction of structures, than a system based guideline. Other prescribed measures are work on strengthening of administrative and human resource capacities of the inspection services, effective detection and prosecution of corruption and illegal construction, preparation of the Report on implementation

of the Action plan for fight against corruption in the field of spatial development and construction of structures.

Action plan for fight against corruption in the field of spatial development and construction of structures³³ contains 16 basic measures, which will be the focus of recommendations of this analysis, but one of them should be separately considered. The Plan itself was adopted in December 2009, and the measures which relates to organization of periodic meetings with representatives of NGO sector about the issues from the field of spatial development and construction of structures which should have been carried out continuously has still not been realized in practice.

The Report on spatial planning for 2012³⁴ provides necessary measures, identified at the level of the Government, for improvement in the field of urban planning and spatial development in the work of the local self-governments. These measures assume involvement of the Ministry of Sustainable Development and Tourism in drafting and adoption of planning documents from the jurisdiction of local self-governments; development of local planning documents based on the authorization of the Government of Montenegro for their adoption; technical assistance which the Ministry of Sustainable Development and Tourism provides to local self-governments and strengthening of capacities connected to the procedure for preparation of local planning documents; sectoral cooperation of state administration bodies and state institutions, local self-governments, business organizations and other legal entities; analysis of specific planning documents due to problems in their application; undertaking of available measures, actions and sanctions (administrative, misdemeanor and criminal) for legal and natural entities who acted contrary to prescribed duties. *From this it is evident that executive branch knows what and where is the problem, but the solutions are still notably inefficient and dysfunctional.*

33 <http://www.gov.me/files/1264424998.pdf>

34 Report on spatial planning for 2012, Ministry of Sustainable Development and Tourism, Government of Montenegro

The report identifies one of the key tendencies which will contribute to chaotic situation in the field of urban planning, and that is a sudden influx of investments which will last for several years. But this did not have influence on finalizing the system of spatial development and construction of structures, and in recent years, as the report confirms, there have been some unsuccessful attempts to come to an adequate normative base. The new Law on Spatial Development and Construction of Structures has been planned for 2013, was transferred to 2014, and the new Law on Coastal Zone has still not been adopted, and adoption of the Law on Legalization of Informal Structures was prolonged as well.

When it comes to the impact the investments have on the situation in this field, the Report states that, statistically speaking, Montenegro has 3 years in a row, recorded the highest influx of foreign direct investments (FDI) per capita in Europe. In the period 2006-2009 total FDI amounted to over 3 billion EUR, of which only during 2009 there was an inflow of 1.07 billion EUR. In 2011, there was an influx of 534 million EUR, which is for 158 million EUR or for 22.83% lower than in 2010.

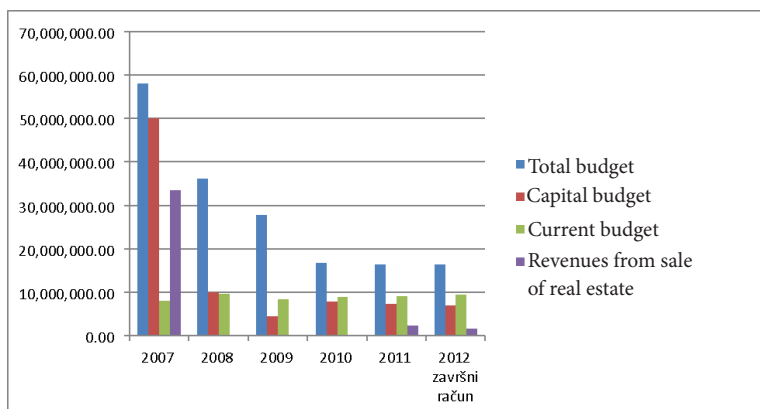
Both FDI and domestic investments will follow the consequences of poor budget planning and spatial management at the local level. Through several graphs we will show budget trends, investment trends, rapid growth and then sharp decline in local budgets. *Until today, none of the state institutions have in a proper manner examined the work of local self-governments in this period and connected investments and management of urban construction land with realization of investments in urban planning. The space for corruption was wide open, and in many cases it was used; however, it has not been investigated and prosecuted, in spite of numerous visible evidence, in addition to those that have been documented by non-governmental organizations and media.*

5. TRENDS IN LOCAL BUDGETS 2007-2012

5.1 Municipality Bar

The information pertaining to final budget account of the Municipality Bar, from 2007 to 2012, clearly show rapid growth in 2007 for more than the annual budget until that time. Local self-government in Bar, at that time, did not have prepared investment project, medium-term projects, adequate planning documents, and for that reason there are no significant investments which would induce different forms of private initiatives and the new opportunities for filling of the local budget. Instead of that, the public becomes aware of the numerous scandals in connection to urban planning and suspicions that there is a conflict of interest of the mayor, and the budget of the Municipality Bar decreases from unbelievable more than 55 million to just over 16 million EUR. The category “sale of urban construction land” explains such negative trends despite the fact that the money was there, so it can be assumed that there was an opportunity for realization of the development budget from 2007 until today. In 2007, over 32 million was the turnover in sale of urban construction land, whereas from 2008 until 2010, according to the final budget accounts for these years, there was no turnover in sale of urban construction and it continues in the amount of app. Two millions in 2011 and only one million in 2012. Capital budgets from 2008 to 2012 have relative balance and in average these are app. seven millions. Compared to fifty millions of

the capital budget from 2007 this is enormous difference that testify about the inadequate budget planning and anticipation of tendencies in relation to the current state of affairs. A chance to create alternative development opportunities was lost, and today the budget for the most part covers the running costs and from that most of the money goes for the costs of the cumbersome and inefficient local administration.



Graph 1: Final budget account of the Municipality Bar 2007 – 2012³⁵

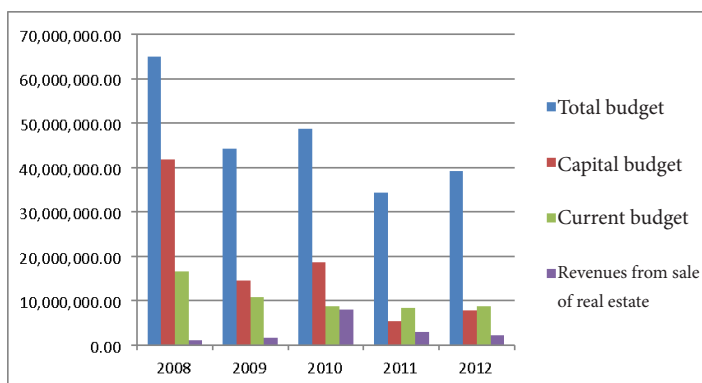
5.2 Municipality Budva

The graph shows tremendous growth of the budget of the municipality in 2008, followed by a significant decrease, with debts of the local self-government. Especially dramatic decline can be seen for category “capital budget”. It suffered much bigger decline than the category “current budget”. In previous years, total capital budget was lower than current budget, which represents the most serious consequence of poor planning and management of budget funds. Budva has the most oversized local administration in Montenegro, with more than

³⁵ For 2007, 2008, 2009, 2010 and 2011 information are obtained from the Decision on amendments and changes of the budget of the municipality, whereas the figures for 2012 are obtained from the Final budget account of the Municipality Bar

1000 employees. All of the aforementioned are preconditions which create both in Budva and in Bar, and in some other municipalities, fertile ground for corruption in the sphere of urban planning, but also in some other areas.

Budva has something specific in comparison to other examples: revenues from the sale of real estate (city construction land) practically do not exist, and budget for 2007 and 2008 is extremely high. Namely, Budva has entrusted management of its property to the company Budva Holding LLC, which caused the category “revenues from sale of real estate” to be in visible disproportion with other parameters, because the funds are relocated to this municipal enterprise. This additionally makes it difficult to conduct monitoring of revenues and expenditures of Municipality Budva. The establishment of this company was followed by controversies in Montenegrin public, which last until today.



Graph 2: Final budget account of the Municipality Budva 2007 – 2012³⁶

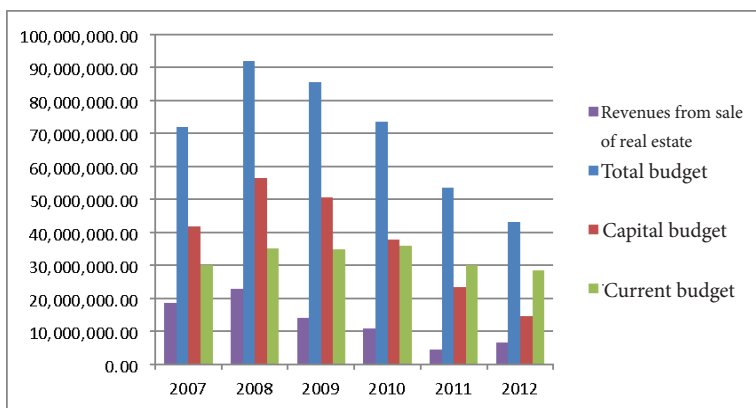
5.3 Capital city Podgorica

Overview of the budget of Capital city Podgorica also first shows a drastic increase in the budget, which was primarily based on the sales

³⁶ Information are obtained from the Decision on amendments and changes of the budget

of the urban construction land, and after a halt in sales a trend of sharp decline in the budget appeared, which continues today.

Specificity of the capital city is that in the period of the most dynamic sales of the urban construction land this was done contrary to the law, which was subsequently resolved by revoking of the controversial municipal Decision on urban construction land³⁷, and jurisdiction over it was returned to the Assembly. In this way, corruption was systematically enrooted in the work of the local self-government.



Graph 3: Final budget account of the Capital city Podgorica 2007 – 2012³⁸

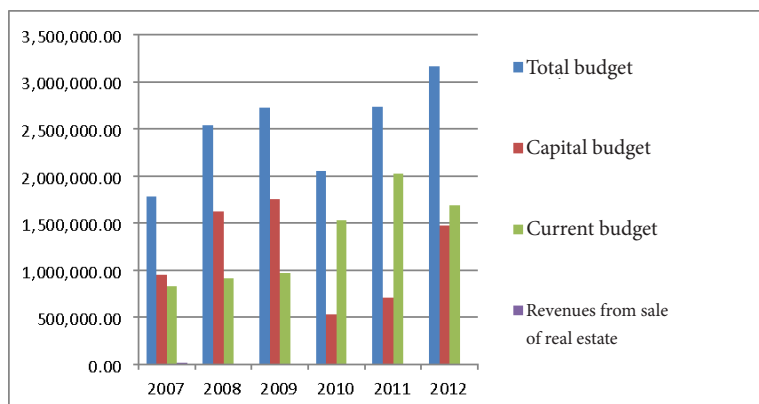
5.4 Municipality Mojkovac

Mojkovac is a municipality which did not have a trend of selling of urban construction land, but also it is a beneficiary of the Equalization Fund. Municipal budget now exceeds three million EUR, but there is a certain continuity and balance. This

37 Decision on urban construction land, Official Gazette of Montenegro- municipal regulations 30/03 and Official Gazette of Montenegro- municipal regulations 11/08, revoked by the Decision on termination of the decision on urban construction land, Official Gazette of Montenegro, municipal regulations 18/09

38 Information are obtained from the Decision on amendments and changes of the budget

municipality is listed as one counter example to the local self-governments where selling of urban construction land flourished, and the budget dramatically changed from year to year.



Graph 4: Final budget account of the Municipality Mojkovac 2007 – 2012³⁹

³⁹ For 2007, 2008, 2009 and 2010 information are obtained from the Decision on amendments and changes of the budget of the municipality, whereas the figures for 2011 and 2012 are obtained from the initial Budget Plans

6. EXAMPLES FROM PRACTICE

Great economic growth of Montenegro, which peaked between 2007 and 2009 and positioned Montenegro as one of the fastest growing economies in Europe, mostly happened because of enormous influx of money through real estate market. Foreign and domestic investors bought land in all parts of the country paying prices that were unthinkable until that moment. For example, average price of square meter of housing space in Budva during 2008 was 3.232,4 EUR⁴⁰, and many land owners became millionaires by selling rocky land and pastures, land covered with low growth vegetation, forested land of the lowest quality on unapproachable terrain etc.

Price of square meter, in the first wave of buying, was determined mostly by attractiveness of the location and ownership structure. Only in the second wave, when local self-governments started adopting special plans of higher and lower order (SUDP, GUP, DUDP, LLS) the price of square meter was determined also by possibility of constructing of real estate on certain location. If the location of the lot in question was part of Detail Urban Plan or local location study and if construction of structure for touristic or housing purposes was planned, one square meter was ten times more expensive than the lot next to it that was either not part of DUP or LLS or there were no plans for building of structure. Municipalities were supposed to adopt special plans in line with public interest, in line with long-term development plans, having in mind recommendations of experts and

40 Analysis of the real estate market done by the Central Bank of Montenegro, http://www.cb-mn.org/slike_i_fajlovi/fajlovi/fajlovi_publicacije/radne_studije/analiza_trzista_nekretnina.pdf

studies that determined function of the space. However, practice was inconsistent and often done outside of procedures, which created a space for corruption and fulfilling of individual interests, while public interest was of secondary importance.

In that way, *the politics of local self-governments directly affected moving of prices on market, which created huge space for corruption.* Speed of development, placing on the agenda of local parliaments, voting and adopting of specific plans directly increased price of land in private property. Frequent changes of the Law led to the chaos in environment for strategic defining of space development in Montenegro. Inconsistency of the Governmental policy in that regard represents one of the most important causes of the practise in which the plans of the lower rank were adopted without previously adopted plans of higher rank, which provided wide range of possibilities for the planners and local authorities to create spatial plans without clear criteria in relation to the long term development road maps. In such a way municipality Budva, for example, since current Law on special development and construction of structures entered into power, adopted 12 DUDPs, 2 amendments of DUDPs, 8 urban projects and 34 local location studies, and at the same time failed to adopt SUDP, which should have been a basis for all of these documents according to the Law.

In adopting of detailed spatial plans, which precisely determine size of structures to be constructed, municipalities did not take care of public interest. Instead, in line with wishes of investors, they were placing in them structures that have already been illegally built or that were already planned by investors. There were numerous examples of individuals who, through preferential treatment of local bodies, received plan documents for their lots that help them build or sell land for enormous profit, while the others that were not “favourites” of local self-government, were left with less than equal position on the market.

By working in favour of preferentially treated individuals local self-governments at the same time damaged local and state budgets through special planning of the land that just became attractive for

the market. Opportunity for enormous budget income appeared to coastal municipalities that had in its own possession hundreds of thousands of square meters of land on the seaside, which appealed to many potential customers. Such land was largely non-urbanised or it was planned as green zone, agricultural land, forest, pasture, meadow etc...

Through amendments of special plans on all levels or through adopting special location studies, in cases where the space was not encompassed by PUP or GUP, state owned land at the disposal of municipalities reached unbelievable prices. There were examples where a square meter worth 30 EUR, after adoption of plan documentation that envisaged construction of structures reaches price of 500 EUR. Through this mechanism, coastal municipalities had a possibility to, after making these lots part of urban planning, get very high prices for it on real estate market which could bring hundreds of millions of EUR to the budget. These incomes could have been used to initiate large infrastructural projects to solve the most important problems on Montenegrin coast, such as water supply, sewer, roads...

Despite this possibility local officials worked against public interest. Municipalities sold non-urbanized land in categories such as rocky land, pastures, olive groves and forests at extremely low prices and after the land would be in possession of privileged private owners, they would change urban plans and turn them in valuable construction lots with possibility to build on them touristic and housing structures. Municipalities were directly assisted by the Government in directly damaging municipal budgets, because in line with the Law on state property local self-governments needed consent of the Government in order to sell the state-owned land on public auction or directly to the buyer.

Best examples for such practice of selling of state-owned land, that only subsequently becomes urbanized, we can find in Budva – coastal municipality that sold the most lots of land and which set records in terms of price per square meter.

6.1 Kuljače – Duljevo

Municipality Budva sold in the last five or six years around 30 lots of land. Some, huge municipal lots were sold at high prices, while most of the lots were sold at extremely low prices, main reason for this being the fact that there were no plans envisaging building of structures in these areas. Price of development of DUP or local location study ranges between 7,000 and 20,000 EUR, and through adopting of these documents the value of the land increases manifold.

We will demonstrate on example of selling of land in Kuljače how the mechanism where individuals make money on the expense of the budget works. Around 34 000 m² municipality Budva sold in 2011, with the consent of the Government, on public auction at the price of 35 EUR per square meter⁴¹. The lot was sold without local location study which would envisage building of touristic construction and at the moment of sale it was encompassed by GUP for Coastal area of Municipality Budva – sector: Kamenovo – Buljarice.⁴²

Before the land was sold expert appraisal of the value of the lot said that price higher than 30 EUR per square meter is unlikely to be achieved, because no construction is envisaged for the lot. Appraisal also states that the land at the same location, but with adopted special plan that allows construction would reach between 70 and 150 EUR.⁴³

Neglecting the fact that the lot would reach at least double the value after local location study, municipality Budva takes a decision to

41 Decision on transfer of immovable property by public competition: Cadastral lot 1794 KO Kuljače – Local Assembly Budva, May 31, 2011, 0101-202/1

42 Textual interpretation of the Secretariat for the protection of property of Municipality Budva, No. 06-8669/2 date: November 2, 2010

43 Report on the appraisal of the land value for location Kuljače- Municipality Budva- October 2010. Dreamy LLC, Sanja Radović, M.A. „Authorized appraiser

sell at price of 35 EUR per m². Three years before the sale, bodies of local self-government placed urbanization of location Kuljače in programme of spatial planning of municipality of Budva in 2008. However, urbanization was done only after the land was sold at record low price to private owner.⁴⁴

Not long after the sale, municipality Budva adopts local location study for Kuljače and envisages for the lot, which has been sold to private company few months earlier, building of touristic resort. That way, the value of square meter sold by municipality Budva at 35 EUR becomes between 70 and 200 EUR.

It is also interesting that there is an article in sales agreement between municipality Budva and private company that says: "Municipality makes an obligation to adopt planning documentation for sold lot within a year, and if it fails to do so to compensate the damage to the buyer"⁴⁵. Of course, municipality Budva fulfils the commitment stipulated in the contract and adopts Local location study for the lot in question. *In that way, instead of making between three and five million EUR, local self-government made only one million, the amount for which the land was sold.*

6.2 Podgorica – Stari Aerodrom

Another example of urbanization of land contrary to public interest and damaging of local budget we find in Capitol City Podgorica. Case of selling of 15,000 m² of land to private company "Carine" at location Stari Aerodrom was one of the main news in media because of the way in which the land was sold to private company – illicitly, through direct bargaining for the price far lower than market value.

44 Program for spatial development for 2008 adopted at the session of Local Assembly Budva on December 29, 2008

45 Contract on sale of immovable property No. 001-1409/1 date: July 8, 2011

Mayor of Podgorica, without consulting local assembly, made possible for company “Carine” to buy without public auction at the price of 165 EUR/m² a very attractive zoning lot not far away from the centre of the city. The decision of the mayor was illegal and after law suit was submitted to Administrative Court, it abolished the procedure on the ground that mayor cannot without consent of the local assembly sell land through direct bargaining. After this, public auction was organized where price of square meter reached 900 EUR/m² – five times higher than the one set through direct bargaining of Capitol City and company “Carine”. *By comparing the price of direct bargaining with the price from public auction, it is clear that possible damage to the budget is 11 million EUR.*

Soon after the public auction company “Carine” decide to give up on purchasing the land at the price of 900 EUR/m², and the local assembly makes a new decision to sell the land again through direct bargaining to company “Carine” at the price of 165 EUR/m² in order to “complete zoning lot”.

Thus the mayor removed responsibility from himself for a deal that was obviously damaging for local budget and transferred it to councillors in local assembly. State prosecutors office, although receiving a number of charges, never initiated investigation of this case because of opinion that the decision about “completing of zoning lot” was made in line with the law, which can be justified in a way, if we have in mind that current law allows the room for abuses.

The obvious abuse of Capitol City in this deal was related to process of urbanization of sold land. When the lot was first sold to company “Carine” through direct bargaining at price of 165 EUR/m², DUP envisaged it as service-warehouse zone – which means that it was possible to build depots and warehouses on this land. After the deal was abolished by the Administrative Court and the land sold at public auction for 900 EUR/m², DUP was amended and the then it envisaged building of housing-business space instead of industrial zone, that is apartments for market that very quickly bring multiple profit. Also, the profit is much quicker and about ten times higher than profit from depots and warehouses. Company “Carine”, however, at

this point gives up on buying the lot at a price reached at the auction, and local assembly makes a scandalous decision to sell the same lot to “Carine” through direct bargaining for 165 EUR/m². This fact causes direct damage to the budget, because the land was sold through direct bargaining at the same price that was agreed when building of depots and warehouses was envisaged for this lot, despite the fact that amendments of DUP allow building of high-profit apartments for the market.

6.3 Civic initiative of Janko and Caroline Jovičević regarding illegal construction in Karuč

Attempt made by Janko and Caroline Jovičević in period from April 28 to December 3, 2008 to stop building of illegal structure on territory of National Park Skadar Lake in Karuč, in Old Royal Capital Cetinje, by owner D.J – represents a rare and praiseworthy example of civic initiative in practice.

Although wide-ranging and very systematic efforts of Jovičević failed and D.J. managed to complete building of his structure, the case is very important and illustrative. On one side, it reveals slowness of institutions regarding stopping illegal building on territory of Montenegro. On the other hand, it illustrates general lack of willingness and interest of competent authorities to adequately react within their competencies in order to protect public interest, having in mind that this is criminal offense clearly defined by Criminal Code of Montenegro. However, it is worth to document rare initiatives and efforts of those individuals that are ready to identify and initiate prosecute, to the extent of their abilities, examples of violations in their nearest environment.

Below is the short presentation of the most important moments related to the initiative of Jovičević, taken over from comprehensive Chronology of the case with complete documentation.⁴⁶

⁴⁶ Archive of Janko and Caroline Jovičević given for a review to CCE

S.Š. told Jovičević that he intends to build a housing construction on the lot where they were standing. Jovičević warned S.Š. that the future structure – if built on the spot S.Š. believed it would be most suitable – would cut across marked public pedestrian path 791 – 791a that begins in Rvaši and goes over Karuč to Drušići and further to Prevlaka⁴⁷. S.Š. and Janko Jovičević met on April 28, 2008 in Karuč. By the way, the path was used by local population for centuries and after it was marked it was expected to become an important segment in touristic infrastructure of the whole Ceklin area. S.Š. reacted by telling Jovičević that he has a building permit.

After that Janko and Caroline Jovičević wrote a memo in which they said that, among other things, future construction of S.Š. will be placed on the very coast of Skadar Lake and that it would block the access to pedestrian path. This memo, together with several maps and photographs in which they precisely presented the problem, was sent on May 4, 2008 to addresses of Republic inspection for construction under Ministry of Economic Development; Old Royal Capital Cetinje (to Mayor Milovan Janković); National Park Skadar Lake (to the Director Zoran Mrdak); to GTZ (Director Thomas Waldruff) and to NGO MANS (to Co-ordinator Dejan Milovac). They also notified officials of Local Community (LC) Rvaši, Karuč is part of.

Additionally, on May 13, Janko Jovičević notified over phone Nataša Garčević, Chief Construction Inspector, as well as National Park Skadar Lake that S.Š. started preparing the terrain for beginning of construction works. On the same day, Obrad Gazivoda, vice-president of LC Rvaši received from J.Š, father of S.Š, Decision on location of structure of owner D.J, who also owned a lot, Urbanistic-technical terms and a copy of a plan – which is to say that S.Š. was working on behalf of D.J. who owned the lot.

Borka Novković, construction inspector, showed up on Karuč on

47 The path was marked on March 26, 2008 within the „Project for making and labeling of trails in the National park Skadar Lake“ by the staff of Mountaineering Association of Montenegro, which was hired by GTZ (German organizational for technical cooperation)

May 16 and made a review of the situation on the lot of D.J. Jovičević sent an email with photographs on May 20 to Nataša Garčević and others, notifying them that building across the path begun as soon as inspector Novković left the location. Then on May 26, they wrote to ministers Branimir Gvozdenović and Predrag Nenezić together with all of the documentation and photographs. Republic inspection for construction on May 27, made a Decision on forbidding the continuation of works and sealing of structure on Karuč of owner D.J.

GTZ and Jovičević in beginning of June both hired lawyers in order to determine whether or not the issues related to paths and their usage was regulated in Montenegrin laws. Both lawyers provided the same interpretation: path that crosses the land has a legal priority over later changes of ownership of land or building on the land.

In memo dated on June 4, Borka Novković notified Jovičević that after inspection review of the situation she came to the conclusion on May 16, the day when she was on Karuč, that no building or reconstruction of any structures was started. Jovičević on the same day in daily "Vijesti" pointed out to illegal building taking place in Karuč. S.Š. denied claims of Jovičević with words: "I have all permits", to which Jovičević replied: "If everything is clean, how come there is a seal?"

Jovičević found out on June 23, that D.J. did not have building permit at the moment when he claimed that he did, but that it seemed to be certain that such permit would be issued to him. Therefore, they sent a letter and attachments to ministers Gvozdenović and Nenezić, to let them know that the spot in which D.J. begun construction works is not the one for which decision on location of construction was issued, and also that he build over legally protected path. The same letter was delivered to Maja Velimirović-Petrović, Deputy Minister for spatial planning in Ministry for Economic Growth and Chief Inspector Gačević. There were no replies.

D.J.- received building permit on July 1, 2008, and Jovičević soon

after found out that building permit pertains to reconstruction of (non-existent) housing and not to building over pedestrian path. In line with the Law on Free Access to Information, Jovičevićs requested Velimirović-Petrović to make available the following documents:

1. Decision which approves building location for construction on lot no 2273/6 KO Rvaši, Municipality Cetinje, in the area PPPNO "Skadar Lake";
2. Urbanistic-technical requirements for the same structure;
3. Project task of investors with approved technical documentation for the structure;
4. Building permit for the structure.

Memo sent by Goran Miladinović, construction inspector, to Jovičevićs on July 11, determines that D.J. failed to follow project documentation, meaning main project, which is put in official record. Dimensions of illegal construction are in basis $13 \times 7 = 91\text{m}^2$, instead $9 \times 4 = 36\text{m}^2$, as specified in building permit. Inspection ordered investor to submit to competent body of Ministry for Economic Development request to be granted additional building permit in line with amended project and has forbidden continuation of construction works in official record.

Jovičevićs received on July 19 building permit of D.J. but did not receive other documents they requested from Veimirović-Petrović.

Jovičevićs sent on July 22, 2008 memo with photographs to Nataša Gačević and the others, and they also notified representatives of international community (Ambassador of FR Germany in Montenegro, Head of the UNDP office in Montenegro and Director of GTZ) that the location for which D.J. has building permit for renovation of ruined housing is not the same location in which he is building new structure without opposition. On the same day D.J. submitted a request to Ministry for Economic Development to be granted additional building permit (from 36m^2 to 91m^2).

Janko Jovičević was notified on July 25 that documentation was forwarded to urban planning inspection to determine construction

and regulation line of construct of D.J and if the object was being built on position specified. Željka Vranić, Chief Inspector, sent inspector Bisera Alihodžić to Karuč on July 7. Alihodžić reported to Gačević who notified Janko Jovičević over the phone on August 4, that she did not find any irregularities – despite the fact that inspector did not find any housing or remains of housing on location of illegal structure belonging to D.J. although building permit was issued for reconstruction of the housing. Also, she determined that dimensions of illegal structure at its base are $13 \times 7 = 91 \text{m}^2$ instead $9 \times 4 = 36 \text{m}^2$, as specified in building permit.

On August 18, Jovičevićs have submitted a letter with photographs and other accompanying materials to the Minister Gvozdenović. They also notified him that at the time when inspector Gačević asked the zoning inspector to verify the exact location of the housing, which allegedly egzisted on D.J.'s plot, D.J. has engaged agency for staking out of buildings, authorized by the Real Estate Directorate of Montenegro, to place stakes around the part of the almost finished illegal structure, so that it would seam as if the housing was in this position during the entire course of construction. Minister Gvozdenović and Inspector Gačević have on this occasion been informed that D.J. is breaking the law:

1. by using building permit issued for the building of 36m^2 in order to construct the building of 91m^2 ;
2. by building at the wrong location,
3. by removing seals from illegal structures and continuing with the construction under false pretexts,
4. by removing seals from illegal structures and continuing with the construction under false pretexts placing stakes when the structure was almost finished, in order to try to prove that the housing existed on the site before he commenced the works,
5. by building over public pedestrian path.

Jovičevićs have on August 19, 2008 received a letter from Goran Miladinović, Inspector for construction, which reads: "Though the inspection control we have found that the investor is continuing with

performing of construction work disregarding the official record on prohibition of construction. Inspector for construction issued a decision prohibiting the construction, because performed works have not been done in line with the technical documentation, based on which building permit has been issued. But, regardless of all of this, D.J. continued with building without interruptions, after he illegally removed the seal on June 25 until the end of construction in October 2008.

On August 21, 2008, Jovičevićs have sent an email to the Real Estate Directorate of Montenegro (to the Director Mićo Orlandić), with the request to determine in what way did the agency for staking, authorized by the Real Estate Directorate, perform staking of the structure that belongs to D.J. and subsequently issued a protocol on staking out of illegal structure.

After this, on August 27, 2008 Jovičevićs sent to Brussels complete documentation about this case to the address of Martin Harvey from the Directorate General for Enlargement of the European Commission, and he forwarded it to Theresa Sobieski, Head of the Department for Montenegro and Serbia. Sobieski has sought and received permission from Jovičevićs to use documentation as an example of the problems in spatial planning and illegal construction during her talks with Montenegrin authorities. Sobieski has also submitted the documents to the Ambassador Slavica Milačić, Head of the Permanent Mission of Montenegro to the EU, and she informed the Prime Minister Milo Đukanović about the case and forwarded the documentation to Gordana Đurović, Deputy Prime Minister and Minister Branimir Gvozdenović.

On October 20, 2008 Jovičevićs had a meeting with Željka Vranić, Chief Inspector for urban planning. It has been confirmed that Bisera Alihodžić, Inspector for urban planning, apart from the newly built structure did not see any old housing on the land of D.J.

Jovičevićs had an insight into the cadastral plan of Karuč and

Cadastral lot 2273/6, of the owner D.J. They found that on the copy No. 942-119-60/08, from February 18, 2008 there are mapped in two housings/ruins, while on the copy of the plan No. 942-119-498/07, from November 14, 2007 which was submitted to the Ministry for Economic Development and based on which D.J. was issued a building permit there is only one housing/ruin.

Željka Vranić, Chief inspector for urban planning, has officially confirmed on October 20, 2008 that real dimensions of D.J.'s structure are 7x13m, which is two and a half times more than the dimensions of 9x4m for which he received building permit. Along with Nataša Gačević, Chief inspector for construction she sent a letter on October 21, 2008 to the Real Estate Directorate in which they request an inspector for geodetic to conduct an inspection control over LLC "Premjer" from Herce Novi, a company which carried out staking of D.J. structure and submitted to the inspection the Protocol on staking out. Also, it was requested that the inspector for geodetic prepare findings from the field regarding the position of the old housing, new structure that is being built, and pedestrian path going through cadaster lot 2273/6 KO Rvaši, Municipality Cetinje.

On October 29, 2008 Jovičevićs received an email from the Ambassador Slavica Milačić in which she confirms that Gordana Đurović received documentation about Karuč case, and subsequently they have sent an email to Đurović to request a meeting. They never received any response from her.

Clive Rumbold, Head of Political, European Integration and Trade Sector within the Delegation of the European Commission to Montenegro, met with Jovičevićs on November 13, 2008. On this occasion, they informed him in detail about the case of illegal construction on the path in Karuč, as well as about the sale of 26,388m² of land in Karuč – by the Old Royal Capital Cetinje – D.J., S.Š. and M.B.

On November 17, 2008 Jovičevićs have sent the documents about

the case via email to Gordana Đurović, President of the National Commission for monitoring the implementation of the Action plan for the fight against corruption and organized crime and to Vanja Čalović, member of this Commission and Executive Director of NGO MANS, noting that this case may be interesting to the Commission.

Yvonne Mueller from GTZ has informed Jovičevićs on November 20, 2008 that on the initiative of the Ministry of Economic Development a joint working team has been formed, consisting of representatives of GTZ and the Ministry. This team would analyze legal and institutional system of issuing of building permits and control of structures that are built within the borders of National Parks, using just the case of illegal construction in Karuč as an example. On this occasion Mueller enclosed the Minutes from the meeting held on November 17, and organized on the initiative of the Minister for Economic Development Gvozdenović. The initiative was based on the case of illegal construction in Karuč, on the territory of the National Park Skadar Lake, which is the subject of extensive documentation in possession of the husband and wife Jovičević, and which was sent to multiple addresses of the senior officials of the European Union, UN organizations, German Government, etc. as well as to the Prime Minister of Montenegro. Consequently, Prime Minister of Montenegro has requested from the competent minister to inform him about this issue as soon as possible. Mueller explained that the narrow group will consist of: Branko Radusinović, Adviser to the Minister; Željka Vranić, Chief inspector for urban planning and Sanja Lješević from GTZ. Wider group will analyse the report of the narrower group before it is presented to the Prime Minister Đukanović. On November 23, Jovičevićs have promised to Yvonne Mueller that they will put together a full chronology of the case with complete documentation and that they will submit each member of the two groups with copies. On December 3, 2008 Jovičevićs submitted the requested chronology.

As an epilogue, the procedure was conducted before the competent court, and the first instance court acquitted the two building inspectors (Borko Novković and Goran Miladinović) who have been

charged with misuse of official position. The first instance decision was adopted on September 25, 2012 and Basic Prosecutor from Cetinje appealed the decision. His appeal was declined by the council of the High Court in Podgorica, by the judgment from February 6, 2013. Jovičevićs got in possession of the High Court judgement a few months after the deadline for appeal. In this way this case has been finalized in court after four years, which sends a discouraging message to the active citizens, such as *Jovičevićs whose persistence is impresive, and who are apparently considered a nuisance in this system in stead of being regarded as a useful support in fight against unlawful acts.*

7. CONCLUSIONS AND RECOMMENDATIONS

Although spatial planning is an issue of multitudinous importance for the state and its citizens, which are not only concerned by the field of spatial development, but with the overall socio-economic environment, little has been done on its systematic and sustainable resolution. Inadequate spatial interventions distort the identity of Montenegro and endanger the living standards. Involvement of public in the planning process has been foreseen on the normative and institutional level, but in practice it still remains to be very limited.

There are some serious problems in application of the policy of spatial development and these problems relate to: communal equipping of the buildable land, insufficient instruments for appliance of the planning document (property –legal relations), the shortcomings of the planning documents which cannot be seen until the plan is transferred to the terrain, transferring of planning documents to cadastral maps, the size of zoning lots, as well as the problems in communication between the bodies at the local and state level, lack of qualified personnel- inspectors for construction, as well as normative deficiencies in the work of Building inspection, etc. Since the adoption of the Law on Spatial Development and Construction of Structures, which foresees the obligation of local governments to adopt Spatial-urban development plans of the local self-governments by December 31, 2012, only seven municipalities have realized this obligation. Generally, adopted planning documents, as well as those that are in the phase of drafting, represent a contribution to the improvement of situation in the field of spatial planning.

Through the examples and described mechanisms of abuse, and primarily abuse of official authorities, weakness of the state and local self-governments to protect the public interest can be clearly seen. Inadequate control of the use of the state property and spatial planning is prevailing, as well as urbanization in favor of privileged individuals, instead of the benefit of the state and local budget, and consequently the benefit of the citizens who gave mandate and money to the authorities to protect public interest.

Adoption of the new Law on Spatial Development and Construction of Structures from 2008, as well as numerous amendments and changes of this law that followed, did not give adequate response to various challenges in practice which in practice creates space for corruption without legal consequences. The new law was announced, as well as some other connected laws (Law on Coastal Zone, Law on Legalization of Informal Structures) which does not change the existing troublesome situation.

Cities and settlements are faced with the threat of the loss of identity, and at the same time with the possibility to get a new one. Coastal area, coastal zone, as well as national parks, as specially protected areas have huge potential for development, especially in the field of tourism, but on the other side this is the area where there are a lot of pressures on natural resources, with serious violations of the law. Spatial planning and dedicated management of land can present this negative tendency.

Therefore it is necessary to::

- ✓ Not allow to local self-governments to sell the land that has not been urbanized, and to urbanize it after it becomes a private property by adoption of DUDP or LLS and to allow construction of structures, especially of those that allow investors to “overnight” make quick profit, such as through building of apartment building for sale on the market;
- ✓ Introduce a legal obligation of preparation of studies at the local level to determine the existence of “easy targeted

areas” with the highest risk for the occurrence of corruption in urban planning;

- ✓ Improve local action plans for fight against corruption by elaborating special parts which would determine the measures and actions for detection and prevention of corruption in urban planning at the local level;
- ✓ Invest great efforts in order to prevent illegal construction and use social consensus about the harmfulness of the devastation of the land as support to the reforms. On this front, there are two main tasks: to stop the illegal construction, while respecting the principles of Vienna Declaration⁴⁸ and to create systemic preconditions for legalization and integration of structures, and especially for regularization;
- ✓ Develop a model that would protect public interest and establish commitment of the local self-government to develop detailed spatial plans, before it sells the land so that the lots would receive real market value, by which local self-governments would significantly increase their budget revenues from the sale of the state property;
- ✓ Continuously work on increasing the capacities of local employees so that they would have better understanding of the risks of corruption, as well as on promotion of inter-institutional cooperation;
- ✓ Improve public debates an institute that was provided by the law in favor of a clear picture of the consequences the planning documents will have on the space, which will allow lay public to have full insight into the quality of the plan. At the same time, public debate should also be organized for decisions about the sale of the urban construction land with the clear motive why the sale was initiated and what is its future intended use;
- ✓ Provide by the law a specific procedure for informing the public about the decisions for adoption of planning documents which in a different manner organize the space,

48 http://www.crnakutija.babe.hr/attach/ b/becka_deklaracija_i_program_djelovanja.pdf

change its purpose, and previously existed a plan or location study for that space;

- ✓ Identify areas where there is a gap between the law and practice;
- ✓ Identify the causes that lead to business barriers;
- ✓ Improve the existing system for reporting of illegal construction and establish clear, precise and public procedure for acting upon the reports, as well as upon the appeals and complaints on the work of the inspectors;
- ✓ Provide networking with databases of inspections in the field of construction of structures and spatial development, as well as with the Police Directorate, Ministry of Justice, municipal services, prosecution and judicial bodies, without signing of the Agreements of cooperation, but with the analysis of the legal obligations and strict compliance with the law;
- ✓ Conduct a study about working positions which are potentially exposed to corruption;
- ✓ Introduce and develop unified information system, on all levels of the state administration which would regulate the system of spatial development, as well as the manner and conditions for construction of structures in Montenegro;
- ✓ Establish as a practice effective prosecution and adjudication in cases of the violation of the official seal of inspections by investors or building contractors;
- ✓ Prepare an annual training plan to include the trainings on: the issues of integrity, application of the code of conduct, fight against corruption for managers and employees, information systems;
- ✓ Organize periodic separate and when needed joint meetings of the representatives of private sector, NGOs and local communities.

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Replies of the competent local authorities and state bodies to the questionnaire of CCE:

Municipalities

1. Danijela Marotić, Secretariat for planning and sustainable development, Municipality Budva
2. Slavko Velimirović, Secretariat for urban planning, municipal housing and environmental protection, Municipality Danilovgrad
3. Vladimir Bulatović, Secretariat for planning and spatial development and protection of environment, Municipality Kolašin
4. Slavica Vojinović, Secretariat for urban planning, construction and spatial planning, Municipality Kotor
5. Jović Marković, Secretariat for planning and sustainable development, Municipality Mojkovac

6. Nebojša Adžić, Secretariat for spatial development and protection of environment, Municipality Nikšić
7. Vladimir Knežević, Chief Administrator, Municipality Plužine
8. Tatjana Stanković, Secretariat for planning and spatial development and protection of environment, Old Royal Capital Cetinje
9. Secretariat for spatial development and protection of environment , Municipality Tivat

State bodies

1. Hajradin Osmanović, Department for inspection of protection of environment, Sector for spatial and environmental protection, Directorate for Inspection Affairs
2. Milja Stanojević, Directorate for spatial planning, Ministry of Sustainable Development and Tourism

Websites:

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2. Municipality Bar – www.bar.me
3. Municipality Budva – www.budva.me
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7. Municipality Mojkovac – www.mojkovac.me
8. Municipality Nikšić – www.niksic.me
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