

MONTENEGRIN HOUSING LEGISLATION GAP ASSESSMENT

- **Existing housing legislation**
- **EU regulations on housing**
- **A new PPP Housing scheme for Montenegro**
- **Assessment of the new Housing Law**
- **IIBW model housing regulations**

October 2010

in cooperation with the Ministry for Spatial Planning and the Environment of Montenegro
financed by DIGH – Dutch International Guarantees for Housing
and Fund Werken aan Wonen (FWAW)



Institute for Real Estate Construction and Housing Ltd.
PB 2, A-1020 Vienna, Austria
T: +43(0) 1 968 6008
office@iibw.at
www.iibw.at

ISBN 978-3-9500588-8-8

IIBW-project team:

Associate Professor Dr. Wolfgang Amann (lead),
Dr. Nadejda Komendantova, MMag. Alexis Mundt, DI Ekrem Zejnilovic

With substantial contributions of:

Theo Österreicher, Director of Umbrella Organisation of Limited Profit Housing Associations in Austria
Dr. Walter Schwimmer, Consultant, former Secretary General of Council of Europe
Dr. Andreas Sommer, Austrian Focal Point on Housing, Federal Ministry for Economy and Labour
Mag. Walter Tancsits, Director of the Austrian housing association "STUWO", former Member of
Parliament and speaker of housing policy of Austrian Peoples Party
LLM Vesna Čejović, lawyer
LLM Sonja Čejović, lawyer

in cooperation with the Ministry for Spatial Planning and the Environment of Montenegro
financed by DIGH – Dutch International Guarantees for Housing
and Fund Werken aan Wonen (FWAW)

IIBW – Institute for Real Estate, Construction and Housing Ltd.
Institut für Immobilien, Bauen und Wohnen GmbH
PB 2, 1020 Vienna, Austria
FN 193068 z Handelsgericht Wien
Tel. +43 1 968 6008
E-Mail office@iibw.at
www.iibw.at

CONTENTS

INTRODUCTION	5
A. BACKGROUND	7
A.1 Country Background	7
A.1.1 Population	7
A.1.2 Economy	7
A.1.3 Incomes	7
A.1.4 Impact of the crisis	7
A.1.5 Regional disparities	8
A.2 Housing situation	9
A.2.1 Housing stock and housing provision	9
A.2.2 Housing construction	9
A.2.3 Housing markets	9
A.3 Housing finance	10
A.4 Social housing	10
B. EXISTING HOUSING LEGISLATION IN MONTENEGRO	13
B.1 Period from 1980 to 1990	13
B.2 Housing privatization – Law on Housing Relations (1990)	14
B.3 Condominium legislation	15
B.3.1 Law on Condominiums (1995)	15
B.3.2 Law on Condominiums (2004)	16
B.4 Law on Obligatory Relations (2008) and Property Law (2009)	16
B.4.1 Rent Regulation within the Law on Obligatory Relations	16
B.4.2 Property Law (2009)	17
B.4.3 Related regulations	17
B.5 The new Housing Law (draft 2010)	17
B.6 Legal gaps	17
C. REQUIREMENTS ON HOUSING POLICY AND LEGAL REFORM IN THE PROCESS OF EU ACCESSION	18
C.1 EU position on social housing	18
C.2 EU position on Public-Private-Partnerships (PPP)	20
C.3 EU regulations on energy performance of buildings	20
C.3.1 EU climate and energy package	21
C.3.2 Renewable Energy Directive (2009/28/EG)	21
C.3.3 Recast of the Energy Performance of Buildings Directive	21
D. IMPLEMENTATION OF A NEW PPP HOUSING SCHEME	22
D.1 PPP Housing in Western Europe	22
D.2 Rationale for a PPP sector in Montenegro	23
D.3 Project history	26
D.4 Structural approach	27
D.5 Critical analysis of the draft Housing Cooperative Law	27
D.6 Cornerstones of the draft PPP Housing Law	29
D.7 Implementation of a PPP Housing sector	30
D.8 CFSSI as PPP Housing organisation	32
D.9 Regional initiative on PPP Housing	32
E. DRAFT PPP HOUSING LAW	35

F.	CONSULTANCY ON THE NEW HOUSING LAW	45
F.1	Subjects of regulation	45
	F.1.1 Housing maintenance	45
	F.1.2 National Housing Strategy	46
	F.1.3 Access to housing / social housing	46
	F.1.4 Privileged rent	46
	F.1.5 Council for the Protection of Rights of Lessees	46
	F.1.6 Resolving housing needs	47
	F.1.7 Supervision and sanctions	47
F.2	Recommendations on structure and basic provisions	47
F.3	Recommendations on rent regulations	48
	F.3.1 Re-establishment of a rental housing sector	48
	F.3.2 Rent regulations in the draft new Housing Law	50
	F.3.3 Recommended further regulations	50
F.4	Recommendations on condominium regulations	51
	F.4.1 Recommended further regulations	51
	F.4.2 Enforcement of homeowners' associations	51
F.5	Recommendations on housing maintenance regulations	52
F.6	Recommendations on subsidy regulations	53
	F.6.1 Recommended further regulations	54
	F.6.2 Funding for housing subsidies	54
	F.6.3 Provision of land and infrastructure at below market prices	55
	F.6.4 Cost coverage rent instead of privileged rent	55
	F.6.5 Definition of beneficiaries of social housing	55
F.7	Recommendations on consumer protection	56
G.	IIBW MODEL HOUSING REGULATIONS	58
G.1	General provisions	58
G.2	Rent regulations	62
G.3	Condominium regulations	67
G.4	Housing management and maintenance regulations	69
G.5	Housing subsidy regulations	74
H.	DRAFT LAW ON HOUSING AND MAINTENANCE OF RESIDENTIAL FACILITIES (MONTENEGRIN HOUSING LAW)	80
I.	APPENDIX – MATERIALS	97
I.1	Draft Law on Housing Cooperatives	97
I.2	PPP Housing schemes in selected European countries	113
	I.2.1 Limited-Profit Housing Associations in Austria	113
	I.2.2 HLM in France	114
	I.2.3 “Woningcorporaties” in the Netherlands	114
	I.2.4 Municipal housing companies in Sweden	115
	I.2.5 The Polish TBS-Model	116
	I.2.6 Cooperatives in the Czech Republic	116
	I.2.7 The Slovak non-profit housing scheme	117
I.3	Letter of invitation to IIBW	118
I.4	Government decision on introduction of a PPP Housing Law	120
I.5	References	121
	I.5.1 Legal regulations	121
	I.5.2 Country specific Literature	121
	I.5.3 General Literature	121

INTRODUCTION

IIBW and DIGH – Dutch International Guarantees for Housing, have designed a financing model for the Montenegrin Fund for Solidarity Housing Development (CFSSI, see p. 11), which aims at the implementation of an affordable rental housing sector in Montenegro. This target requires an adoption of legal regulations.

IIBW has been invited to contribute to the ongoing process to develop a new Housing Legislation for Montenegro. According to a letter from Deputy Minister in the Ministry of Economic Development Maja Velimirović-Petrović from 20 November 2008 (see Appendix, I.1, p. 97) the focus should be on rent regulations, subsidy regulations and PPP Housing regulations, see chapter C.1 (p. 18) and E (p. 35).

The original running time of the project was scheduled for 6 months. This term has exceeded considerably.

The assignment was focussed on the implementation of a PPP Housing sector in Montenegro. On this behalf, the following tasks should be executed:

- a) Procurement of all relevant legal texts, translations into English language;
- b) Interviews with legal experts and representatives of public authorities regarding the operativeness of the existing housing legislation; literature analysis;
- c) International context: framework of EU legislation, European best practice;
- d) Definition of a legal code, covering the identified gaps; development of the necessary regulations on the level of articles written in full in English and Montenegrin language;
- e) Provision of a final progress report in English language.

The project consumed more time than expected, because it was applied as implementation project and not as a research project alone. The authors wanted to provide results in implementation before completing the report. For political reasons, implementation took longer than expected.

The present situation of implementation of new housing legislation is described in chapter B (p. 13). It can be shown that this project contributed successfully to the ongoing development of housing legislation in Montenegro.

The completion of important projects on development and implementation of housing regulations in Romania (Amann et al., 2008) and Montenegro (this report) by IIBW as an international research and consultancy company (plus consultancy projects on policy reform in half a dozen other countries) leads to the following general observations on such undertakings:

- There is a deficit of comparative legal research on an international level. Unlike other housing related topics such as finance or social issues, there is still only little cross-national literature related to housing legislation.
- There is no tabula rasa prior to the implementation of new legal schemes. It never happens that some kind of an ideal new legal system may be implemented from scratch. There is always a legal environment existent to be considered and to refer to.
- Legal tradition is crucial and needs to be considered from the very first. It makes a difference whether e.g. a country follows the constitutional model of France (Code Napoleon) or the Roman Civil Code, whether the judiciary derives from a former soviet system or the legal tradition of former Yugoslavia (“path dependency”).

- Political life does not come to a standstill during a legal consultancy project. Hence, such a project usually is confronted with parallel developments of housing reform, which has to be considered in a “cybernetic” way.
- It is always difficult to be provided with good translations of all relevant regulations from the abundance of existing laws.
- Legal regulations are valid only in the national language and therefore require precise wording. Yet, English usually functions as working language of most consultancy projects. It is basically only possible to define contents of single regulations. For the detailed wording one has to trust the legislative capacities of national authorities. There are only limited possibilities to supervise this process of detailing of regulations. Yet in legal practice, it is often the details which make the difference.
- Legal reform is always confronted with conflicts between different political philosophies. Most transition countries follow the political mainstream of liberal market economy. But many aspects of housing policy consist in social market economy principles. A solution can be the general dependence of any politician on his or her clientele. It is politically rational for policy makers to serve the people which helped them to come into their position. This is legitimate as long as such clientilism is legally determined. Hence, such clientilism may be translated into general rules on social housing applicable to everyone.
- Legal reform is a dynamic political process and a specific expression of civil society in a country. The way how and at which stage a legal reform is communicated to stakeholders and the public differs considerably and strongly depends on the personal performance of the decision makers.
- For this reason, legal reform is usually not a straightforward process, but is characterised by discontinuity, unexpected interventions, trade-offs, package deals and smart solutions from unexpected origins. Hence, legal reform usually does not work as one bold plan, but is an evolution of small steps with the decision of the Government and the Parliament as final stage.
- An important but troublesome aspect of legal consultancy is avoidance of most undesirable developments, deriving from group dynamics of stakeholders and trade-offs.
- Legal reform usually succeeds if a given window of opportunity is seized. Such opportunities often go together with short-run political constellations and hence appear unexpectedly.
- Facing the difficulties of new legal regulations, it is in some cases easier to implement new housing policy models on the less formal way of subsidy programmes. Such programmes mostly focus on financing schemes for affordable housing for distinct groups of beneficiaries and are limited in time. New housing legislation may be implemented more easily in the face of previous experience with such programmes.
- Consultancy terms are usually rather short. Lasting influence, on the other hand, requires reputation, trust and a track record on a local or regional level. This contradiction only may be resolved with ongoing business interests of the consultant in a target country.

Despite of all these distinctions it is clear that the basic interests of people are similar all over the world. Hence, similar solutions may be applied in different legal environments. But detailing, reaching an agreement and implementation are local actions and a specific expression of local civil society and administrative capabilities. The work of a foreign legal consultant always ends 10 meters before the finishing line.

A. BACKGROUND

A.1 COUNTRY BACKGROUND

A.1.1 POPULATION

Montenegro has a slightly growing population of around 630,000 inhabitants in ca. 183,000 households (2008). Average household size is with 3.4 persons high compared to 2.5 in EU-average. Around 1/3 of the population is living on the coast, 1/3 in the capital city Podgorica (ca. 170,000 inhabitants, 50,000 households, 3.4 persons per household) and the remaining 1/3 in the less developed mountain and northern areas.¹

A.1.2 ECONOMY

The economic development improved significantly since the turn of the century and particularly since being an independent state in 2006. The GDP per capita has doubled between 2005 and 2008 and reached € 11,500 in 2008 (in purchase power standard). GDP growth rates have increased from around 1% in 2001 to almost 11% in 2007.² For 2009 a downturn of 4% is expected. Inflation was between 3% and 4% in 2006/07, but reached 7.4% in 2008. It is below 3% in 2009. Current account deficit has grown very dynamically to over 30% in 2008.³

IMF evaluated that *the last five years have seen inflation performance improved through the adoption of the euro as sole legal tender; banking sector restructuring; significant privatization; strengthened market infrastructure; and progress in fiscal consolidation.*⁴

A.1.3 INCOMES

Average gross salaries as well have doubled between 2005 and 2008 to ca. € 610 per month in average and have reached close to € 650 in 2009. Net salaries have been at € 462 (Ø 1-11/2009). Incomes are slightly above average in the manufacturing sector, around 10% above average in public administration and around 10% below average both in education and health care. Average total household consumption was 638 € per month in 2008 (718 € in Podgorica), which is 14% more than the year before and 40% more than in 2005. Unemployment rates used to be at around 30% until 2005. Since then they decreased substantially and kept stable even in times of the crisis, but are still at around 15% (2009). A driving force of economic development was foreign direct investments, particularly into the real estate sector with a peak in 2007.⁵

A.1.4 IMPACT OF THE CRISIS

The financial and economic crisis hits Montenegro similarly to most other transition economies. Dependency of the industrial sector to a hand full of companies appears to be a major threat. But an

¹ Monstat (2009b).

² Monstat, WIIW.

These data differ from the World Development Report of the World Bank, which documents a GNI (PPP) of \$ 10,290 (2007) and a GDP growth rate of 7.6% (2006/07).

³ Krgović (2009), Central Bank of Montenegro, IMF (2009).

⁴ IMF (2009: 5).

⁵ WIIW, www.monstat.org, Monstat (2009b), Central Bank of Montenegro.

SME sector is developing and contributes to stabilising economic development. Tourism has not grown in 2009, but could avoid decrease. Foreign direct investments have decreased, but stay on a level well above comparative countries. Foreign direct investments were 2008 higher than 2006 (even though 1/3 below 2007). Fiscal deficit reaches 3-4% of GDP in 2009, but Montenegro is a low indebted country with public debt below 40% of GDP.¹ Altogether it seems that Montenegro has managed the crisis better than expected, e.g. by IMF.² The real estate sector is mostly affected of the crisis, as both international investments and domestic demand have decreased due to credit restrictions of the banking sector.

Graph 1: Map of Montenegro



A.1.5 REGIONAL DISPARITIES

The country is affected by serious regional disparities. The poverty rate is more than two times higher in the North as compared to the South and Central municipalities.³ The North additionally suffers from an alarming depopulation due to poor living conditions and lack of prospects.

¹ Krgović (2009).
² IMF (2009: 4).
³ UNDP (2005: 55).

A.2 HOUSING SITUATION

A.2.1 HOUSING STOCK AND HOUSING PROVISION

Montenegro has a housing stock of ca. 220.000 dwellings (plus a big number of holiday homes).¹ This number considerably exceeds the number of households (183,000). 350 dwellings per 1,000 inhabitants is still below the average of EU27 of ca. 430. The average floor space per capita is only 22m², compared to 36m² in EU average.² Hence, housing provision is lagging behind. There is substantial need for new construction, particularly in the market segment for low- and moderate-income households. Demand for affordable condominiums and rental dwellings is strong in all regions, in the boom regions (Podgorica, coast) because of the (despite of the crisis) still very high market level, in the poorer regions because of a general lag of supply. But number and typology of demand differs between the regions.

A.2.2 HOUSING CONSTRUCTION

The economic boom increased housing construction considerably from less than 2,000 units in 2003 to 3,400 units in 2007.³ This equals 5.5 completions per 1,000 inhabitants, which was similar to the EU27 average. But the biggest part of new construction of multi-apartment buildings targeted at foreign and speculative investments, instead of housing needs of the domestic population. In the sector of single family homes, Montenegro suffers from massive informal construction.

A.2.3 HOUSING MARKETS

Housing markets have developed very dynamically, particularly in Podgorica and the coast with a peak in 2008. Until then, average prices rose by more than 40% within only two years to 1,530 €/m².⁴ Following other sources, average prices for new condominiums even exceed 4,000 €/m². With this price level, Montenegro had one of the highest house price to income ratios worldwide.⁵ Currently it is very difficult to evaluate the market level, as transactions have virtually dried out. As financing market development started later than in other CEE countries, many real estate investments were financed with equity capital, particularly those targeting at international demand at the coast. A big part of these investors is able to stand through the present crisis without rescue sales and the resulting slump of market prices. Housing projects in Podgorica and other parts of Montenegro more commonly were developed by construction companies and financed partly with mortgages. These projects became vulnerable with the crisis. As almost everywhere, the economic crisis has stopped new construction of multi-apartment buildings almost entirely.

The housing situation is characterized by a severe shortage of affordable dwellings, caused by insufficient volume of new construction and the partly very high market level. Estimated 20,000 to

¹ Monstat (2009a). By contrast, the census of 2003 counted 253,000 dwellings, obviously including holiday homes.

² www.monstat.org, Tsenkova (2005), Housing Statistics in the EU (2006).

³ Monstat (2009a).

⁴ www.monstat.org.

⁵ Global Property Guide.

25,000 units should be provided to solve the urgent housing needs.¹ This is 10% of the existing housing stock.

A.3 HOUSING FINANCE

Multi-apartment construction used to be financed mostly by equity of the developer and prepayments of the tenants. Mortgage finance only developed in recent years.

The traditional form of purchase of condominiums was equity, collecting the savings of the whole family including expatriates to serve the housing need of a young family.² But retail financing products have boomed since a few years. While the credit boom was initially funded by deposits, foreign financing from parent banks has increased rapidly until 2008. But the financial crisis showed the vulnerability of the banking system with a sudden stop or even reversal in financing from parent banks.³ Additionally reportedly 400m € of deposits of local customers have been withdrawn in the times of crisis.

Meanwhile mortgage financing has recovered partly. Currently commercial banks offer long term mortgage loans with 15 to 25 years maturity with interest rates of 6-month-Euribor +4.5 to 8.5% interest charge, but with an obligatory deposit of at least 20% of the credit volume.

With the development of retail mortgage products the ratio of outstanding mortgage loans to GDP in Montenegro has grown from virtually zero in 2005⁴ to around 13% in 2009.⁵

Financing of housing purchase has become much more difficult during the crisis. Banks offer much lower loan to value ratios than before, require extensive securities and charge higher interest rates. Hence, the crisis has caused a downturn of production output and increased unemployment in the construction sector.

By early 2010 easing of tension can be observed with increased mortgage financing from the side of commercial banks.

A.4 SOCIAL HOUSING

Until currently no real social housing activities were pursued. The UNECE country profile Montenegro from 2006 stated that there was no social housing policy or programme in place at that time.⁶ In socialist time, affordable housing provision was organised with a Solidarity Housing Fund. Enterprises, institutions and state bodies were legally required to set aside funds of 1.3% of gross salaries to

¹ CFSSI (2008), based on researches of municipalities and grassroots trade union organisations.

² See: Chiquier/Lea (2009: 5, 163).

³ IMF (2009: 10).

⁴ In 2005 the Montenegrin mortgage market was describe as “by far the least developed of the Western Balkan region and estimated (...) to amount to less than one million euros” (Garcia et al., 2005: 34).

⁵ Central Bank of Montenegro.

⁶ UNECE (2006: 64).

Detailed documentation may be found in Tsenkova (2009: 28 ff.).

provide housing for employees. The Law on Income Tax in 2001 replaced the Solidarity Housing Fund. This tax was set between 0.3% and 1% of salaries, which was ultimately abolished in 2004. The Solidarity Housing Fund resulted in approximately 0.1 flat per 1,000 inhabitants. Social housing development organisations ceased to exist, similar to most transition countries. Policy reform regarded this field of activity as unessential.¹

Today the awareness of the need for action has been raised. Social rental housing has low significance but high political priority. Based on a small survey in 2004, Tsenkova identified this topic as the one with highest priority regarding regulatory reforms in CEE countries. Highest ranking challenge for housing reform was “Lack of affordable housing finance”, followed by “poor quality of existing housing” and “management of multifamily housing”.²

Almost no social rental dwellings have remained after privatization of the housing stock, as these dwellings were offered to the sitting tenants almost for free (see B.2, p. 14). Uniform prices allowed privileged households to acquire considerable wealth at insignificant costs.³ Still, the rise of urban poverty is one of the most serious concerns in the region.⁴

A very limited number of dwellings for most needy households, such as disabled, single mothers, refugees, IDPs and the poorest families is provided by the Ministry of Labour, Health and Social Welfare or the city of Podgorica. Some international organisations and NGOs have provided a number of necessity dwellings or municipality dwellings, e.g. the Swiss Agency for Development and Co-operation (SDC), UNHCR or HELP – Hilfe zur Selbsthilfe e.V.⁵

In 2005 the government has proposed a municipal housing programme consisting of “1,000 solidarity dwellings”.⁶ This should be financed with a CEB loan. But for some years, the negotiations and preparations did not come to a result.

Local governments are responsible for social housing. They are obliged to use 1% of their budget for this purpose.⁷ Currently the biggest part of them focuses on the same strategy, as they cooperate with the Montenegrin Fund for Solidarity Housing Development Ltd. (CFSSI, Crne Gore Fond za Solidarnu Stambenu Izgradnju, see chapter D.8, p. 32). CFSSI follows the model of solidarity funds, which were the Yugoslavian model of housing provision in socialist times.⁸ CFSSI (and its predecessor institution) has already executed (completed or under construction) affordable owner occupied housing with altogether some 500 units in 6 municipalities of Montenegro (end of 2009). It has contractual agreements with almost all local governments in Montenegro (19 out of 21) for the realization of affordable dwellings, including the provision of building land and infrastructure free of charge. A number of projects with altogether some 2,000 dwellings are in preparation. A programme with 5,000

¹ Tsenkova (2009: 77, 93), UNHSP (2001).

² Tsenkova (2004).

³ Tsenkova et al. (1996).

⁴ Tsenkova (2009: 61).

⁵ UNECE (2006: 65).

⁶ UNECE (2006: 65). Housing Policy Action Plan (2005: 40).

⁷ UNECE (2006: 65).

⁸ See Tsenkova (2009: 30, 40).

solidarity dwellings, extending the programme of “1,000 solidarity dwellings” from 2005, was decided.¹ In 2008 cooperation was settled between CFSSI and the Austria based IIBW – Institute for Real Estate, Construction and Housing and DIGH – Dutch International Guarantees for Housing, aiming at the development of an affordable rental housing sector. By 2009, financing for six projects has been organised (two in Niksic, each one in Podgorica, Berane, Cetinje and Pljevlja) with altogether ca. 120 rental dwellings (out of total 400).

In 2010 two social housing initiatives are launched with support of the Council of Europe Development Bank (CEB). The one programme (“1000+ Housing”) targets at market housing supply, which shall become accessible for low and moderate income households. During the crisis, a big number of commercial housing projects have stopped construction. Housing developers are now invited to apply with such dwellings in a tender procedure. In a second tender procedure, qualified households are selected and provided with vouchers. They then may choose qualified dwellings of their choice. With the programme, urgent need for housing shall be satisfied, the housing industry shall be provided with liquidity and the banking sector shall be stimulated. The second programme “CFSSI Housing Scheme for low income Persons” shall continue the DIGH/IIBW initiative to realize affordable rental dwellings. With this loan, CFSSI shall approach the target of a rental housing stock, which allows for a self-supporting rent administration unit.

¹ CFSSI (2009). Housing Policy Action Plan (2005: 40).
In 2005 the activities of this institution were not visible yet. The Housing Policy Action Plan stated: “Montenegro does not have an adequate set of mechanisms and instruments for intervention in the functioning of the housing market in the public interest” (p. 8). To that time the Trade Union Fund for Joint Housing Construction was already active in acquisition of building land and project development.

B. EXISTING HOUSING LEGISLATION IN MONTENEGRO

Early after transition, several international housing researchers highlighted on the convergence of housing reform in Eastern European countries.¹ But current publications adjust this view and accentuate differences in policy development (path dependency).² Montenegro of course is characterised by an extensive legal heritage of former Yugoslavia.

The description of the legal development in chapters B.1 to B.4 follows a report of the Montenegrin attorneys Vesna and Sonja Čejović.³ The development is structured with the following periods of legal regulations:

- period from 1980 to 1990,
- period from 1990 to 1995,
- period from 1995 to 2004,
- period from 2004 until today.

B.1 PERIOD FROM 1980 TO 1990

For the period before 1990, Ex-Yugoslavia is characterized by a different scheme of housing compared to other former state socialist countries. Whereas state property was the most common legal form of housing in former state socialist countries, it was so called “socialist self-governance” and “social property” in Ex-Yugoslavia and hence in Montenegro. This “social property” was mostly possessed by companies with a right of use for specific housing entities, which did not imply a specifically defined management. These housing entities and the buildings itself were managed by the workers, who made decisions at the workers assembly and through the company bodies, such as the council of workers, which were elected by direct and secret voting. It was a system with high standards in workers’ rights and workers’ representation.

The period was characterized by rather formal strategies of addressing housing needs. Housing standards were improved continuously. Criteria for the allocation of dwellings were:

- Current housing situation,
- Number of household members,
- Length of service in a company and total length of service,
- Qualification of employment,
- Social conditions, disability of household members, health problems of children etc.

The use of such a company dwelling not necessarily required rent payment. It was only obligatory to pay for maintenance and running repair works. Yet, those payments were not particularly significant.

The following housing regulations originate from the period of 1980 to 1990:

- Law on Housing Relations, 1985, Official Gazette of SR Montenegro No. 21/85.
- Law on SIB (Self-governing Interest Bodies = special organisations dealing with housing funds, 1986, Official Gazette of SR Montenegro No. 18/86.

¹ E.g. Hegedüs and Tosics (1992), Clapham et al. (1996), Hegedüs et al. (1996).

² E.g. Buckley and Tsenkova (2001). Tsenkova (2009: 7).

³ Čejović / Čejović (2009). Housing Policy Action Plan (2005: 7).

- Law on Housing Cooperatives, 1984, Official Gazette of SR Montenegro No. 17/84.
- Law on Financing Housing Construction, various years, Official Gazette of SR Montenegro No. 16/81, 17/82, 12/86, 17/87.
- Law on Valuation, Revalorization and Amortization of Commercial Buildings , 1979 and 1987, Official Gazette of SR Montenegro No. 14/79, 17/87.

This list of regulations shows that in this period considerable attention was paid to the normative regulation of housing relations in Montenegro.

B.2 HOUSING PRIVATIZATION – LAW ON HOUSING RELATIONS (1990)

In the late 1980s and early 1990s the process of transition started. In the field of housing this concerned the transformation of ownership and management and the privatization of housing. The process started with the privatization of company-dwellings managed by housing funds. These dwellings did not benefit the companies that owned them in any way, because the installments workers had to pay to the housing funds in exchange for the right of use did not cover the costs of necessary investments and maintenance required to keep up the housing facilities on a long term basis. For this reason, sitting tenants were intended to become private owners of the dwellings. In exchange for the granting of private ownership a purchase price had to be paid.

The Law on Housing Relations defined these purchase prices as well as the terms of payment, revalorization and additional aspects. The contract of ownership transfer was concluded by the company concerned and the worker (i.e. sitting tenant) on an individual basis.

a) TERMS AND CONDITIONS FOR DWELLING PURCHASE

The purchase price was calculated according to the valorized building value of a certain dwelling, minus a percentage for depreciation. The purchase price could be paid over several years with annual installments being at minimum the double of the defined amortization rate of the dwelling. The term of payment was of maximum 35 years, unless the purchaser asked for shorter terms. At the beginning of each calendar year, revalorization was paid on the outstanding part of the purchase price. A mortgage to the benefit of the company was in place until the final payment of the dwelling. If the full purchase price was paid immediately, a price discount of 20% was applicable.

Hence, the Law on Housing Relations defined an economically reasonable model of calculation. But inflation in the following years reduced the price to virtually zero. Within only two years, 95% of the apartment units have been privatized.¹

b) RENTAL DWELLINGS

Apart from the transfer of ownership, the Law provides the possibility of contracts of use of a dwelling on the basis of rental agreements and rights of use and occupancy. The Law contains provisions on the usage of dwellings on the basis of rental agreements in the Articles 48-50.

¹ Housing Policy Action Plan (2005: 6), see also Tsenkova (2009:66).

c) HOUSING COOPERATIVES

The Law on Housing Relations provides the possibility to establish housing cooperatives, which can be founded by individual persons in order to meet their housing needs or to provide business premises. For such goals, the provision of construction land is exempted from paying taxes. A housing cooperative may be engaged in the following activities:

- Pooling personal assets of the cooperative members for the construction or purchase of dwellings,
- Organising various saving schemes for the cooperative members, by saving products of banks, companies or other organisations,
- Performing investment and construction works,
- Procurement of building materials,
- Maintenance of the buildings, etc.

d) FINANCING HOUSING NEEDS

For meeting housing needs, various financial sources are in use:

- Personal assets,
- Companies provide resources for meeting the housing needs of workers according to a General Act.
- For pensioners and disabled people, the resources are earmarked on the principles of reciprocity and solidarity in a pension funds,
- The State provides resources, i.e. dwellings for meeting the housing needs of the socially disadvantaged persons as well as the reimbursement of a part of rents for certain categories of dwelling users.

e) HOUSING CONTRIBUTION

Persons who paid contributions for housing construction in the period before 1990 have a right of compensation for the revalorized amount of these contributions. For calculation a special regulation is in place. But special regulations on that have never been enacted.

B.3 CONDOMINIUM LEGISLATION

B.3.1 LAW ON CONDOMINIUMS (1995)

The period of 1990 to 1995 was characterized by massive ownership transfers to sitting tenants. Throughout that period, inflation was very high. For that reason dwellings were acquired by the payment of a few hundred Deutschmarks. By 1995, when the Law on Condominiums was adopted, a major part of dwellings had already been transferred to private property of the sitting tenants.

Therefore, the new Law defined the organisation of the acquired property, such as the management of common parts of buildings, which were in the responsibility of the condominium as a legal person. The management of the housing stock now depends on individual assets. Companies and other legal entities can earmark resources for meeting housing needs of employees. Companies may sell dwellings to workers at under-market prices. They may also grant other favourable conditions to the purchasers, grant loans and provide subsidies. These conditions are not specified in the Law. A company may also transfer a dwelling free of charge, rent it out, etc.

a) FINANCING HOUSING NEEDS

Resources for meeting housing needs of pensioners and disabled persons are earmarked and transferred to the Pension Fund. Funds for meeting housing needs of socially handicapped persons

are provided by the Republic and Local Governments. The satisfaction of housing needs of persons of interest for the Republic and Local Governments is carried out by special regulations issued by these Public Authorities.

b) RENTAL AGREEMENTS BY THE LAW ON CONDOMINIUMS

The renting of dwellings was defined by provisions 43-52 of the Law. Rental agreements were based on the principle of free negotiations and individual contracts.

B.3.2 LAW ON CONDOMINIUMS (2004)

The Condominium Law of 2004 replaced the Condominium Law of 1995 (in some sources translated as “Law on Floor Property” or “Law on Housing Property”)¹ and is still in force today. It defines the right of property on common parts of residential buildings, the usage of residential buildings and of the common parts, the entrusting of maintenance activities, reporting of damages, the decision process on house rules and similar. The Law also defined rental agreements in Article 52-59. These provisions ceased to apply when the Law on Obligatory Relations entered into force in August 2008 (see B.4.1) and now specifies this type of legal relations.

Policy of solving housing issues is also based on the personal assets of citizens and workers. A company may earmark resources for meeting the housing needs of workers according to their own abilities and needs. Some provisions from the earlier Law on Condominiums were resumed. A company may still sell a dwelling at under-market prices and may grant other favourable conditions and loans. It may also transfer a dwelling free of charge, rent it out, etc. People who paid contributions for housing construction are granted favourable conditions when satisfying housing needs, in accordance with the Employer’s General Act. Funds for meeting the housing needs of pensioners and disabled persons are provided within the Pension Fund. Funds for meeting the housing needs of socially handicapped persons are provided by the Republic and Local Governments. The satisfaction of housing needs of persons of interest for the Republic and Local Governments is carried out by special regulations issued by these Public Authorities.

Similar to many other countries which have introduced condominium legislation after transition, only a small share of multi-apartment housing has introduced homeowners’ associations as legal entities,² as establishment is voluntarily.

B.4 LAW ON OBLIGATORY RELATIONS (2008) AND PROPERTY LAW (2009)

B.4.1 RENT REGULATION WITHIN THE LAW ON OBLIGATORY RELATIONS

The Law on Obligatory Relations, which came into force on 7th August 2008, together with the Property Law from 2009 constitute the Montenegrin Civil Code. It includes, amongst others, rent regulations. Rental contracts are defined by the provisions of Articles 595-619. An employer and an employee enter into a rental agreement based on the free will of the parties concerned, if the employer has the ability and the interest to address the housing needs of an employee by this instrument. There are no restrictions for the owner of a dwelling regarding rents and other rental terms and conditions.

¹ UNECE (2006: 24, 47 pp).

² Tsenkova (2009: 80).

B.4.2 PROPERTY LAW (2009)

The Property Law from 2009 includes regulations on housing property, condominium ownership, owners associations and housing management.

B.4.3 RELATED REGULATIONS

The Mortgage Law of 2004¹ improved conditions for housing finance considerably.

The Law on Urban Planning and Construction from 2008 concerns building regulations.

Montenegro has signed the Vienna Declaration on Informal Settlements in South Eastern Europe (2004).

B.5 THE NEW HOUSING LAW (DRAFT 2010)

A new Housing Law was scheduled for early 2010 (“Law on Housing and Maintenance of Residential Facilities”, full text of the draft see chapter H, p. 80), taking up some of the recommendations of the Housing Policy Action Plan and being accompanied by IIBW consultancy within the framework of this project. It includes, amongst others, a definition of social housing, regulations on a National Housing Strategy, on social housing, on funding of social housing, on building maintenance and its funding. In chapter F (p. 45 ff.) this new Law is described and assessed in detail.

B.6 LEGAL GAPS

During the lasting occupation with the process of housing legislation in Montenegro, a number of gaps became evident. The solutions presented in this report seem feasible to fill these gaps on the basis of European best practice, see chapter D „Implementation of a new PPP Housing scheme“ (p. 22 ff.), F „Consultancy on the new Housing Law (p. 45 ff.) and G „IIBW model housing regulations“ (p. 58 ff.).

¹ Official Gazette of the Republic of Montenegro, No 52/04 dated 2 August 2004.

C. REQUIREMENTS ON HOUSING POLICY AND LEGAL REFORM IN THE PROCESS OF EU ACCESSION

C.1 EU POSITION ON SOCIAL HOUSING

At the EU level there is no legal basis for a common design of housing policies. Therefore this political area is generally the responsibility of the individual Member States. Nevertheless, there is fundamental support from EU bodies for social housing policy measures within the Member States: “Social housing is fully in line with the basic objectives of the EC Treaty. It is a legitimate element of public policy and as it is limited to what is necessary it is in the interest of the Community that social housing is supported”.¹ In a more specific context, social housing activities have to be in line with EU State Aid policy as governed by Articles 87-89 of the EC Treaty, by the later Decisions of the Commission on the matter² and by several rulings of the European Court of Justice.³

Furthermore, the EU took social housing to its agenda by opening of the Regional Fund (ERDF) for housing and recent financing programmes by the European Investment Bank (EIB), namely the JESSICA Programme.

All public subsidies in housing must qualify as State Aid exemptions as specified in Art 87 (2) of the EC Treaty and must be considered compatible with the common market, subject to the Commission’s scrutiny as laid down in Art 87 (3). Alternatively, they must be considered as compensation of a public service obligation in the sense of Art 86 (2). The provision of social housing is defined as a service of general economic interest, which leads to the possibility of compensating these services by the public. As for the question of the legitimate height of public service compensation, the judgement in the “Altmark” case⁴ has established a general framework. Here, the Court of Justice held that, in the field of public service compensation, in order to escape the State Aid regime of Article 87, four cumulative criteria have to be met:

- The recipient undertaking must actually have public service obligations to discharge, and the obligations must be clearly defined.
- The parameters, on the basis of which compensation is calculated, must be established in advance in an objective and transparent manner.
- The compensation cannot exceed what is necessary to cover all or part of the costs incurred in the discharge of public service obligations, taking into account the relevant receipts and a reasonable profit.
- The undertaking which is to discharge public service obligations, in a specific case, should be chosen pursuant to a public procurement procedure that allows for the selection of the tenderer capable of providing those services at the least cost to the community. If that is not possible, the level of compensation must be determined on the basis of an analysis of the costs which a typical undertaking, well-run and adequately provided with appropriate means so as to be able to meet the necessary public service requirements, would have incurred (in discharging those obligations, taking into account the relevant receipts and a reasonable profit for discharging the obligations).

¹ European Commission Decision 209/2001.

² Especially on N 497/01, N 239/02, C 515/02, N 209/01, L 312/69/2005, see Appendix.

³ Especially ECR I-7747 2003.

⁴ ECR I-7747 2003.

The Altmark case judgment, therefore, established the general case for evaluating state subsidies: where subsidies are regarded as compensation for the services provided by the recipient undertakings in order to discharge public service obligations, they do not constitute State Aids and are, therefore, legitimate.

For social housing as a particular field in the common market, the Commission's Decision of 28.11.2005¹ brought further clarification of the Altmark ruling and established a special treatment of social housing within Competition Law: "Social housing undertakings (...) have specific characteristics that need to be taken into consideration" and "the intensity of distortion of competition in those sectors is not necessarily proportionate to the level of turnover and compensation".² The Decision is applicable to compensation of less than EUR 30 million per year provided its beneficiaries have an annual turnover of less than EUR 100 million.

The following definitions and rules were established:

- The target groups of social housing measures are "disadvantaged citizens or socially less advantaged groups, which due to solvability constraints are unable to obtain housing at market conditions."
- For the compensation of social housing services, a general exemption from notification to the Commission was provided irrespective of the amounts involved. This will enable specific and targeted support for social housing, which is essential for e.g. urban regeneration, without the need for a separate notification to the Commission.
- Overcompensation for the fulfilment of a public service obligation may be tolerated as long as it stays within a certain threshold and is carried forward to the next period: "The revenue of undertakings entrusted with the operation of services of general economic interest in the field of social housing may vary dramatically, in particular due to the risk of insolvency of leaseholders. Consequently, where such undertakings only operate services of general economic interest, it should be possible for any overcompensation during one period to be carried forward to the next period, up to 20% of the annual compensation". Any overcompensation amounting to more than 20% of the annual aid granted will count as an infringement of EU rules.
- The new package also stipulates that if an undertaking receiving State Aid to deliver services of general economic interest is also active in other markets, separate accounts must be kept.
- This Commission's Decision also lays down clear guidelines for the calculation of adequate public services compensation and stipulates which costs should be taken into consideration. The Decision allows for a reasonable profit to be included, which "shall take account of all or some of the productivity gains achieved by the undertakings concerned during an agreed limited period without reducing the level of quality of the services entrusted to the undertaking by the State".³ A clarification of the term 'reasonable profit' is also provided in order to facilitate the calculation: "For the purposes of this Decision 'reasonable profit' means a rate of return on own capital that takes account of the risk, or absence of risk, incurred by the undertaking by virtue of the intervention by the Member State, particularly if the latter grants exclusive or special rights. This rate shall not normally exceed the average rate for the sector concerned in recent years. In sectors where there is no undertaking comparable to the undertaking entrusted with the operation of the service of general economic interest, a comparison may be made with undertakings situated in other Member States, or if necessary, in other sectors, provided that the particular characteristics of each sector are taken into account. In determining what constitutes

¹ L 312/69.

² Commission Decision of 28.11.2005, L 312/69, (16).

³ Article 5 (1).

a reasonable profit, the Member States may introduce incentive criteria relating, in particular, to the quality of service provided and gains in productive efficiency”.¹

Furthermore, the Commission’s Framework² specifies the conditions under which compensation not covered by the above-mentioned Decision is compatible with state aid rules. Such compensation will have to be notified to the Commission due to the higher risk of distortion of competition. Compensation that exceeds the costs of the public service is incompatible with the Treaty’s state aid rules.

C.2 EU POSITION ON PUBLIC-PRIVATE-PARTNERSHIPS (PPP)

It has become general European practice for local authorities to assign the supply of infrastructure services to partnerships between the public sector and the private sector. The public-private partnership (PPP) is generating growing interest as it allows the local authorities to benefit from private funds and to improve the effectiveness of the action through the expertise of private operators. The Green Paper on public-private partnerships and Community law on public contracts and concessions adopted in 2004, defines the PPP as a form of cooperation between public authorities and the world of business which aims to ensure the funding, construction, renovation, management or maintenance of an infrastructure, especially in the transport, health or education sector, or the provision of a service especially at local level.”³

In considerations of these benefits, the Member States and the European Commission recognize the growing importance of PPP-models. In order for them to be in line with EU legislation on State Aid and Competition, the Commission generally considers the following to be essential:⁴

- The arrangements for financing the PPP may or may not result in a transfer of state aid to one or more of the private partners. State aid could be involved if there is over-compensation of the costs of the private partners.
- For all types of PPPs, private partners must be chosen in accordance with EC rules on public procurement, where these rules apply. A properly conducted tender procedure will provide reasonable assurance that private partners will be remunerated in line with market conditions. In the absence of a tender procedure, the Commission will look at the detailed arrangements of the PPP and the safeguards put in place to avoid overcompensation in order to determine if state aid is involved.
- The contractual arrangements between the parties must be compatible with Community anti-trust rules (i.e. conditions in a PPP as regards the prices to be charged to consumers).

C.3 EU REGULATIONS ON ENERGY PERFORMANCE OF BUILDINGS

The European Union has introduced comprehensive regulations in energy policy with a direct impact on housing policy. The regulations described below are part of the Acquis communautaire of Croatia in the process of accession to the EU. This will be similar once Montenegro takes this step.

¹ Article 5 (4).

² Community Framework (13 July 2005) for State Aid in the form of public service compensation, OJ C 297, 29.11.2005, p. 4-7.

³ COM(2004) 327.

⁴ cf. EC DG Competition (2006): p.8.

C.3.1 EU CLIMATE AND ENERGY PACKAGE

In December 2008 the EU decided a climate and energy package with the well-known 20-20-20 goals. Until 2020 the greenhouse gas emissions shall be reduced for at least 20% compared to 1990 (even 30% if other industrialised countries commit to similar goals), the use of renewable energy sources shall be increased to 20% of total energy production (presently \pm 8.5%) and energy consumption shall be reduced by 20% compared to the forecasted level of 2020 by improvements of energy efficiency.

C.3.2 RENEWABLE ENERGY DIRECTIVE (2009/28/EG)

The Renewable Energy Directive¹ defines the shares of renewable energy on total energy consumption of any EU Member State, following the 20-20-20 goals describe above. This directive requires a consequent implementation of renewable energy in new construction and refurbishment.

C.3.3 RECAST OF THE ENERGY PERFORMANCE OF BUILDINGS DIRECTIVE

In May 2010 the EU Parliament has decided a recast of the Energy Performance of Buildings Directive from 2002. It is designed as a framework directive. Implementation has to be decided by national legislation. It is estimated that this Directive will be responsible for not less than 16% of greenhouse gas reduction. This number proves that housing is a key sector for the implementation of the EU climate goals.

The EPBD recast contains amongst others the following regulations:

- By 2020 all new buildings have to apply a nearly-zero-energy-standard (calculated regarding primary energy consumption), to be achieved with ambitious energy standards and application of local renewable energy sources.
- Public buildings have to act as models by achieving these goals already by 2018. For all public buildings bigger than 250m² an energy performance certificate has to be issued and posted.
- Obligation for thermal refurbishment: If structural measures concern more than 25% of the building envelope or more than 25% of the building value, then very strict thermal standards have to be met. This applies for all buildings, even for single family homes.
- Thermal requirements at optimal cost: Obligatory cost comparison (benchmarks) has to be applied. Different refurbishment alternatives have to be compared regarding life cycle costs. This measure is intended to increase the quality standard of refurbishments, as life cycle assessment benefits refurbishment strategies with high investment costs and low future energy consumption costs.
- The Member States are obliged to introduce a system of sanctions.
- Energy efficiency indicators have to be published in all sale or lease advertisements.

¹ Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC.

D. IMPLEMENTATION OF A NEW PPP HOUSING SCHEME

D.1 PPP HOUSING IN WESTERN EUROPE

In most Western countries PPP Housing started only after World War II, with few exceptions such as The Netherlands. But to that time, public housing dominated social housing construction. Public housing is usually financed from the budget. Municipalities mostly cannot afford more than single small projects for most vulnerable groups. Such a housing model is strongly in danger to produce ghettos. Due to different disadvantages, social housing provided directly by the public has become unpopular in many Western countries and has been replaced by limited-profit housing developers such as housing associations and other forms of housing organisations have mostly replaced public housing (UK, Belgium, Denmark, France, Netherlands and Austria).¹ PPP models for housing provision for low and moderate income groups is today recommended by many international organisations, such as UN (see Box 2, p. 25)², World Bank³ or CEB⁴.

The functioning of these housing developers of the “Third Sector” varies considerably across countries⁵ and the stock resulting from this development not exclusively belongs to the social rental stock oriented at low income households but may be accessible for middle income households as well. There is a large variety of legal forms (associations, foundations, cooperatives, limited companies, publicly or privately owned or under mixed-ownership). Usually there is some form of government control or approval of social housing developers which operate under special rules overriding ordinary law. Often their field of operation is constrained to the local or regional level. In some countries housing developers of the “Third Sector” depend heavily on public funding, whilst in others, private financing is increasingly channeled towards them.

In chapter I.1 (p. 97) the PPP Housing schemes of Austria, France, The Netherlands, Sweden, Poland, Czech Republic and Slovakia are described.

In economically advanced European countries, housing development is often carried out by specific housing developers of a so called “Third Sector” which is situated between state and market. Limited-profit housing providers may take various legal forms. Yet, they have in common to be acting according to public interest and, therefore, get assigned subsidies of various forms or building land. Rent levels and access to their dwellings are legally restricted.

Analysing the opportunities to establish affordable limited-profit housing in CEE countries, two important prerequisites can be named. First, the operation of limited-profit housing developers must be defined by law, as building up assets is promoted by public funding. Second, a sound financing model is required.

Limited-profit housing development is designed as alternative to private housing and also to public housing. These developers are managed on a private market basis, but have to accept thorough

¹ Chiquier/Lea (2009: 376).

² UNECE (2005a). UNECE/REM (2010).

³ Chiquier/Lea (2009: 393, 447).

⁴ CEB (2004).

⁵ Czischke (2009).

public supervision and auditing. Over the years, business operations may generate substantial assets. This results in economically strong companies with a sound and secure position on financing markets and markets for construction services. This also requires strict regulations regarding the treatment of profits and assets. Therefore an adequate legal framework has to define that profits should be made, but must be reinvested in housing.

Taking the Austrian system of limited-profit housing associations as an example, far-reaching spin-off effects enabled by a Third Sector in housing and the concentration on bricks-and-mortar subsidies have been described.¹ The most important effects can be summarised as follows:

- Economic spin-off effects: equity capital substitution by public loans for developers, economic and labour market stimulus, dampening of construction and financing costs, regional economic stimulus.
- Social policy effects: reduction of poverty and social exclusion, redistribution, stabilising of housing expenditures, improvements in housing quality, integration and social quality.
- Environmental spin-off effects: upgrade of environmental standards and reduction of energy consumption, in line with the climate protection targets.
- Spin-off effects for regional and urban development: limited-profit housing projects play a fundamental role in regional development and city renewal. They stabilize settlements and prevent segregation and the formation of ghettos.

D.2 RATIONALE FOR A PPP SECTOR IN MONTENEGRO

According to the project assignment (see I.1, p. 97), the legal framework for a PPP Housing sector for Montenegro should be scheduled.

The potential of a Third Sector in housing can be seen in two different aspects. First, it enables the installation of a functioning rental market and, second, it enforces public objectives in housing policy through the operation of non-public housing providers.

The economic efficiency of a sufficiently large rental sector is evident. Under the many advantages of an increased rental supply, special attention must be paid to the resulting increase in labour mobility and the improvement in affordability of housing for young and poorer households.

Considering the relationship between entirely market-based and entirely public housing, either extreme accounts for inefficiency in housing provision: With exclusively market-based instruments, only the highest income segments in housing demand can be satisfied. Municipal housing, on the other hand, shows inefficiencies through its excessive requirements for public funds and the simple fact that the incentives for market-oriented behaviour are marginal. Also, it does not fall within the responsibility of municipalities to secure middle income housing. Yet this large share of middle income housing demand cannot be consigned exclusively to the owner-occupied housing supply. The question is not only about affordability and the numerous problems resulting from an excessive owner-occupation share, but also consumer-choice has to be made possible. A market economy is particularly efficient whenever consumers are able to choose from a broad variety of alternatives, according to their tastes and needs. This is also the case for

¹ Amann/Mundt (2006), Amann/Oberhuber et al. (2004).

the housing market. The strength of a functioning Third Sector in the housing market is, therefore, seen in its ability to supply additional housing alternatives for consumers.

During project development, the following targets became evident:

- a) The ongoing endeavours to establish a Housing Cooperative Law had to be considered (see D.5, draft Law see I.1, p. 97).
- b) The new legislation should regulate the small housing cooperative sector, the activities of CFSSI as the main PPP Housing organisation in Montenegro (see D.8, p. 32), and the social housing activities of municipalities. As stated in the invitation letter of the Ministry of Economic Development to IIBW from November 2008, it is intended “*to secure the assets and profits of a new social rental housing sector from taking out of the circle of housing investments*” (see I.1, p. 97).
- c) Re-establishment of social and affordable housing in Montenegro is a rather erratic process. Basically committed to a liberal political philosophy, solidarity as a principle in housing provision is not really common. Formation of opinion in civil society is steered constituent by strong individual interests and lobby groups. It is therefore difficult to assess, whether and how the formation of opinion may go into the intended direction.
- d) Montenegrin policy makers seem reluctant against over-regulation and critical against Keynesianism. New regulations have to commit to a basically liberal political environment.

Box 2: Social housing as driving force for sustainable real estate market development

The “Real Estate Market Advisory Group” of UNECE – United Nations Economic Commission for Europe has developed a “Policy Framework for Sustainable Real Estate Markets. Principles and guidance for the development of a country's real estate sector”. Amongst others (e.g. “Integrated Legal Framework”, “Efficient Land Register and Cadastre”, “Sustainable Financing”) Principle 9 is about “Social Housing”:

Social housing should be considered as an integral part of the real estate market, as means to promote economic growth, urban development, reduction in housing pressure, and as a policy option to address the problem of informal settlements.

RATIONALE

Social housing can offer development opportunities for the real estate market and housing sector, and it can be a stabilizing factor for economic development. An innovative social housing policy can contribute to recovering and reconvertting crumbling or underused buildings as well as stabilizing housing production by the undertaking of multi-year plans for construction of new housing units. It can also facilitate urban development and regeneration, contribute to ecologically sound standards in new construction and refurbishment, stabilize migration flows and reduce social tensions. In several Western countries, social housing has been implemented as part of national housing plans. Also, an excessive percentage of private ownership (i.e. over 80 per cent) may be a disincentive to housing mobility for labour relocation or study reasons. Basic preconditions for successful social housing policies are multi-year strategies, the establishment of institutions and an economic environment that stimulates policy continuity and long-term investments.

KEY INDICATORS

1. A home is a basic investment for everyone, one which may not always be fulfilled by direct access to the real estate market. However, access to homeownership may be supported by government directly or through very-long-term loan opportunities. Every country should develop social housing policies that can respond to the requirements of all segments of the population.
2. National and local administrations should, in line with local housing requirements, implement long-term plans for soft-loan house leasing either through the recovering of the existing housing stock or through new construction. Early planning is recommended, as the implementation of social housing plans usually takes four to eight years from the first initiative to the time buildings are actually let.
3. Awareness should be raised about the importance of the State's commitment and intervention to promote social housing, and also to respond to the demand of poor and vulnerable groups. Awareness should be also raised on the fact that the provision of social housing for those in need is an obligation of government.
4. Rental and leasing policies should, on the one hand, favour the mobility of people for reasons of work and study and, on the other, make it possible to give concrete answers (e.g. through tax breaks by the State or State-supported social rents) to low-income groups.
5. A comprehensive, harmonized set of laws regulating rents, condominiums, management and maintenance, subsidies and social housing should be adopted.
6. PPPs in housing have showed convincing results in many countries. Initiatives should be developed in compliance with the UNECE Guidebook on Promoting Good Governance in Public- Private Partnerships (New York and Geneva, 2008).
7. Social housing (through public housing, PPPs, cooperatives, etc.) should be developed as integral part of a housing market. It should compete with private markets to stabilize housing costs.

Source: UNECE/REM (2010).

D.3 PROJECT HISTORY

- a) The Housing Policy Action Plan, which was approved by the Government in 4/2005, recommended the establishment of a Law on Social Housing, a Law on Housing Cooperatives and a Law on Rental Housing.
- b) In November 2008, the Ministry for Economic Development (now Ministry for Spatial Planning and the Environment) has invited IIBW to develop legal regulations for the implementation of a PPP Housing sector in Montenegro. The background for the invitation was to make the ongoing financing projects for CFSSI operative (I.1, p. 97).
- c) The implementation of operative PPP Housing regulations is part of the loan agreements between CFSSI and DIGH – Dutch Guarantees for Housing. DIGH loans have been applied in 10/2008 for a housing project in Nikšić (granted early 2009) and in 2/2009 for the transfer of owner-occupied dwellings to rental dwellings in a CFSSI projects in Podgorica, Berane, Cetinje and Plevlje (granted late 2009).
- d) In January 2009, the Government of Montenegro entrusted the Ministry for Economic Development to prepare a Rent Law and a “Law on Housing Private-Public Partnerships” by the end of 2009 (I.1, p. 97).
- e) In February 2009, IIBW provided a draft project report, including a draft PPP Housing Law and considerations on its implementation.
- f) In March 2009, LLM. Vesna Čejović and LLM. Sonja Čejović, attorneys, gave an expert opinion on the draft project report.
- g) In May 2009, IIBW provided an updated project report, with a draft PPP Housing Law including the comments of the attorneys and the Ministry of Spatial Planning and the Environment, see E (p. 35). Comprehensive additional regulations have been drafted and are provided to Montenegrin legislation for possible implementation into the new Housing Law (general provisions, rent regulations, housing maintenance regulations, housing subsidy regulations).
- h) In the following months the possible combination of the new PPP Housing Law with the draft Housing Cooperative Law was discussed. Options have been the integration of one into the other, or one law with two independent parts (September 2009). In November 2009, IIBW gave an expert opinion focusing on the advice not to decide the draft Housing Cooperative Law. The reasons are summarized in the following chapter D.5.
- i) During the second half of 2009 and the first months of 2010, IIBW consulted the Directorate for Housing Development in the Ministry for Spatial Planning and the Environment, Deputy Minister Marko Vujović, regarding the new Housing Law, which should be completed already in the 3rd quarter of 2009, but did not attain Government decision until today.
- j) The new Housing Law was regarded compulsory for a successful application for two loan applications to CEB (Council of Europe Development Bank, see p. 12), particularly regarding the

definition of beneficiary households (see 0, p. 47). Finally, it proved feasible to apply according CEB-regulations on social housing.

- k) Today (May 2010), neither the new Housing Law nor a PPP Housing Law or a Housing Cooperative Law have passed Government decision. From the present point of view it is difficult to foresee further perspectives. Recommendations for a recovery of this legislative initiative are summarized in chapter D.4 (p. 27) and 0 (p. 47).

D.4 STRUCTURAL APPROACH

IIBW has provided comprehensive regulations beyond a PPP Housing Law to make social housing operative. With a structural approach, existing Laws could be amended and complemented with new regulations in the following way:

- | | |
|---|---|
| a) PPP Housing Law | new, see chapter E (p. 35); |
| Audit and supervision | see Art. 23 (p. 42); |
| b) General cooperative regulations | new law; |
| c) Rent regulations | Property Law or the new Housing Law
see chapter G.1 (p. 58); |
| d) Housing management and maintenance regulations | Property Law or the new Housing Law
see chapter G.1 (p. 58); |
| e) Housing Subsidy Regulations | new National Housing Strategy (scheduled in
the new Housing Law) or new law,
see chapter G.5 (p. 74); |
| f) General provisions | Property Law or the new Housing Law |
| definitions | see chapter G.1 Art. 1 (p. 58); |
| notification of Parties | see chapter G.1 Art. 2 (p. 61); |
| submission of an energy performance certificate | see chapter G.1 Art. 3 (p. 61); |
| reference to technical standards | see chapter G.1 Art. 4 (p. 61). |

D.5 CRITICAL ANALYSIS OF THE DRAFT HOUSING COOPERATIVE LAW

Cooperative business activities have gained high priority on an international level. The United Nations has declared the year 2012 the International Year of Cooperatives.¹ In 2003, the Council of the European Union has decided on a Statute for a European Cooperative Society (SCE).² Cooperatives in the housing sector are as old as social housing altogether. In many countries all over the world they are still the predominant legal form of (not only) social housing. Some formerly communist countries relied on cooperatives to provide for affordable rental housing. But these cooperative sectors almost entirely disappeared by housing privatization in the 1990s. By contrast to the good experience and stable development of housing cooperatives in many Western countries, this legal form has hardly re-established in transition countries so far. But for good reasons, housing cooperatives are always an important option, if new schemes of social housing are considered.

¹ UN resolution A/RES/64/136, 18 December 2009 .

² EC regulation No. 1435/2003.

The usual way of implementing cooperative legislation in many European countries is a general Cooperative Law, focusing mainly on formal regulations and revision, complemented, if necessary, with sectoral regulations, e.g. in the field of housing.

Montenegro did not succeed to decide for such a general Cooperative Law, but decided for an altogether sectoral approach. Starting point was the decision for a cooperative law in the agricultural sector. In consequence, the Ministry for Economic Development (and consequently the Ministry for Spatial Planning and the Environment) went for a Housing Cooperative Law, adopting the 1984/1990 regulations on housing cooperatives. For the draft version from March 2009 see Appendix chapter I.1 (p. 97).

The following aspects are seen critically:

- There is definitely a legal gap in terms of housing company law. The activities of CFSSI, a number of housing cooperatives and municipalities in social housing require legal regulations.
- Because of non-existence of a general Cooperative Law, which would apply for all kinds of cooperatives, the draft law is rather bulky with altogether 51 articles. This seems inadequate, taking the small number of existing and expected housing cooperatives in Montenegro. Applicability for the economically much stronger Montenegrin Fund for Solidarity Housing Development (CFSSI, see p. 11) is questionable.
- It seems inadequate that the draft new Housing Cooperative Law does not contain any regulations on audit and control. Article 54 ff (see p. 111) only refers to the establishment of an umbrella organisation. An auditing association not only secures financial conduct of the member organisations, but may be an important tool for quality assurance. An according regulation is recommended in Art. 23 ff. of the proposed PPP Housing Law (see 42). Non-consideration has been argued with the difficulties of introduction of such an organisation.
- Company legislation for social housing should reflect existing specifics of Montenegro. This is not recognisable in the draft Housing Cooperative Law.
- It is urgently recommended to regulate the operations of CFSSI on a legal basis, for several reasons: It would make clear and transparent the rules of operations. It would legitimize public contributions. It would save the growing assets (unrealised gains) of CFSSI from access through its shareholders. It would help to avoid malpractice. Finally the proposed PPP structure may be an efficient tool of quality improvement.

In medium term, a general Cooperative Law is intended to be introduced, both to fulfil EU guidance and to replace the hitherto sectoral approach. It is questionable, if the introduction of a Housing Cooperative Law makes sense for the interim time. A respective legal basis is necessary, but not urgent.

An alternative approach is the introduction of a PPP Housing Law (or Limited Profit Housing Law), following the example of several Western European countries, see below. With a general Cooperative Law and the PPP Housing Law, housing cooperatives would have a fully sufficient legal coverage. Such an approach allows for a consistent legislative development.

This approach has been strongly promoted by IIBW within the project being subject of this report. Such a Law would apply very well for housing cooperatives as well.

A merger of a PPP Housing Law and the draft Housing Cooperative Law does not make sense for the following reasons: Both drafts cover a similar topic with quite different conceptions. The PPP Housing Law is much more open, particularly regarding the possible legal forms of housing organisations

(cooperatives, private or public limited companies, foundations, funds etc.). It gives the impression of a more modern and slim company law for social landlords. It represents a new business model that is not only relevant for CFSSI. The PPP Housing Law results from thorough research on European best practice, from 100 years of legal practice in Austria and in The Netherlands.

D.6 CORNERSTONES OF THE DRAFT PPP HOUSING LAW

a) Three pillars of PPP Housing are:

- **PRINCIPLE OF COST COVERAGE:** Dwellings must be rented or sold neither above nor below own costs. Own costs include an appropriate profit. By-laws shall define components of calculation, with which PPP Housing Associations may make profits (e.g. with services that may be charged with lump-sums).
- **PROTECTION OF CAPITAL:** Disbursement of profits is limited to a percentage of invested capital (not of profits), in Austria with 3,5%. That is to say, profits are low but secure and predictable. Any options to capitalize the assets are prevented. If a PPP Housing Association is closed down, the shareholders only may receive the invested capital. All remaining assets have to remain within the PPP circuit.
- **LIMITATION OF ACTIVITIES:** PPP Housing Associations may only be active in defined fields of business, all of them related to housing. They e.g. have to reinvest their profits in housing or purchase of land and no other business.

These provisions legitimize the privileged access to subsidies of PPP Housing Associations.

b) Allowing for profits is indispensable for a PPP Housing sector for several reasons. A reasonable yield on invested capital is necessary to attract capital participation. Profits are indispensable to build up equity. Subsequently, equity is not only essential as part of a structured financing of new housing construction, but it is also crucial in order to carry risks. A company with too little of its own capital will necessarily be unstable and face economic difficulties, and this, of course, influences considerably the willingness of commercial banks to co-finance construction projects. Profits should, therefore, be limited to the necessary extent and a re-investment of profits should be obligatory.

c) PPP means that private companies fulfill public service obligations. They are private companies, even if the majority of shares is owned by the public. In the legal form of private companies, the public cannot force PPP Housing Associations to act against economic rationality. PPP Housing Associations are not the executive of housing policy, but a reliable partner. They are not part of the public sector, nevertheless the public has extensive influence, both via its stakes, the legal framework and conditions linked to subsidies.

d) PPP Housing Associations act on private market basis to fulfill public service obligations, particularly with the provision of affordable housing. For this they must have privileged access to subsidies, tax relief and/or low cost building land. In Austria and the Netherlands, PPP Housing Associations are exempt from company income tax.

e) These provisions only make sense, if the PPP sector is strictly supervised and audited. An obligatory auditing and revision is of crucial importance. It not only avoids fraud and misuse, but it might be an efficient instrument for quality improvement.

- f) Generally, private investors may have the following interests to take stakes in PPP Housing organisations:
- They may serve their clientele or social obligations, e.g. municipalities, trade unions, charity organisations.
 - Accommodation for own workers (company housing): low housing costs allow for low wages, PPP Housing Associations have persuasive economic advantages compared to housing financed from the budget.
 - Secondary business: In Austria, several PPP Housing Associations are owned by banks or insurance companies (construction companies are not allowed to own them).
 - Portfolio considerations: The low risk and the substantial undisclosed reserves of PPP Housing Associations may be a big advantage for the overall risk-position of owners. Private owners may attain a better credit rating for the whole organisation.
- g) PPP Housing Associations combine two advantages compared with public housing: Firstly, they act on market economy basis with its efficiency benefits. Secondly, the assets which will be built up over the years, remain within a protected sphere, without the possibility neither for the public, nor for private owners to capitalize them. As such, this sector becomes an economically powerful player and executor of policy goals.
- h) An additional advantage of PPP models in housing will be the better financing conditions, as long as social housing providers exist within a framework of checks and balances, with internal and external supervision. If limited-profit housing providers operate under risk-sharing conditions, either by public guarantees or by the implementation of funds, private capital participation will be encouraged due to low-risk and a reliable, stable yield.
- i) Spin-off effects resulting from public subsidies have often been criticised in international discussion for their market-distorting effects. In the case of the Third Sector in housing, this objection does not hold, since a special housing supply segment is created that would not exist in the absence of a Third Sector and public subsidies – a drawback for the whole economy. The limitation of profits to what is necessary and the enforcement of capital reinvestment make public support of the Third Sector both reasonable and legally viable.
- j) The conception is to organise Montenegrin PPP Housing organisations similar to Dutch or Austrian Limited Profit Housing Associations. They have proved to work efficient and effectively. The Austrian social housing sector faced no bankruptcy, major misuse or other scandals for decades.

D.7 IMPLEMENTATION OF A PPP HOUSING SECTOR

The PPP Housing regulations are designed as a self-contained law. They are targeted to establish the legal basis for the operations of

- a) the Montenegrin Fund for Solidarity Housing Development (CFSSI);
- b) possible future PPP Housing organisations;
- c) existing or future housing cooperatives;
- d) municipalities being active in social housing;
- e) international NGOs being active in social housing.

The PPP Housing Law (see chapter E, p. 35 ff.) introduces a new type of housing provider that has proved outstanding efficiency in several European countries. It combines the functions of a housing developer, an investor and a housing administrator and is particularly eligible for affordable housing construction (particularly rental housing), the takeover of social housing stocks and the refurbishment of existing residential buildings. With the obligation to maintain the buildings and manage the common parts in apartment blocks, the danger of insufficient investment and dilapidation of the buildings can be prevented.

PPP Housing associations are non-governmental housing companies organised under private law. They are limited in the realization and disbursement of profits and in their business scope. Specific control and supervision mechanisms are applied to them. Therefore they get a privileged access to housing subsidies. By developing and managing affordable and sustainable housing they fulfil a service of general economic interest. They aim at improving the housing and living conditions of big parts of the Montenegrin population. The PPP Housing Law is therefore targeted at average citizens. In a formal sense, the Law addresses at qualified housing companies (PPP) and the respective authorities.

The law provides the following main contents:

- Regulations on the legal form, accreditation as PPP Housing organisation and revoking of accreditation (Art. 2, p. 35, Art. 18, Art. 19).
- Field of operation of PPP Housing companies (Art. 7, p. 37).
- Regulations on minimum and maximum rents and prices (Art. 8, p. 38).
- Regulations limiting withdrawal of profits and safeguarding the assets within the welfare regime of PPP Housing (Art. 10, p. 38, Art. 11): Similarly to PPP Housing in The Netherlands or Austria it seems most important to secure the assets and profits of a new social rental housing sector from taking out of the circle of housing investments.
- Auditing and supervision procedures, formation of an auditing association (Art. 15, p. 40, Art. 23 ff.).
- Authorities in charge (Art. 16, p. 40).
- Subsidies and tax exemptions (Art. 27, p. 44).

The implementation of a PPP Housing sector in Montenegro may be realised with the following steps:

- a) Change of strategy for cooperative legislation, with a general Cooperative Law, following the EU model of a European Cooperative Society (SCE), instead of a sectoral approach.
- b) Government decision on PPP Housing regulations.
- c) Decision and establishment of a housing subsidy scheme with privileged access for PPP Housing organisations, see particularly Art. 5, Art. 7 and Art. 10 of the recommended IIBW housing subsidy regulations (p. 74 ff.).
- d) Decision and establishment of the necessary rental regulations, see the IIBW rent regulations (G.2), particularly Art. 17 on rent regulation in the PPP Housing sector (p. 66).
- e) Establishment of an accreditation authority (see chapter E, Art. 16, p. 40).
- f) Establishment of a scheme of auditing and supervision, e.g. through the Ministry of Finance.
- g) Adoption of the Articles of Association of the Montenegrin Fund for Solidarity Housing Development (CFSSI) to fit into the PPP Housing scheme.
- h) Invitation to other interested parties to establish PPP Housing associations or cooperatives.
- i) Accreditation of the first PPP Housing associations.
- j) Application for membership of the new sector in European institutions, particularly CECODHAS, the European Liaison Committee for Social Housing.

The PPP Housing sector is designed fully in line with European positions. The European Union has communicated quite plainly its support for the establishment of social housing sectors in the new Member States. PPP Housing organisations fulfil public service obligations. Therefore subsidies are qualified as State Aid exemptions.

D.8 CFSSI AS PPP HOUSING ORGANISATION

The Montenegrin Fund for Solidarity Housing Development Ltd. (CFSSI, Crne Gore Fond za Solidarnu Stambenu Izgradnju, see p. 11) was established in 2008 by three equal shareholders, the Government of Montenegro, represented by the Ministry of Health, Labour and Social Welfare (later the Ministry for Spatial Planning and the Environment), the Confederation of Trade Unions of Montenegro, which already before run a “Trade Union Fund for Joint Housing Construction” (since 1996), and the Montenegrin Employers Federation. CFSSI (and its predecessor institution) has already executed (completed or under construction) affordable owner occupied housing with altogether some 500 units in 6 municipalities of Montenegro (end of 2009). CFSSI has contractual agreements with almost all local governments in Montenegro (19 out of 21) for the realisation of affordable dwellings, including the provision of building land and infrastructure free of charge. Additional financing sources are contributions of all three shareholders. Establishing a social partnership model (government and representations of interest of workers and employers) is a pragmatic approach, which has proved efficient in many European countries.

In 2008 a cooperation was settled with the Austria based IIBW – Institute for Real Estate, Construction and Housing Ltd., and DIGH – Dutch International Guarantees for Housing, aiming at the development of an affordable rental housing sector. By 2009, financing for six projects has been organised with altogether ca. 120 rental dwellings. Currently, a loan by CEB, the Council of Europe Development Bank is acquired for another approx. 170 affordable rental dwellings. A project funded by the Fund Werken aan Wonen (FWAW) on the implementation of a rental housing department within CFSSI following the Dutch model is close to realisation.

D.9 REGIONAL INITIATIVE ON PPP HOUSING

IIBW together with CFSSI and the Ministry for Spatial Planning and Environment of Montenegro have organised a conference “Western Balkan Social Housing Initiative” by 8th and 9th of July 2010 in Podgorica. Representatives of five Western Balkan countries, another three CEE countries, several Western European countries and international organisations (UNECE, CECODHAS) followed the invitation to discuss about perspectives of the new PPP Housing approach in Montenegro.

Targets of the conference were

- firstly to initiate institutional links to social housing sectors in Western Europe and particularly to connect CFSSI with CECODHAS, the European Liaison Committee for Social Housing, and
- secondly to initiate the application of similar approaches to neighbouring countries.

The new approach of CFSSI to establish affordable (rental) housing was defined with three pillars:

a) a sound legal framework (PPP Housing),

with the new Housing Law, the recommended PPP Housing Legislation and the CFSSI Statutes,

b) a financial model (HIFACT financing),

to be described as structured financing, including building land and infrastructure free of charge (contribution of municipalities), own equity (contribution of shareholders), contributions of member companies, cross subsidising and low interest loans of International Financing Institutions (DIGH, CEB), and

- c) an institutional setting (social partnership model), with the Government of Montenegro, the Confederation of Trade Unions and the Federation of Employers as shareholders of CFSSI. Similar models have been starting points for PPP Housing schemes in many Western European countries.

The conference had several concrete outcomes:

- The establishment of a Western Balkan Social Housing Network is considered:
The Network may be a regional approach driven by local stakeholders in social housing, newly established social landlords or social partners (Federations of Trade Unions, Federations of Employers, governments) in other countries of the region. It shall transfer knowhow between the members and from Western European best practice. In this function it shall support members in the establishment of social housing organisations in the respective countries, complemented by support in political awareness building and the adoption of legal regulations. A regional approach will help social housing on Western Balkans to be well represented on a European level, e.g. in CECODHAS. Such a regional approach may become a signal towards Europe on growing convergence on Western Balkans.
- Single countries represented at the conference have expressed their interest to establish a Social Partnership model for social housing, following the model of CFSSI. CFSSI and IIBW have expressed their willingness for support.
- Possible CECODHAS initiatives:
CECODHAS was represented by the Secretary General Mrs. Claire Roumet. It represents all European national social housing organizations on a European level. New EU member and candidate States are presently underrepresented as after transition social housing was no political focus in those countries. It is recommended to CECODHAS to establish a regional group on Western Balkans within its structures.
- Possible UNECE initiatives:
The United Nations Economic Commission for Europe was represented by Damir Pahić, the chairman of the Working Party of Land Administration, Sergii Yampolskyi from the Committee on Housing and Land Management and Wolfgang Amann, presently chairman of REM, the Real Estate Market Advisory Group of UNECE. UNECE may support building up of social housing sectors in the region with organisation of events or the provision or update of country reports, always following invitations from the respective countries.
- Translation of the REM/UNECE “Policy Framework for Sustainable Real Estate Markets”:
The Real Estate Market Advisory Group (REM) of UNECE has currently published these helpful guidelines. Translations in several languages are already on the way. Translation to Montenegrin language would make this document available for the whole Western Balkan as a single language area.

- Regional initiative for a graduate education in real estate:
The real estate and housing sector in all Western Balkan countries is lagging behind. There is evidence in many Western countries that the implementation of respective graduate courses may strongly improve the situation within a relatively short period of time. The implementation of such graduate education will lead to professionalization of the real estate sector. At the same time such an institution may become a focal point of future scientific, economic and political development of real estate sectors in the region.

- Creation of literature:
Previous achievements and further challenges may be strongly supported by scientific examination. International researchers shall be motivated to work on the housing sector in the region, aiming at publishing in referred international journals.

Summing up, this initiative was quite successful. But similar to all successful events, a lot of windows have been opened. The visible perspectives only may come to reality, if many of the involved stakeholders are ready for bolt action.

E. DRAFT PPP HOUSING LAW¹

Explanatory Statement

Public-Private-Partnership (PPP) companies and organisations are private law enterprises whose owners share a long-term interest in and commitment to a stable, well functioning and flourishing housing sector.

There is international evidence that housing markets do not perform well without strategic public support and regulation, particularly regarding rental housing for low and middle income groups. A PPP Housing sector as a partnership between the public and the private sector is a well-proven model in many Western countries. It combines market liberal principles with the successful tradition of the European Social Model.

The regulations of this Law are in accordance with EU legislation. PPP Housing organisations provide services of general economic interest. Therefore they are exempt from the general state aid ban. In principle, PPP Housing organisations qualify for state subsidies.

Chapter 1: General provisions

PPP Housing

Art. 1 (1) This law regulates the organisation and the functioning of accredited PPP Housing companies and organisations.

(2) PPP Housing organisations will officially be regarded as such only if they fulfil the requirements of this law.

(3) Accredited PPP Housing organisations have to focus their activities on services of general economic interest in the field of housing. This is particularly new construction, management and refurbishment of affordable rental and owner occupied housing. They have to apply their assets to these services and agree to open their business activities to regular audit and supervision.²

Chapter 2: Conditions for accreditation

Legal form

Art. 2 The PPP Housing organisation has to be a legal person set-up as a limited liability company, a joint-stock company, a cooperative, a foundation, a fund, an association or an owners' association with a head office in Montenegro.³

¹ This draft has been designed by Theo Österreicher, Director of the Umbrella Organisation of Limited Profit Housing Associations in Austria and Dr. Andreas Sommer, Austrian Focal Point on Housing, Federal Ministry for Economy and Labour, and adapted by W. Amann (IIBW).

² The term "services of general economic interest" is used, because this establishes an exemption of the general state aid ban referring to EU regulations (E.g. "Altmark Case", ECR I –7747, 2003), see above, C.1, p. 19.

³ This is the main paragraph to coordinate the PPP Housing Law with a Cooperative Law.

Supervisory board

Art. 3 The PPP Housing organisation is required to have a supervisory board or any other body with in essence the same rights and obligations as a supervisory board (internal supervisory body).

Minimum equity capital

Art. 4 (1) The economic performance of a PPP Housing organisation has to be adequate to fulfil its obligations defined by law.

(2) If the PPP Housing organisation is a limited liability company or a joint-stock company, at least € 200.000 have to be deposited as equity capital stock. The accreditation authority (Art. 16) may tolerate exception to this rule following advice from the auditing association (Art. 23), if this is justified regarding the economic performance and the field of operation of the PPP Housing organisation.¹

Ban on influencing

Art. 5 (1) The PPP Housing organisation is not allowed to be under the predominant influence of political parties or of persons who are members of the building industries (housing construction, production or the commerce of building materials, or other businesses connected to housing construction). PPP Housing organisations themselves, or local and regional state authorities, are not considered members of the building industries.

(2) The Articles of Association of a PPP Housing organisation are to secure that the PPP Housing organisation is not composed predominantly out of members of the building industries, and that members of the building industries have no predominant influence on business decisions within the PPP Housing organisation.²

Allowed restriction of allocation of dwellings

Art. 6 (1) In principle, the PPP Housing organisation is not allowed to restrict the allocation of dwellings to defined persons or a defined number of persons.³

¹ The minimum capital of € 200.000 does not apply for PPP Housing associations which are not Limited Liability Companies or Joint-stock companies, as defined in Art. 2 para. 2 (e.g. cooperatives).

² It is recommended to complete the regulations with official order in the following way (to be implemented into the articles of association, statutes or by-laws):

- PPP Housing Associations only may transact with construction companies (new construction, management, maintenance), which are involved in the association institutionally or with shares, according to the following recommendations.
- This concerns any natural and legal person affiliated to the construction industry, i.e. who is institutionally involved or has important shares of a construction company.
- Members or shareholders of a PPP Housing Association may represent at most by half affiliates of the construction industry. The board of directors and the supervisory board may consist of at most one third affiliates of the construction industry.
- PPP Housing Associations only may transact with construction companies (new construction, management, maintenance), which are involved in the association institutionally or with shares, if the supervisory authority has agreed. This decision has to be taken by at least three quarters of the votes.
- With such a decision the management of the PPP Housing Association is allowed to cooperate with distinct construction companies within fixed periods of time and transaction volumes. The decision is void if a new member enters the supervisory authority.

³ The ban on allocation of dwellings to defined persons is an anti-discrimination paragraph. Para. 2 and 3 define

- (2) However, PPP Housing organisations may restrict the allocation of dwellings in the following cases:
- a) If a PPP Housing organisation consists in total or partly of members in need of housing (e.g. a cooperative), a restriction of allocation to its members is allowed. For further operations, the entry of new members must be open according to para. 1.
 - b) Restriction is allowed if PPP dwellings are allocated to employees of certain enterprises (company housing), to certain profession or to persons denominated by a municipality.
 - c) If a PPP Housing organisation is established from one or more owners' associations, its operations may be restricted to the owners.

(3) The allocation of dwellings through the PPP Housing organisation has to follow objective criteria, especially regarding housing need, household size, and household income of applicants. The auditing association (Art. 23) is to provide guidelines for such an objective allocation mechanism. The allocation mechanisms of each PPP Housing organisation has to be approved by the accreditation authority (Art. 16). Denomination of beneficiaries by a municipality fulfils the criterion of objective allocation in any case.

Field of operation

Art. 7 (1) The PPP Housing organisation has to be engaged in construction and management of social dwellings in its own name. Additionally, it may supervise the construction of social dwellings for other owners.¹

(2) Cases may appear that a PPP Housing organisation has to discontinue its activities of construction or refurbishment due to economic reasons (housing demand, financial restrictions). In

allowed reverse discrimination. Para. 2 is particularly targeted on housing cooperatives, which serve the housing needs of its members. Para. 3 defines exceptions for company housing, for PPP Housing associations limited to distinct professional groups (e.g. municipal civil servants) or for PPP Housing associations that are established to manage owners associations (e.g. for organising thermal refurbishment).

- ¹ It is recommended to complete the regulations with official order in the following way (to be implemented into the articles of association, statutes or by-laws):
- Allowed activities in housing development are:
 - a) the economic and technical development of housing construction (which is accomplished by a construction company) for own account;
 - b) the economic and technical development of housing construction (which is accomplished by a construction company) on the account of a defined third party;
 - c) the supervision of construction, accounting and other administrative works related to a) or b).
 - It is not allowed to act as an executive construction company.
 - Allowed activities in housing management are:
 - a) renting own residential buildings;
 - b) maintaining these residential buildings;
 - c) supervision of refurbishment of these residential buildings;
 - d) running of refurbishment facilities according to the size of the housing stock;
 - e) operation of common facilities for the beneficiary of the tenants;
 - f) construction or purchase of business space for the own administration.
 - Beside of this the following activities are allowed:
 - a) transactions related to the construction, purchase or financing of buildings and facilities in a usual quantity, particularly the purchase, debit and sale of land and building concessions, interim financing and construction financing;
 - b) financing with loans or shares;
 - c) assessment of capital on accounts or in bonds;
 - d) purchase of construction products for own buildings;
 - e) shareholding or affiliation in other PPP Housing associations;
 - f) shareholding in financing institutions, if necessary for the financing; cooperation with Contract Savings Banks for the financing of new construction;
 - g) construction and lease of commercial space, if it is necessary for the needs of the tenants.

such cases, the accreditation authority may stipulate a time period during which the company's activity may be discontinued without losing accreditation.¹

(3) The PPP Housing organisation may manage dwellings, which it has constructed in its own name, as well as dwellings acquired otherwise.

(4) PPP Housing organisations may build social dwellings with a useable floor space of at most 90 square meters and with standard equipment, taking into account the state of the art of technology and present time habitation standards, with highest possible efficiency of construction costs, considering operational and maintenance costs.

(5) The PPP Housing organisation may engage in commercial activities and build dwellings larger than defined in para. 4, if the accreditation authority issues a special approval including specific conditions.²

Rents and prices

Art. 8 (1) While at all times considering the principles of efficiency, thrift and usefulness, the PPP Housing organisation shall be guided by the interest in socially affordable housing supply regarding rent and sale contracts and housing management. The Articles of Association must safeguard the interests of tenants and of condominium owners.

(2) The PPP Housing organisation may let dwellings only at adequate rents and prices. Rents and prices will anyway be considered adequate if they are neither above nor below self-costs.

(3) Self-costs consist of all current expenses for:

- a) amortisation and adequate interests of loans,
- b) adequate interests on equity capital of at most 3,5% p.a.,
- c) facility management of the PPP Housing organisation,
- d) proper depreciation,
- e) adequate reserves and provisions, according to the principles of a correct management.³

Sale of dwellings and buildings

Art. 9 If dwellings are sold, the new and any consecutive owners have no right to re-sell for at least 10 years with a gain. Price increase must only cover proved expenses on the premises of the preceding owner. This restriction is to be safeguarded with security entries in the land registry.

Returns on invested capital

Art. 10 (1) The shareholders or members of the PPP Housing organisation have to respect the following rules in the Articles of Association and in actual fact:

¹ Harmonisation with the normative technique in Montenegro is required.

² Checking what standards are being applied in Montenegro regarding these issues is needed.

³ Maximum costs (incl. interests and necessary reserves and provisions) are defined in Art. 7, para 5 ("highest possible efficiency of construction costs, considering operational and maintenance costs") and Art. 10 (interests on invested equity) in combination with Art. 13 (Efficiency of business activity) and have to be evaluated by the auditing association (Art. 23). For detailing on allowed costs and rents it is recommended to complete the regulations with official order (to be implemented into the articles of association, statutes or by-laws).

- a) In the case of net profits, the shareholders may be issued with a return on actually invested capital of at most 3,5% p.a. or any other interest-rate decreed by the Minister of Finance. The shareholders or members receive no further assets, besides adequate compensations for marketable services.
 - b) If the PPP Housing organisation is liquidated or if some shareholders or members exit the organisation, the shareholders or member concerned may only receive their actually invested capital.
- (2) Allocated profits are considered as actually invested capital.¹

Treatment of assets in case of liquidation

Art. 11 (1) In case of liquidation of a PPP Housing organisation, the shareholders or members are returned their actually invested capital. All the remaining assets must stay within the welfare regime of the PPP Housing sector. Tangible disposition in the individual case is decided by the accreditation authority (Art. 16). By request, the PPP Housing organisation has to surrender all assets including inventory to the accreditation authority. Its further use has to answer the purpose of the PPP Housing regime.²

(2) When deciding on the use of the assets, the accreditation authority (Art. 16) must consult the parties concerned as well as the auditing association.

Legal ineffectiveness

Art. 12 Changes in those clauses of the Articles of Association which were a prerequisite for accreditation by the accreditation authority (Art. 16) are legally ineffective without the authority's explicit permission.³

Efficiency of business activity

Art. 13 Managerial and administration costs must stay within adequate limits as defined by the Articles of Association and in actual business activity. In particular, the association may not grant to its representatives or to third parties any benefits or remuneration that are disproportionately high in relation to the economic capability of the association.⁴

¹ PPP Housing associations may charge interests on invested equity, as decreed by the accreditation authority (Art. 16). These interests are legitimate part of the costs and are to be considered in the rent calculations. If the PPP Housing association makes profits, the shareholders have a right to get returns with the same interest rate, but calculated only on the invested capital. If a shareholder does not take out profits, the retention increases the amount of his actually invested capital (para 2). This influences future calculations of profits (para 1) and the treatment of assets in case of liquidation (Art. 11).

² The treatment of assets in the case of bankruptcy has to be clarified.

³ The PPP Housing association cannot essentially change its articles of associations without approval of the accreditation authority (Art. 16).

⁴ For detailing on allowed remunerations it is recommended to complete the regulations with official order (to be implemented into the articles of association, statutes or by-laws).

Reliability of housing management

Art. 14 All business activities of the PPP Housing organisation have to be in accordance with the business purpose laid down in the Articles of Association and in conformity with business ethics. No person must be active as member of the board of directors or the supervising board or as leading executive of the PPP Housing organisation that is in doubt for their social integrity and reliability.¹

Membership to an auditing association

Art. 15 The PPP Housing organisation must be member of an auditing association which is in conformity with the EU-regulations 2006/43/EG, 84/253/EG and 78/660/EG and is accredited by the Minister of Finance.

Chapter 3: Procedure

Authority in charge

Art. 16 (1) The accreditation, denial, and revoking of accreditation is enacted by the Ministry of Finance as accreditation authority.

(2) Accreditation by the authority in charge is valid for the whole country.

(3) Any application for accreditation has to be filed with the responsible authority via the auditing association (Art. 23).²

Decisions of the authority

Art. 17 (1) Accreditation, denial and revoking of accreditation is enacted by decree of the accreditation authority.

(2) The accreditation authority acts on its own initiative or upon request of a party (Art. 20).

(3) Decrees must be issued in writing and must be served on the parties. In case of a denial or revoking of accreditation the reasons for the decree must be stated.³

Procedures of accreditation

Art. 18 (1) The accreditation authority's decree may determine dates of coming into force of the accreditation. These dates may not precede the day the application is filed with the authority.

(2) If no date or period is determined by the decree, accreditation will be effective for an indefinite term starting with the day of issue. However, accreditation may be of a limited period of not less than five years.

¹ For detailing on this issue it is recommended to complete the regulations with official order (to be implemented into the articles of association, statutes or by-laws).

² The auditing association (Art. 23) shall be integrated in the process of accreditation for the purpose of support of application and pre-evaluation.

³ The conditions of accreditation are to be clarified, within the law or with official order.

(3) For the following reasons a new application for accreditation can only be filed after an interval of two years, starting the day after the date of expiry, denial or revoking of the accreditation, or the day after withdrawal of an application filed by the housing company:

- a) if a fixed-term accreditation of a housing company (para. 2) expires without a newly filed application,
- b) if accreditation was legally denied or revoked, or if the housing company has withdrawn its application.¹

Revoking of accreditation

Art. 19 (1) Apart from the reasons mentioned in Art. 18 para. 3, an accreditation can only be invalidated by being legally revoked. A renouncement ex parte by the PPP Housing organisation is not permitted in any case.

(2) Accreditation must be revoked

- a) if the organisation or the statutes (Articles of Association) of the housing company do no longer comply with the law, especially with Art. 2-15 of this law,
- b) if the business activities of the association are contrary to the law, especially to Art. 2-15 of this law,
- c) if the company evades auditing (Art. 23-26).

(3) The accreditation authority will publicise the revoking of accreditation at the expense of the association concerned.

(4) If an accreditation is legally revoked, the accreditation authority (Art. 16) may, in accordance with the auditing association, impose penalties on the PPP Housing organisation as a compensation for benefits acquired by the accreditation. These penalties must be paid by the PPP Housing organisation to a recipient to be determined by the accreditation authority. Payment of these penalties may be enforced by law.

Parties to the procedure

Art. 20 The PPP Housing organisation and the auditing association are parties to the procedure. The latter may also take action that accreditation be revoked.

Appeal

Art. 21 (1) The parties have the right to appeal to a court of administration against the accreditation authority's decree within 30 days after it has been served on them.

(2) In such proceedings, the accreditation authority will be considered a party.

¹ A minimum interval of two years for re-application for accreditation is decreed to avoid misuse of the procedure of accreditation. Applications for accreditation will be denied or revoked only in the case of serious deficiencies. In such cases it is regarded necessary to invest some time for improvements. In the case of fixed-term accreditation this applies only in the case that no new application is filed in time.

Trade name and registration

Art. 22 (1) Any housing organisation not accredited as PPP Housing organisation according to this law may not refer to itself as such, neither in public nor in legal transactions.

(2) The trade name of a housing company which has not been accredited according to this law or has lost accreditation may not include the terms "PPP Housing".

(3) If a person or legal body wilfully acts against the provision of para. 1 of this Article, a penalty will be imposed, unless this offence is more severely punishable under another law. Infringement may be noticed only by the accreditation authority.

(4) The accreditation authority will notify the registry office CRPS of any final decrees issued on the basis of this law. The registry office, in their turn, will notify the accreditation authority and this will inform the auditing association of any entries into the register concerning a change in the board of directors, in the statutes (Articles of Association) or the liquidation of an accredited PPP Housing organisation or the cancellation of its name from the register.¹

(5) The PPP Housing organisation must immediately notify the accreditation authority and the auditing association of any changes in the board of directors, in the management or in the supervisory board.

Chapter 4: Auditing and supervision

Auditing association

Art. 23 (1) Auditing associations to which PPP Housing organisations must be member under Art. 15 of this law are licensed by the Minister of Finance.

(2) If a licensed auditing association is liquidated, the disposition of its assets must be made public and compliance with Art. 24 lit. d of this law must be proven.²

Statutes of the auditing association

Art. 24 The statutes of any licensed auditing association must ensure the following issues:

- a) The field of competence of an auditing association may be locally or factually limited, provided that only PPP Housing organisations with the same limitations may become member.
- b) PPP Housing organisations may be member of only one licensed auditing association according to this law.
- c) The statutes have to define the obligations of the auditing association according to this Law, particularly the auditing procedures,
- d) In the case of liquidation of an auditing association it is to make sure that all members are transferred to another auditing association.³

¹ The loss of accreditation implies liquidation of a PPP Housing association (Art. 11).

² In practice it is very likely that there will be only one auditing association licensed by the Ministry of Finance. It is recommended to make use of the same auditing associations for housing cooperatives.

³ See remarks on Art. 23.

Audit and supervision

Art. 25 (1) Every accredited PPP Housing organisation must submit to periodical audits by the auditing association to which it is affiliated under Art. 15 of this law. The auditing association may, with the consent or on the demand of the accreditation authority, conduct extraordinary audits at the expense of the PPP Housing organisation.¹

(2) Audits must also cover compliance with the regulations of Art. 2-15 (financial conduct of the PPP Housing organisation).

(3) An audit must be conducted every year before the approval of the annual accounts. If no audit has taken place, the annual accounts cannot be approved. If they are approved without an audit, they are void.

(4) If the accreditation authority demands it, housing companies must transfer all audit reports to the accreditation authority within three months after ending of the audit.

(5) The accreditation authority has at all times the right to the following proceedings: to procure all documents and to gather all information it deems necessary and to examine all business transactions and business activities of the PPP Housing organisation. If necessary, it has the right to have an extraordinary audit conducted by an agency to be determined by the authority itself, on its own initiative and at the expense of the PPP Housing organisation concerned.

(6) Any change in the statutes (Articles of Association) must be immediately notified to the accreditation authority.

Accounting

Art. 26 (1) The PPP Housing organisation must comply to the guidelines on the accounting system issued by the auditing association with the approval of the Minister of Finance.

(2) The PPP Housing organisation is audited by the auditing association (Art. 23) to which it is affiliated.²

(3) The housing company address any complaints by the auditing association by taking adequate measures. If these measures are not taken within adequate time, the auditing association may set a time limit for the measures to be taken. If the PPP Housing organisation does not take measures within that limit, the auditing association will notify the accreditation authority.³

¹ It is recommended to combine the two functions of an auditing association and a representation of interests of the members (umbrella association) in one organisation. Such an organisation has big potentials in quality assurance.

² The defined audit that covers not only the financial statement but the whole financial conduct of the PPP Housing association requires high skills of the auditors. An educational programme e.g. in cooperation with similar auditing associations in Austria or The Netherlands are recommended and may be organised.

³ The notice of complaints to the accreditation authority may result in revoking of accreditation (Art. 19) with all its consequences. To avoid malfunction by incorrect audit, the PPP Housing association has opportunity for clarification. Final decision is taken by utilising different checks and balances. In practice, the most effective sanction is the threat of exclusion of future subsidies.

Chapter 5: Promotion of PPP Housing

Promotion of new construction and refurbishment

Art. 27 PPP Housing organisations have privileged access to housing subsidies, especially for the provision of affordable rental dwellings. This privileged access is granted as a compensation of their services of general economic interest. Further regulations are subject to housing programmes.¹

Chapter 6: Final and transitional provisions

Art. 28 (1) The prerequisite of Art. 15 (affiliation to an auditing association) can be suspended until an adequate auditing association according to Articles 23 ff. is established.

(2) In such cases, the accreditation authority has the responsibility to ensure an audit according to the principles of Art. 25 of this law.

¹ Subsidies are inevitably to fulfill the public service obligations for affordable housing.

F. CONSULTANCY ON THE NEW HOUSING LAW

The new Housing Law (“Law on Housing and maintenance of residential facilities”) is an initiative to execute the legislative schedule decided in the Housing Policy Action Plan from 2005. It is designed by the Ministry of Spatial Planning and the Environment (formerly Ministry for Economic Development), in the responsibility of Deputy Minister Marko Vujović. IIBW has been involved in the evolution of the draft new Housing Law in several ways:

- a) Intermediary results of the project being subject of this report were integrated to the draft law;
- b) IIBW was asked for expert opinions on the draft law in different stages of development, e.g. a formal assessment of the draft Law by 29 July 2009;
- c) IIBW was asked for specific conceptual inputs, particularly related to loan applications at CEB and consistency of the draft Law with CEB regulations on social housing;
- d) IIBW (Dr. Walter Schwimmer) has provided a revised version of the Law (1/2010, see H, p. 80), considering some basic criticism from parts of the Government. Regarding a possible reactivation of the legislative process see 0 (p. 47).
- e) July 2010: Closing of negotiations on the Housing Law is within reach, including recommended changes of IIBW.

F.1 SUBJECTS OF REGULATION

The Law consists of the following main issues:

F.1.1 HOUSING MAINTENANCE

21 of total 56 Articles of the new Law are dedicated to this topic (Chapter II, Art. 5 to 25, see p. 80.). This shows the significance of housing maintenance in today’s housing policy in Montenegro.

Effective regulations on management and maintenance are crucial for an operative PPP Housing sector. For this reason particular attention is turned to this issue. Targeting at improving housing maintenance, it shall be obligatory to engage a professional housing maintenance company (not for housing management). Owners’ associations are obligatory already for a couple of years. This might result in the creation of a new business type. Many municipalities own housing maintenance organisations, which might become service providers for private housing in this way.

The 21 articles on maintenance consist of the following main contents:

- Differentiation of maintenance works (Art. 6 ff.), including works on regular maintenance, urgent works and necessary works, which are defined in concluded lists of activities. This exhaustive way of definition might be a source of future legal inefficiency, if new kinds of works appear, which than are not covered by law.
- Costs of maintenance works (Art. 12 ff.), differentiated between apartments, garages and business premises with at least 20 €/m² for apartments and 80 €/m² for business premises. 20 €/m².month is a duplication of the existing average level of maintenance fees. This fees will cover all small repairs and regular maintenance, but will be too small for refurbishment measures.
- Opening of an account for maintenance payments (Art. 14).
- Obligations of the housing administrator (Art. 15, 16 and others).
- Art. 19 oblige the owners to hire a maintenance company.

F.1.2 NATIONAL HOUSING STRATEGY

The Strategy (Chapter III, Art. 26 to 28, see p. 86) is to define housing policy targets, the provision of affordable and social housing and its funding. The decision of such a strategy is regarded an innovative approach. It may allow for a constant development of housing policy measures. Stability of housing policy tools is of major importance for long term success. Housing is a specific good, because of the significance of accommodation for people, because of the long production time and because of its very long life span. Housing and real estate have very long economic cycles. It is therefore hardly suitable for short term policy reforms. Successful housing policy establishes a stable framework, capacities and structures that will remain even if the political constellation changes. The proposed National Housing Strategy in combination with annual housing programmes seems eligible to implement a sustainable housing policy. The National Housing Strategy has been tendered in July 2010.

F.1.3 ACCESS TO HOUSING / SOCIAL HOUSING

Chapter IV, Art. 29 to 38 (see p. 87) defines the provision of affordable housing to beneficiary households, funding of social housing, the provision of building land free of charge by the municipalities and the possible establishment of a housing agency.

Particularly tricky turns out to be the definition of beneficiary households. There was some pressure on the legislative process, as at the same time in early 2010 a loan application to CEB – Council of Europe Development Bank was on the way (“1,000+ Housing”). CEB loans are targeted at social issues. They accept national definitions of social housing. If not available, CEB regulations are applied, which target at only low income households. The respective regulations have been changes several times. One of the latest attempts have been a threshold for social housing of one and a half average monthly wages.

There was basic resistance from the Ministry of Finance against a regulation that targeted not only at low, but as well at moderate income households. There was concern about a possible precedence for other social services, that altogether only target at lowest income groups.

For further considerations on this topic see F.6.5 “Definition of beneficiaries of social housing”, p. 55.

F.1.4 PRIVILEGED RENT

Chapter V of the new Housing Law (Art. 39 to 42, see p. 90) about social rental housing refers to a model applied in Croatia. The minimum rent level is defined to cover at least the regular maintenance costs of a building. Furthermore, the rent level shall be defined means-tested, i.e. according to the income of beneficiary households. Such regulations contradict to basic principles of PPP Housing, mainly the cost coverage principle (see D.6 a), p. 29). An alternative model is proposed in chapter F.6.4 p. 55.

F.1.5 COUNCIL FOR THE PROTECTION OF RIGHTS OF LESSEES

The intended tasks (Chapter VI, Art. 43 to 44, see p. 91) of protection of tenants are covered in most European countries by Non-Governmental Organisations (NGO/associations) under the auspices of consumer protection, see F.7a), p. 56.

F.1.6 RESOLVING HOUSING NEEDS

With these regulations (Chapter VII, Art. 45 to 46, see p. 92) the existing practice of public authorities and companies to solve housing issues of their employees is legally covered. Providing accommodation at low costs is an important strategy to attract employees even with salaries below private labour market.

F.1.7 SUPERVISION AND SANCTIONS

The introduction of housing inspection (Chapter VIII, Art. 47 to 50, see p. 92.) is intended to secure implementation of the new Law and related regulations. Inspection shall supervise the implementation of housing management, regular payments of maintenance fees, relations between the housing manager and the owners, duties of the housing manager, the owners and the local authority regarding urgent works, notification of rent contracts, non-approved change on the outside look of the buildings, data collection of local authorities and others.

Violations against the Law will be punished with effective financial sanctions (Chapter IX).

F.2 RECOMMENDATIONS ON STRUCTURE AND BASIC PROVISIONS

The draft new Housing Law is a determined approach to solve some of the most burdensome legal gaps in Montenegrin housing policy. It combines pragmatic answers to pressing deficiencies in the housing sector, innovative new models and international best practice. Altogether the regulations in the draft Housing Law seem comprehensive, well structured and able to become operative. There are recommendations only for minor improvements.

a) IIBW MODEL HOUSING LAW

IIBW has gathered extensive knowledge in housing legislation, mainly through the project "Implementation of European Standards in Romanian Housing Legislation", prepared for the Romanian Ministry of Development, Public Works and Housing in 2008.¹ Deduced from this project, IIBW has defined a kind of model Housing Law, covering all requirements of a modern and well functioning housing sector.

These model housing regulations are presented in this report. They consist of one umbrella law (General provisions) and 5 thematic laws:

- Chapter G.1 "General provisions" (p. 58 ff.),
- Chapter G.2 "Rent regulations" (p. 62 ff.),
- Chapter G.3 "Condominium regulations" (p. 67 ff.),
- Chapter G.4 "Housing management and maintenance regulations" (p. 69 ff.),
- Chapter G.5 "Housing subsidy regulations" (p. 74 ff.),
- Chapter E, a draft "PPP Housing Law" (p. 35 ff.).

The following thematic recommendations on possible improvements of the draft Montenegrin Housing Law refer to the IIBW model Housing Legislation.

¹ Amann et al. (2008).

b) STRUCTURE OF HOUSING RELATED LAWS

Similar to the difficult situation with Cooperative Law and PPP Housing Law (see D.5, p. 27), there are some major inconsistencies between existing Laws, particularly the Property Law from 2009, and the draft new Housing Law. Housing management is partly regulated in the Property Law, but should definitely be part of the Housing Law. Definitions are scattered in different legal bodies.

It should be possible to solve these inconsistencies, taken the legal turn after transition and hence the relatively young history of modern housing legislation. But usually such inconsistencies are closely linked with divided authorities, which is the case in Montenegro as well.

c) DEFINITIONS

Definitions are regarded crucial. They prove to be a very powerful tool of harmonise legislation and jurisdiction and hence may contribute to strengthen the new Housing Law. As some definitions are already implemented in the Property Law, it might be reasonable to concentrate all further necessary definitions there. Anyway, it should be avoided to have similar regulations at different places. A comprehensive list of definitions related to housing is shown in chapter G.1 (p. 58).

d) REGULATIONS ON THE ENERGY PERFORMANCE OF BUILDINGS

It is recommended to anticipate parts of the EU Energy Performance of Buildings Directive (see C.3.3, p. 21). Technical aspects shall be implemented to building regulations, which are laid down in the Law on Urban Planning and Construction (2008). But the Directive also requires Civil Law regulations, e.g. the obligation to issue an Energy Performance Certificate or cost coverage of this. According regulations are provided in chapter G.1, p. 61. Such anticipation of EU regulations refers to the self-understanding of Montenegro as an ecological model country.

e) OTHER BASIC PROVISIONS

Chapter G.1 also provides regulations on “Notification of Parties” (p. 61) and “Reference to technical standards” (p. 61). Both regulations prove very effective in some Western European housing legislation. Clear regulations on the Notification of Parties are important aspects of consumer protection. The possibility of Reference to technical standards allows for an efficient orientation on the state of the art in construction, particularly on EU building standards. Nevertheless, this regulation is regarded critical because of a dynamic reference from a law to a source outside the legislative procedure.

F.3 RECOMMENDATIONS ON RENT REGULATIONS

F.3.1 RE-ESTABLISHMENT OF A RENTAL HOUSING SECTOR

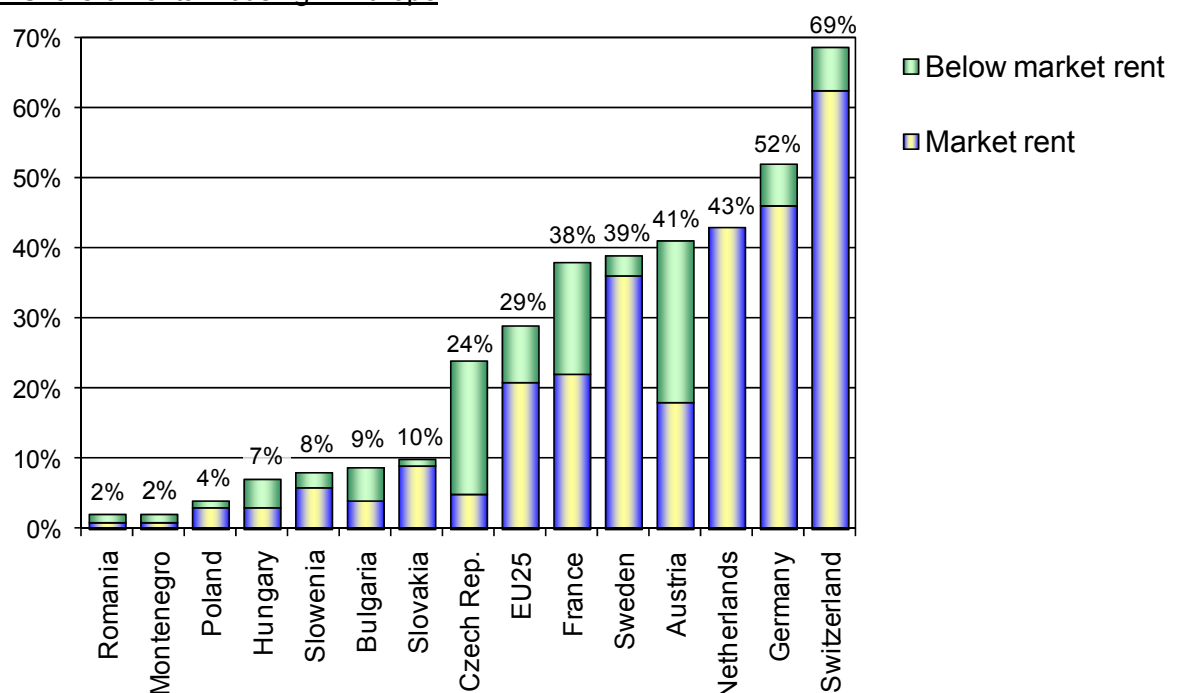
A sound rental sector is important for labor mobility and to accommodate those who do not want or are unable to become homeowners (for example, older and young households, or low-income households). Consumer choice is regarded a major driving force of economic development. The scientific community does not clearly recommend a distinct share of rental housing to make housing markets work most efficiently. But a share on the total housing stock of 10% to 15% seems to be a minimum.

The establishment of rental housing markets in a sufficient quantity has the following rationale from the point of view of national economy:

- Improvement of housing provision for those who cannot afford own property (young households, migrants to the cities, vulnerable households);
- Consumer choice;
- Diversity of housing provision challenges competitiveness and improves stability of housing markets;
- Investment opportunities.

The following graph shows shares of rental housing in European countries with Montenegro at the very bottom with only 2%. In real terms, rental housing has a higher share, taking the big number of informally rented condominiums. Formalisation of such rent relations is a major target of current housing legislation.

Graph 3: Share of rental housing in Europe



Source: Eurostat (EU SILC), UIPI (for Switzerland, 2003), Statistik Austria (for Austria), Tsenkova (2009b, for Montenegro).

Rental housing markets may be established with the following measures:

- Legal certainty for privately rented condominiums, both for tenants (protection of tenancy rights) and owners (e.g. termination of contract);
- Transparent price mechanisms for social housing markets;
- Other incentives to rent out vacant condominiums (e.g. full maintenance fees even for empty dwellings);
- Incentives for private rental housing construction (e.g. tax incentives);
- PPP rental housing construction (see below);
- Public rental housing construction.

New construction of rental housing will only happen, if there is a business case. Commercial rental housing without any public support will establish only in a very small upscale segment. In an economic environment such as Montenegro, privately financed rental housing will cost at least 6.- €/m². Such supply does not meet the needs of the main target groups of rental housing, which are migrants to the cities, young households and vulnerable households.

To meet demand of these target groups, it is necessary to create a business case including legal regulations and public financial support (see chapter F.6 “Recommendations on subsidy regulations”, p. 53), which is described as PPP Housing in this report (see chapter D, p. 22 ff.). PPP Housing sectors play a major role in housing provision of several European countries, e.g. in the Netherlands and Austria with shares of total housing stock of 34% and 23% respectively.

A promising starting point for the establishment of affordable rental housing in Montenegro are the activities of CFSSI (see D.8, p. 32). The activities of CFSSI would benefit considerably from better rent regulations.

F.3.2 RENT REGULATIONS IN THE DRAFT NEW HOUSING LAW

Rent regulations are mainly defined in the Law on Obligatory Relations from 2008 (Art. 595-619, see B.4.1, p. 16). The draft new Housing Law addresses rent regulations in different chapters. Social rental is mainly defined in the regulations on social housing / access to housing (Chapter IV, see F.1.3, p. 46) and the concept of privileged rents (Chapter V, see F.1.4, p. 46). Private rental is only covered in the regulations on housing inspection, which is to control the notification of rent contracts.

F.3.3 RECOMMENDED FURTHER REGULATIONS

Chapter G.2 (p. 62 ff.) provides IIBW model rent regulations. They target at a modern and lean special law on tenancy with least possible, altogether liberal regulations. These regulations state the rights and duties of tenants and landlords toward each other and toward the public. In general, it does not interfere with the working of the housing market; regulations, if any, are liberal.

The following regulations are recommended:

- Formal requirements of the rent contract. A written agreement containing the most important terms of the tenancy is required by law.
- By contrast to the draft new Housing Law with the newly introduced housing inspection to help legalising rent contracts, a different approach is recommended. Written form and registration of rent contracts is obligatory (e.g. at fiscal authority). If a rent contract is not registered, the tenant may notice this. In this case the lease is turned to an unlimited one. Future rent increase is limited, e.g. to consumer price index. This should be a sufficiently strong incentive for the landlord to register.
- Duration and termination of tenancy: Durations of tenancies concerning dwellings can be fixed at will by the parties to the contract, between at minimum six months and open-end tenancies.
- Terms of utilization of the dwelling, including regulations on refurbishment.
- Price mechanisms: The regulation regarding the amount of rent concerns only subsidised dwellings, as defined in G.1 Definitions para. f) (p. 59). This implies rent regulations for former social dwellings privatised after Transition. The rent regulation is based on an average rent according to present conditions on the housing market. Rents are intended to develop according to a “comparative rent” or according to the Consumer Price Index, following the German model of rent comparison lists. A stabilising effect on prices on the entire housing market is to be expected. On the other hand, the development of the market is taken into consideration; thus, unlike other European countries, Montenegro will not experience a “rental freeze”. On the contrary, Montenegro will have a very liberal Rent Law based on the relevant provisions of the Law on Obligatory Relations (2008) and the Property Law (2009). Landlords will be able to rely on an adequate return on investment. Therefore, investment into housing construction by private enterprise can be expected to continue.

- Relevant for the implementation of a PPP Housing sector is particularly Art. 17 – Rent regulation in the PPP Housing sector (p. 66), but other regulations as well.

These rent regulations may resolve common deficits in the relation between tenants and landlords. It decrees the written form of lease contracts and gives incentives to register them legally. The proposed rent regulation scheme is, compared to European Best Practice, a most simple and liberal one. By contrast to existing models it works with one single price mechanism to be applied for the big stock of rented condominiums, which were privatised after transition, and social rental dwellings. The scheme of comparative rents with the newly developed tool of rent comparison lists, following the German model, will be a big challenge concerning implementation.

The recommended rent regulations follow decisions of the European Court of Human Rights, even though they do not go to such lengths in state interventions into valid contracts.

F.4 RECOMMENDATIONS ON CONDOMINIUM REGULATIONS

The legal basis for owner-occupied housing in Montenegro is mainly laid down in the Law on Condominiums from 2004 (see B.3.2, p. 16) and in the Property Law from 2009 (see B.4.2, p. 17). The draft new Housing Law only includes adjacent regulations. The planned housing inspection is intended to enforce some major condominium regulations.

Main issues of condominium legislation still work insufficiently, particularly the establishment of homeowners' associations and hence the decision making process within multi-apartment buildings. Connected to this, housing management and maintenance works insufficiently.

F.4.1 RECOMMENDED FURTHER REGULATIONS

Chapter G.3 (p. 67 ff.) provides model regulations on owner-occupied housing with the following main contents:

- Regulations on the creation and purchase of property on housing.
- Shared housing property.
- Terms of utilization of the dwelling and common parts.
- Owners' associations, including regulations for better efficiency.
- A privileged lien of the owners' association against the single owner to enforce housing refurbishment.
- Consumer protection in housing purchase.

F.4.2 ENFORCEMENT OF HOMEOWNERS' ASSOCIATIONS

Efficient organisation of a residential building requires legally defined relations between the owners and a legal body for common action. This is the function of homeowners' associations, which may act as a legal person in charge of all owners. For its effectiveness, homeowners' associations must comprise all owners of one building. Therefore the establishment should be realised on a non-voluntary basis as an act of self-evidence. This is easy for new construction, as purchasers in a self-evident legal act should automatically become members of the homeowners' associations and establish an independent legal personality. It is much more complicated in existing owner-occupied buildings. The execution of a legal command should be considered to establish homeowners'

associations in such buildings at once, including a list of rights and obligations as defined in the Condominium Law. This measure only indirectly targets at maintenance of the building. Prior target is to organise decision making.

Owners' associations are to be obliged to organise professional management and maintenance. In principle, this can be done by the owners by themselves. But strict professional requirements should be applied (licensing).

F.5 RECOMMENDATIONS ON HOUSING MAINTENANCE REGULATIONS

The following additions to the management and maintenance regulations of the draft new Housing Law are recommended:

a) COORDINATION WITH MAINTENANCE REGULATIONS IN THE PROPERTY LAW

Housing management regulations are part of the currently adopted Property Law. But that Law includes insufficient regulations on housing maintenance. Future reforms of both bodies should be coordinated carefully. It seems advantageous to merge these regulations in one of both Laws.

b) LEGAL FRAMEWORK FOR THERMAL REFURBISHMENT

A particular target of this Law should be the enforcement of large-scale thermal refurbishments. This target is not visible in the draft Housing Law. A possible solution would be regulations on improvements, as provided in the IIBW model regulations on housing management and maintenance, chapter G.4, Art. 7 (p. 71).

c) MANAGEMENT OBLIGATION OF RESIDENTIAL BUILDINGS

It should be made clear that there is no option without housing management and maintenance (according draft regulation see chapter G.4, Art. 1, p. 69). It is recommended to define a technical standard of obligatory maintenance ("locally customary standard", see Art. 6, p. 71).

d) LICENSING

If an owners' association decides to manage its estate by itself, strict professional requirements should be applied. Housing management shall be established as a new business sector. Access to the profession shall require licensing.

e) DEFINITION OF COSTS

Art. 7 to 9 of the Housing Law (see p. 81 ff.) define works for regular maintenance, urgent works and necessary works. This division corresponds with costs as defined in Art. 13, complemented with financing costs for loans and "other costs regarding maintenance of the residential building". The following cost components are missing and shall be defined by law:

- administration fee of the housing administrator,
- electricity for common parts,
- insurances,
- pest control,
- preparation of energy performance certificates.

It is to be decided whether water supply, sewerage and waste disposal shall be accounted within the maintenance fees or with individual contracts between service providers and households.

In chapter G.4, Art. 4 and Art. 5 (p. 70) an alternative comprehensive approach to the definition of costs is provided.

f) INTRODUCTION OF A REPAIR FUNDS

It is recommended to introduce additional obligatory funds for capital repairs, e.g. thermal refurbishment. Available funds attached to the building eases refurbishment decisions of owners considerably. The handling of such funds in the hand of a housing manager needs to be regulated carefully to avoid fraud. For such a repair fund for future capital repairs contributions of approx. 20 €/m² per month should be collected, according regulations see chapter G.4, Art. 12 (p. 73).

g) ADDITIONAL REGULATIONS ON HOUSING MANAGEMENT

The duties of the housing administrator, as defined in Art. 16 of the Housing Law, seem incomplete, particularly if considering the requirements of rental housing and the challenge of housing refurbishment. The regulations, as recommended in chapter G.4, Art. 9 (p. 71), provide a comprehensive list of duties of the housing administrator, supplemented with procedural regulations related to housing management (Art. 10).

h) ACCOUNTING REGULATIONS

A financially sensitive field such as housing maintenance should contain clear regulations on accounting. A possible way is provided in chapter G.4, Art. 11 to Art. 15 (p. 72).

i) ENFORCEMENT OF PAYMENT

Maintenance payment requires enforcement to become operative. One possible way is the registration of debts of the single owner against the owners' association in cadastre. The sale of a dwelling would be possible only in the case that all debts are paid. For rental housing, non-payment of rents and maintenance costs is a reason for eviction.

Another option is a privileged lien, as defined in the IIBW model regulations on condominiums (see above, chapter F.4, p. 51, and G.3, p. 67).

F.6 RECOMMENDATIONS ON SUBSIDY REGULATIONS

In close accord with the Ministry of Finance, subsidy regulations should be defined in more detail.

Subsidies are often perceived as giving or receiving something for free. That notion is misleading. A US-American definition from 1969 is more precise: "A subsidy is an incentive provided by government to enable and persuade a certain class of producers or consumers to do something they would not otherwise do, by lowering the opportunity cost or otherwise increasing the potential benefit of doing so".¹

¹ Cited from: Chiquier/Lea (2009: 426).

F.6.1 RECOMMENDED FURTHER REGULATIONS

Chapter G.5 (p. 74 ff.) provides IIBW model regulations on housing subsidies. These regulations define a legal basis for all activities of the state in (co-)financing housing construction, refurbishment, housing benefits and related activities. All activities of the State in promoting housing and housing construction are unified in these regulations.

For this Law detailing with by-laws and orders of the minister in charge is particularly relevant. The law considers the strict requirements of EU legislation regarding housing subsidies (Services of General Economic Interest, competition policy and others). Main regulations are:

- Authorities in charge,
- Funding of housing subsidies,
- Development of strategic programmes of housing promotion,
- Implementation of a Housing Policy Committee,
- General provisions of subsidies, whereas the detailed financing models refer to by-laws,
- Division between construction based subsidies and subject-oriented subsidies,
- Conditions for an obligatory option to buy,
- Regulations on procedures and obligations of the recipient.

As a bearer of private rights, the State will use all provided funds and adhere to the stipulations of this law in order to encourage the provision and the refurbishment of dwellings as well as other housing and housing-environment related activities. These regulations define the cooperation between the State and the municipalities in terms of housing provision.

The allocation of subsidies aims to achieve the highest possible efficiency as determined by the following objectives:

1. The provision of affordable dwellings for households that are not financially able to satisfy their fundamental housing needs otherwise.
2. The provision of affordable dwellings on the basis of financial contributions and accompanying measures.
3. The provision of high-quality dwellings, buildings and living-environment with quality standards at the state of the art of technology in consideration of security, energy consumption, ecologically sound construction techniques, architecture, exploitation, monument and locality preservation, utilities supply and waste disposal, fitness for families with children and senior citizens.
4. The integrative support of spatial development on the basis of adequate zoning plans, especially of "Integrated Urban Development Plans", aiming at a thrifty land use, at a decrease in individual traffic and at a social and spatial integration.
5. The implementation of housing subsidy programs (Art. 3).
6. Continuous evaluation of subsidy allocation as a basis for permanent improvements and adaptations of the housing subsidy programs.

F.6.2 FUNDING FOR HOUSING SUBSIDIES

Most Western countries spend 1.0% of GDP or more on housing policy measures. There is no developed country that goes with no housing promotion at all. Most EU countries spend 1.0 to 2.0% of GDP for housing promotion (e.g. Austria 1.0%, UK >2.0%). The focus varies with more supply side subsidies in countries with social democrat (e.g. Scandinavia) or conservative welfare regimes (e.g.

Austria), or more demand side subsidies in countries with liberal welfare regimes (mostly Anglophone countries).

As shown with financing models for CFSSI (see D.8, p. 32), required subsidies for affordable owner-occupied and rental housing may be kept quite low. With programmes addressing different funding sources (municipalities for building land, cross subsidising, funds from interest groups, international financing institutions), the subsidy requirements for the State may be reduced to a minimum.

Funding for housing subsidies may be concentrated to a Housing Fund or a National Housing Agency. This should be equipped with sufficient initial financing, e.g. via a one-time State grant, or via low interest loans from international financing institutions such as CEB. Long term operations should be fuelled with constant earnings and returns, particularly from outstanding loans. It is crucial that returns on previous subsidy loans only may be spent on social housing.

It might be considered to re-establish the previous regulation for employers and employees to contribute a share of incomes to a housing fund. Similar regulations are in place in Western countries as well, e.g. in Austria.

The recommended housing subsidy regulations are designed to enable the acquisition of European funds (ERDF, JESSICA Programme of EIB/CEB), once Montenegro has accessed the EU. State subsidies may be designed in a way that they are not classified as State expenditure regarding the Maastricht-Criteria.

F.6.3 PROVISION OF LAND AND INFRASTRUCTURE AT BELOW MARKET PRICES

Municipalities shall promote social housing by providing cheap building land, infrastructure for utilities, water and sanitation, by reductions in municipal fees and taxes and by providing subject-oriented measures.

F.6.4 COST COVERAGE RENT INSTEAD OF PRIVILEGED RENT

The concept of privileged rents, as defined in Article 39 ff. (p. 90 ff.) of the draft new Housing Law, is seen critical, as it provides no returns on investment at all, but only maintenance fees. This is contrasted by the concept of cost coverage, as defined in the PPP Housing regime (see D.6 a), p. 29).

For most vulnerable households, additional housing allowances should be provided. In effect, this cumulates to a level similar to privileged rents. But allowances are income tested and will disappear if incomes rise.

Regulations on privatisation of social rental dwellings should be abolished at once.

F.6.5 DEFINITION OF BENEFICIARIES OF SOCIAL HOUSING

The definition of beneficiaries of social housing turned out to be a particularly difficult topic in the negotiations for the draft new Housing Law. Such a definition was required for the application of housing loans of CEB – the Council of Europe Development Bank (see p. 12).

Beneficiaries of social housing can be defined in different ways. Quite common is a general definition of target groups in Public Law or Constitutional Law, and detailed definition of income limits of target groups in Subsidy Laws or individual subsidy programmes. This model is practiced e.g. in Austria. It is a rather flexible regulation that stands for a more universalistic approach to housing policy, targeting not only at social, but as well at economic effects. Beneficiaries are typically both low and moderate income households. In Austria, social housing is defined by constitution as “Volkswohnungswesen” (housing for general public), and specified in several decisions of the Constitutional Court, the Supreme Court and in simple laws such as the PPP Housing Law (“Wohnungsgemeinnützigkeitsgesetz”). It proves to be beneficial to have it defined in by Constitution, as in this way it cannot be subject of short term decisions in parliament.

The other way is a specific definition of beneficiaries and income limits in Social Laws. This stands for a more targeted approach to housing policy, focusing social housing mainly to vulnerable groups. This is a typical approach in many Anglophone countries.

Definition of income limits for social housing faces the following difficulties:

- It should refer to household incomes. But this item is defined not as clearly as individual incomes. Reliable statistics are lacking in many countries. Monstat offers sound data on individual incomes for different economic sectors. Household incomes are reported only in the way of household consumption, which at best can be seen as approximation (see A.1.3, p. 7).
- Definition should reflect not only household incomes, but household composition as well (household size).
- A definition of social dwellings may be considered in a general way, such as “small and medium size dwellings” or “dwellings in a size according to household composition”. Standard interior should be defined, e.g. following the definitions in chapter G.1s) (p. 60).
- Politically defined target groups sometimes differ quite a lot from national averages. In many transition economies young households are in urgent need for affordable housing, even though they have over-average incomes.

After a variety of versions, Article 31 of the draft new Housing Law (see p. 88) defined beneficiaries of social housing with a monthly family income of at maximum one and a half average monthly individual incomes, without reference to household composition. This found no accord with the Ministry of Finance. The main objection of the Ministry of Finance was its concern that such a definition would set a prejudice for other social benefits. A follow-up version surrendered such a concrete definition of incomes and delegated such definition to specific subsidy programs, as the one financed with CEB support (“1000+ Housing”, see p. 12).

F.7 RECOMMENDATIONS ON CONSUMER PROTECTION

A new Housing Law is a good opportunity to introduce effective measures on consumer protection and to communicate about. The following items are recommended for implementation:

a) NOTIFICATION OF PARTIES

These regulations in G.1 “General provisions” (p. 61) are a precondition for securing the rights of owners and tenants.

b) COUNCIL FOR THE PROTECTION OF RIGHTS OF LESSEES

The initiative for such a council (Chapter VI, Art. 43 to 44 of the new Housing Law, see p. 91) is regarded innovative. But it should be considered, whether this task might better be solved in a non-legislative way (see F.1.5, p. 46).

c) CONSUMER PROTECTION IN HOUSING PURCHASE

The recommended additional condominium regulations on housing purchase (see G.3, p. 68) are particularly targeted at consumer protection.

d) PPP HOUSING IN THE LIGHT OF CONSUMER PROTECTION

The PPP Housing scheme as a whole is designed to protect rights of tenants, both regarding cost efficient construction, operations and tenant oriented services.

e) TRANSPARENT RENT MECHANISMS

The quite liberal scheme of rent regulation, following the German model of “rent comparison lists”, provides a high level of security to tenants and landlords.

f) SECURING FURTHER INTERESTS OF THE TENANT

Several recommended rent regulations (G.2) target at consumer protection, particularly Art. 7 “Modernisation of dwelling by the tenant” (p. 64) and Art. 10 “Transfer of title” (p. 64).

g) ACCOUNTING PROCEDURES

The recommended regulations on “accounting of operating costs” (G.4 Housing management and maintenance regulations Art. 11, p. 72) are well proved regarding consumer protection.

G. IIBW MODEL HOUSING REGULATIONS

The following draft regulations may be included to an updated Housing Law (Law on Housing and Maintenance of Residential Facilities), be implemented as amendment to the existing Property Law or further developed as independent Laws.

Designing these regulations, the team aimed at the following general targets:

- Compliance with EU legislation
- Lean regulations
- A clear structure that remains, as the laws develop further
- Empowerment of law – legal certainty
- Empowerment of markets with products for any demand
- Integrative housing provision
- Striving for integrated housing markets
- Clear Structure of authorities in housing
- Benefits from transformation for the largest part of population
- Contribution to increase construction output
- Facilitating thermal refurbishment
- Quality standards in housing construction
- Extending the investment horizon
- The housing situation of the extremely poor cannot be solved by housing policy alone, but the new Housing Law must not prevent from new approaches

G.1 GENERAL PROVISIONS

This section contains regulations complementing the regulations of the draft new Housing Law (chapter I, see p. 80) or may be implemented as amendment for the existing Property Law. For considerations on implementation see chapter F.2 (p. 47).

Definitions

Art. 1 The following definitions apply:

a) **DWELLING**

is a construction consisting of one or more habitable rooms, with the necessary accessories, endowment and utilities, which satisfies the living requirements of a person or a family.

b) **SOCIAL DWELLING**

is a subsidised dwelling which is reserved for disadvantaged households as defined by household income limits or additional objective criteria of allocation.

c) **NECESSITY DWELLING**

is a dwelling meant for the temporary accommodation of persons and families whose dwellings have become unusable following some natural catastrophes or accidents, or whose dwellings are subject to demolition due to public utility works, as well as to rehabilitation works that cannot be carried out in buildings occupied by tenants.

- d) SERVICE DWELLING
is a dwelling meant for civil servants, the employees of certain institutions or economic units, granted under the conditions of the labour contract, according to the statutory provisions.
- e) PROTOCOL DWELLING
is a dwelling for the use of persons elected or appointed to certain positions or public dignities during their term of office.
- f) SUBSIDISED DWELLING
is a dwelling for which
- i. repayable subsidies have not been completely redeemed,
 - ii. subsidies are still being granted,
 - iii. a public authority still sustains a guarantee,
 - iv. public funds were used in the construction after 1945.
- g) HOLLIDAY DWELLING
is a dwelling temporarily occupied, as secondary residence, meant for rest and recreation.
- h) REALTY
is an autonomous listing in the land register and an autonomous economic unit.
- i) UNIT OF USE
is a dwelling, a commercial unit, or any other autonomous spatiality for renting, the formation of condominium ownership, or any other utilization.
- j) CONDOMINIUM
is a dwelling for the exclusive use of an individual owner or a partnership in housing property, connected with an ownership fraction on the realty.
- k) OWNERSHIP FRACTION
is the share of the individual owner on the realty. It is calculated as the factor between the individual useable floorspace and the total usable floorspace. Ownership on common property is divided by the same fraction.
- l) PARTNERSHIP IN HOUSING PROPERTY
is a legal community consisting of more than one natural or judicial persons who collectively own or are about to own a condominium.
- m) ORGANISER OF HOUSING PROPERTY (HOUSING DEVELOPER, HOUSING ADMINISTRATOR)
is the natural or judicial person in charge of the formation of condominium ownership of new-built and existing buildings. It may be the owner of the building, the housing developer, or the housing administrator.
- n) APPLICANT FOR HOUSING PROPERTY
is a person who was assured in written form condominium ownership by an organiser of housing property.

- o) OWNERS ASSOCIATION
is a legal person, established of all condominium owners of one realty.
- p) ACCESSORY TO CONDOMINIUM PROPERTY
is the right of the condominium owner to make use of certain parts of the realty that are structurally unconnected to the dwelling.
- q) COMMON PROPERTY
are parts of a realty for common use or the purpose of which is opposed to exclusive use.
- r) USABLE FLOOR SPACE
is the total floor space of a unit of use. Walls, openings in the walls, staircases, open balconies, terraces and accessory do not count as usable floor space.
- s) STANDARD INTERIOR
describes the constructive quality and equipment of a standard apartment, defined as state of the art of technology according to technical standards (particularly regarding protection against immissions and energy performance), to be implemented with highest cost-efficiency concerning construction, operational and maintenance costs. In any case, standard interior requires an appropriate site development, as well as utility and disposal service facilities.
- t) HOUSING DEVELOPER CONTRACT
is a contract concerning the purchase of condominium property, or any other right of use of realties in the process of being constructed or thoroughly renovated.
- u) ENERGY PERFORMANCE CERTIFICATE
is the technical document with informative character which certifies the energy performance of a building in accordance with the EU Directive 2002/91/EG.
- v) HOUSEHOLD
is a group of persons with principal residence at the same address.
- w) HOUSEHOLD INCOME
is the net-income of all persons belonging to a household.
- x) PRINCIPAL RESIDENCE
is the residence of a person where he/she has the centre of vital interests. A person may have only one principal residence.
- y) SECONDARY RESIDENCE
is any residence that is not a principal residence.
- z) LICENSE OF THE ADMINISTRATOR
is the act that proves the quality of administrator/manager of a building.

Notification of Parties

Art. 2 The following standard notification procedures apply to these subject-matters: decisions of owner associations to condominium owners, invitations to meetings of owners associations, final accounts of operational costs to owners and renters, summons to out-of-court arbitration-boards:

- a) All of these notification are to be made public in time, by posting them well visibly and in appropriate detail at the realties involved;
- b) All of these notification will be made by personal postal service;
- c) Personal electronic service may replace para. b) in the case of written consent of all parties concerned.

Submission of an energy performance certificate

Art. 3 (1) In the case of rent or sale or other transfer of tenancy right of a unit of use, the seller (landlord, lessor) has to provide a valid energy performance certificate to the buyer (tenant, lessee) by conclusion of the contract at the latest.

(2) The validity of an energy performance certificate ends after ten years after issuance or after major works on the unit of use or the building, at the latest.

(3) A valid energy performance certificate may apply to the distinct unit of use, to the building as a whole or to a comparable unit of use within the same building.

(4) Exemptions of the obligation of submission of an energy performance certificate have to be proclaimed by decision of the Government.

(5) If the submission of an energy performance certificate is not effected according to para. 1, an energy performance efficiency of a new building at state of the art will be implied.

(6) Adequate costs of an energy performance certificate are to be covered within the running costs of a building according to Art. 5 Housing Management and Maintenance Law.

Reference to technical standards

Art. 4 Governmental decisions may refer to national and European technical standards, if these technical standards are able to function as a basis for formally orderly legislation.¹

¹ Standards represent the recent state of technology. By referring to standards this advantage may be integrated into housing Legislation. On the other hand, such an approach is a dynamic reference, which is derogatory for legal certainty.

G.2 RENT REGULATIONS¹

This section contains regulations complementing the regulations of the draft new Housing Law (see chapter H, p. 80). For considerations on implementation see chapter F.3 (p. 48).

Designing the rent regulations, the team aimed at the following targets:

- Filling the legal vacuum in the rental sector
- Introduction of a liberal regime of rent control
- Specific regulations for all rental market sectors
- Security of investment / avoidance of excessive price dynamics
- Privately financed construction shall remain unregulated
- Protection of a social manoeuvring mass in housing
- Promoting improvements of the stock by tenants
- No rent regulation for commercial lease

Field of application

Art. 1 (1) All tenancies are subject to the Civil Code. Furthermore, all tenancies of dwellings are subject to this law.

(2) Regulations on rents for dwellings do not apply to the following tenancies:

- a) Dwelling space rented out for temporary use (vacation dwellings);
- b) Dwelling space rented out to public or private welfare institutions in order for them to provide temporary accommodation for persons with urgent need;
- c) Dwelling space in homes for young people, students and senior citizens.

Contract of tenancy

Required form of contracts

Art. 2 (1) Contracts of tenancy concerning dwellings as defined by this law have to be made in writing and have to be registered at the financial authority in charge. They have to contain:

- a) the address of the dwelling concerned;
- b) the usable floor space of the dwelling;
- c) the accessory to the dwelling for exclusive use of the tenant;
- d) the amount of monthly rent and the indexation rules;
- e) the date of coming into force and the duration of the rent contract;
- f) other clauses agreed upon by the parties.

(2) All clauses revoking the provisions of this law are void.

(3) Rental contracts on dwellings which do not exist in writing by the date of coming into force of this law have to be effected in writing within a one year period.

(4) Irrespective of other, especially fiscal, provisions, rental contracts not containing the above-mentioned items shall be considered open-end tenancies.

¹ This draft has been designed by Mag. Walter Tancsits (STUWO/IIBW), and adapted by W. Amann (IIBW).

Duration of tenancy¹

Art. 3 The duration of a tenancy may be stipulated freely by the parties concerned, the minimum duration being six months. Contracts of tenancy may be open-end.

Termination of tenancy

Art. 4 (1) A fixed-term tenancy terminates at the date stipulated in the tenancy contract. Prior to this date the tenancy may be terminated only by cancellation in accordance with Art. 5.

(2) Open-end tenancies may be terminated only by cancellation in accordance with Art. 5.

Grave reasons for termination of tenancy

Art. 5 (1) Grave reasons allowing termination of tenancy by the landlord are:

- a) If the tenant makes any other than the contractual use of the dwelling;
- b) Grave violations of the rules of conduct of a building, if these were established by a majority of the owners;
- c) Default of rental payments or of the major part of rental payments for a period of over three months.

(2) Open-end tenancies may be terminated on part of the landlord if personal need of the dwelling arises on part of the landlord or of close relatives. In these cases a six months time limit will be respected. The tenant may turn to the courts in order to ascertain the lawfulness and equity of such cancellations due to self-possession.

(3) On part of the tenant, fixed-term tenancies may be terminated respecting a three months period of notice and open-end tenancies respecting a six months period of notice.

Use of the dwelling

Modernisation of dwelling by the landlord²

Art. 6 The tenant must tolerate measures for maintenance and/or adequate modernisation of the dwelling, for energy and water saving, or for the provision of additional dwelling space. These measures have to be reasonable.

¹ The principle of contractual freedom is established regarding the term of the tenancy. The minimum term of six months emphasizes the fact that a certain permanency is aimed at. Within the time limit the landlord can only terminate the tenancy for the reasons specified in Art. 5. When a tenancy is terminated by reason of the landlord's own needs, it will ultimately be up to the courts to consider the facts of each case and to decide whether a termination is justified. As the tenant's position in the market is less strong than the landlord's, his right to terminate the tenancy is restricted only by time limits, i.e. he can terminate the tenancy without giving a reason.

² Art. 6 facilitates certain measures aimed at modernisation and maintenance by obliging the tenant to tolerate those measures. This paragraph decides only the acceptance of measures by the tenant. Questions of cost coverage are decided in the Management and Maintenance regulations.

Modernisation of dwelling by the tenant¹

Art. 7 The landlord has to agree to measures carried out by the tenant if these measures enhance the usability of the dwelling for handicapped persons or contribute to energy and water saving and if the future usefulness of the dwelling will not be substantially restricted. Useful improvements have to be reimbursed by the landlord at the date of termination of the tenancy in consideration of an adequate depreciation rate.

Wear and tear of the dwelling²

Art. 8 Changes and deteriorations of the dwelling in accordance with the contractual use of the dwelling will not have to be reimbursed by the tenant. Other deteriorations and additional wear and tear of the dwelling have to be reimbursed adequately by the tenant.

Subtenancy

Art. 9 (1) Without the consent of the landlord, the tenant is not allowed to pass on the right of use of the dwelling to a third party.

(2) Even if the landlord agrees to the transfer, the tenant remains responsible for damages caused by the third party.

(3) Contracts of subtenancy are subject to Art. 2.

Transfer of title

Sale does not affect tenancy rights

Art. 10 If a rented-out dwelling with an upright tenancy is sold by a landlord to a third party, the purchaser of the property overtakes all rights and duties of the landlord for the remaining duration of the tenancy.

Pre-emption right of tenants

Art. 11 (1) If rented-out dwellings, standing or about to stand in condominium ownership, are sold to a third party, existing tenants hold a pre-emption right. This pre-emption right does not exist whenever dwellings are sold to family members or members of the landlord's household.

(2) The general provisions on pre-emption rights apply.

¹ In analogy to Art. 6, the landlord must allow measures aimed at modernisation as well as energy and water saving measures by the tenant. The tenant's rights in this respect are limited only by the fact that the landlord's future possibility to use the dwelling or to turn it into cash must not be impaired. This paragraph regulates only the acceptance of measures by the landlord. The release of a detailed definition is done willingly to avoid a casuistic development.

² Art. 8 states that compensation for ordinary wear and tear – such as the darkening of whitewashed walls or similar minor signs of wear and tear – is automatically contained within the rent. Deterioration exceeding ordinary wear and tear must be adequately compensated for by the tenant at the current value of the damaged property.

Entry rights

Art. 12 (1) Spouses or other civil partners who together form a household enter into the tenancy after the death of one of them or if one of them abandons and cedes the tenancy right conclusively to the other.

(2) If the spouse of the tenant does not enter into the tenancy after the tenant's death, children of the tenant enter into the tenancy if they live in the common household.

(3) If neither the spouse, nor the civil partner or the children enter into the tenancy after the tenant's death, other relatives may enter into the tenancy if they live in the common household.

Art. 13 (1) Persons with entry rights as defined in Art. 12 have 30 days, starting with their knowledge of the tenant's death or the tenant's conclusive abandonment and cession of tenancy rights, to declare their entry into the tenancy to the landlord.

(2) If no declaration is effected to the landlord, the contract of tenancy ends 30 days after the knowledge of the tenant's death or conclusive abandonment and cession of tenancy rights.

Price regulation

Calculation of rents

Art. 14 (1) Tenant and landlord may negotiate the monthly rent freely, taking into consideration para. 3.

(2) Changes in the monthly rent are legitimate if the original height of the rent, the date of change and the changing factor were established beforehand.

(3) Subsidised dwellings as defined in G.1 para. f), will be rent regulated according to Art. 15, 16 and 17. Alternative regulations are allowed, but never to the detriment of the tenant.

Locally customary rent, rent comparison lists

Art. 15 (1) Subsidised dwellings, irrespective of private or public ownership, may be rented out at rents not higher than the locally customary rent level.

(2) The locally customary rent for a dwelling will be determined in consideration of rents being paid within a municipality for dwellings of similar size, endowment, finishing, quality and location.

(3) For this reason, municipalities have to compile, proclaim and publish rent comparison lists of locally customary rents of the current and the two past calendar years. Rent comparison lists have to contain at least the average locally customary rent, the change of rent from the current to the two past calendar years, and variations regarding defined types of dwellings and locations. Municipalities which are not able to compile rent comparison lists, may apply respective data of municipalities or regions with a similar market performance.

(4) Rent comparison lists according to para. 3 have to be provided at the latest three years after the coming into force of this law. Until then, subsidised dwellings are rent regulated according to locally customary rents as defined by para. 2.

(5) The Ministry in charge may issue regulations on the compilation and administration of rent comparison lists.

Rent increase

Art. 16 Rent increases for subsidised dwellings may only be affected under the following rules:

(1) Either the rent increase will be effected every two years in accordance with changes in locally customary rents as determined in Art. 15. The highest legitimate increase will be 20%.

(2) Or the rent increase will be affected in accordance with yearly changes of the consumer price index.

Rent regulation in the PPP Housing sector

Art. 17 (1) For dwellings within the sphere of application of the PPP Housing Law, rent calculation is subject to Art. 15 and 16. Deviations to the benefit of tenants may be established in by-laws or in the articles of association of PPP Housing companies.

(2) Further determinants of rent calculation may be established through subsidy regulations.

Service dwellings, protocol dwellings, social dwellings

Art. 18 (1) Service dwellings are provided by the employer in reference to a given employment contract. Protocol dwellings are assigned to a political function. For this reason, their right of use ends with the underlying contract or political function and they have to be vacated within 60 days after the termination of the underlying contract. Entry rights will not apply.

(2) The provisions of this law only apply to service, protocol and social dwellings insofar their tenants are discriminated compared to other tenants.

(3) Throughout the period of the underlying contract or political function, the cancellation of tenancy in accordance with Art. 4 and 5 is possible.

Final and transitional provisions

G.3 CONDOMINIUM REGULATIONS¹

This section contains regulations complementing the regulations of the Montenegrin Law on Condominiums (2004, see B.3.2, p. 16). For considerations on implementation see chapter F.4 (p. 51).

Designing the condominium regulations, the team aimed at the following targets:

- Development of owner occupied housing as primary tenure
- Operativeness of owners' associations
- Effective maintenance, repair and refurbishment
- Handling of mixed ownership
- Transparent regulations on the establishment of condominium ownership, purchase and sale
- Consumer protection in purchase of dwellings
- Same terms of use for all owners
- Termination of owners-associations / reconstruction

Subject of regulation

Art. 1 The Condominium Law regulates the judicial, economical, technical aspects regarding the establishing, organizing and functioning of condominium buildings and homeowners associations, as well as the maintenance and the exploitation of buildings owned by at least three judicial or physical persons, of public right or private right, including the case when there are other spaces with other destination than living.

Creation and purchase of property on housing

This chapter regulates the following issues:

- Consequences of the creation of a condominium property on an existing tenancy, as the legal status of the tenant remains untouched while the landlord changes.
- Requirements and procedure related to the creation and purchase of property rights in a condominium building (dwellings, retail units, garages). A condominium is created by a multilateral contract of all owners or by a court decision.
- In case of peculiarities the binding relation of shares of owners in a condominium building is declared by court decision. This includes changes during construction as well as differences between construction plan and reality.
- Documents and requirements for the registration of property rights on a condominium in the land registry.

Shared housing property

This chapter regulates the following issues:

- Requirements for the creation and legal consequences of shared condominium property of two persons (married or not) with equal shares; rights within the community of owners and towards third parties.
- Transition of shared property rights from one of the partners to the other in case of death.

¹ This draft has been designed by Dr. Gerhard Schuster (BUWOG) and Ciprian Păun (lawyer/IIBW), and adapted by W. Amann (IIBW).

Use of the housing property unit and the common parts of realty

This chapter regulates the following issues:

- Regulations concerning the use of the condominium property and the common parts of the building, e.g. on modernisation works which are initiated by one single home owner or by a group of owners and must be accepted by the others, on fair compensation has to be given to an owner when his condominium property is touched.
- Establishment of a statutory regulation between all owners concerning the terms of use of the building/realty, especially the common parts. Such a statute can be registered in the land cataster.

Owners association, privileged lien

This chapter regulates the following issues:

- Legal capacity and representation of die community of owners through the home owners association or a property-/facility management company/agent.
- The establishment and the registration of the homeowners association.
- The organization and the functioning of a homeowner association.
- Decisions of the owners association.
- Minority rights and duty for the single owner to give notice.
- Legally privileged lien.

Termination of housing property

This chapter regulates the expiration of condominium property because of degradation or demolition and on reasons for the exclusion of condominium owners.

Consumer protection in housing purchase

This chapter regulates the following issues:

- Formal requirements und subject matters of a housing developer contract being a basis for the purchase of a condominium apartment.
- Consumer protection regulations in case of non-existence of a building permits.
- Requirements for the legally guaranteed withdrawal from the contract declared by the purchaser.
- Legally allowed reasons for withdrawals on the side of housing developer.
- Securing of the applicant for a condominium by registration in the cadastre.
- Precedence in cadastre for intended purchase.
- In the case that the housing developer is in default, the purchaser is authorized to apply at the court to be registered as entitled home owner.
- The obligation of the developer to secure the purchaser by various appropriate means, i.e. with progress payment, assessment of progress of construction work, bank guarantees etc.
- The liability of the housing developer and right to reclaim for the purchaser when the contract is withdrawn because of any breach of contract by the developer.
- The assignment of claims of the home owner because of breach of contract to the home owner in case of developers insolvency or bankruptcy.
- The continuation of construction in the case of insolvency of the developer.

Sanctions

Final clause and transformation ordinance

G.4 HOUSING MANAGEMENT AND MAINTENANCE REGULATIONS¹

This section contains regulations complementing the regulations of the draft new Housing Law (chapter II, see p. 80). For considerations on implementation see chapter F.5 (p. 52).

Designing the management and maintenance regulations, the team aimed at the following targets:

- One regime for all housing sectors
- Implementation of contracting models for thermal refurbishment
- Sharpening the profile of housing managers
- Fiscal identification

Management of the realty

Management obligation of residential buildings

Art. 1 (1) The administration, maintenance, investments in and repairs of the common property are made by the owner(s).

(2) The owner(s) will hire natural persons licensed as administrator, or they will sign contracts with specialized judicial persons authorized for providing the services needed to administrate, maintain, repair, or invest in the common property.

Regular administration

Art. 2 (1) The management of such a realty includes in particular:

- a) the proper maintenance of common parts of the realty and the repair of severe damages to the realty,
- b) the thrifty management of the realty connected with this,
- c) the adequate insurance of the realty,
- d) the provision of adequate reserves,
- e) the taking-out of loans for maintenance expenditures,
- f) the issue and amendment of house rules,
- g) the renting-out of common parts of the realty that may have a special use.

(2) For any measures exceeding day-to-day management, the approval of the owner(s) is necessary. The process of decision-making of more than one owner is subject to the Condominium Law. Changes and improvements to the realty exceeding necessary maintenance, as well as the taking-out of loans, require the approval of all members.

¹ This draft has been designed by Mag. Walter Tancsits (STUWO/IIBW), and adapted by W. Amann (IIBW).

Art. 3 (1) For important measures of exploitation, maintenance, reparation, consolidation, rehabilitation and modernisation of common property, the owners association can hire, in the name of the owner(s), and each of them signing, bank loans or any other form of funding, according to the legal provisions.

(2) Against the risks affecting common property, the owners association can sign, in the name of the associated owners, insurance policies.

Operating costs of a realty

Operating costs

Art. 4 (1) The operating costs of a realty include:

- a) Running costs and municipal and public fees,
- b) special expenses for common facilities,
- c) maintenance expenditures,
- d) expenditures for useful improvements,
- e) expenditure shares for energy and other utilities, financially managed by the owners association.

(2) The costs as defined in para. (1) will be calculated as follows:

- a) costs per number of persons who live or have any activity in the individual property;
- b) cost per ownership fraction, divided according to the usable floor space of the individual property;
- c) costs for utility providers, for individual services of the owners, if they are financially managed through the homeowners association.

Running costs

Art. 5 (1) Running costs are costs that accrue to the owner(s)/tenant(s) through ownership or utilization of the building and of the facilities of a realty.

(2) Running costs are expenses for

- a) water supply, waste and waste-water disposal, chimney-sweepers, cleaning of disposal infrastructure, and measures of disinfestation,
- b) the adequate administration of the realty,
- c) the adequate insurance of the realty,
- d) the adjustment, servicing and meter-reading of measuring devices for the usage-based consumption of e.g. energy and water,
- e) the lighting of common parts of the realty,
- f) the adequate facility-management, i.e. the maintenance and cleaning of common parts of the realty and adjoining side-walks, as well as the surveillance of the realty,
- g) the preparation of energy performance certificates.

(3) Running cost are to be charged separately from rents, either as lump-sum or as advance payment.

(4) Advance payments are to be settled at the latest one year after the last day of the period covered. Objections to the settlement are to be filed within three months by the tenant. Otherwise, the regulations on maturity of rents apply.

(5) If the settlement of running costs cannot be concluded, the courts get to decide. If there are arbitration-boards for rental matters established at the municipality concerned, these must be consulted first (compare Art. 9 and 10 Housing Law).

Maintenance

Art. 6 (1) In consideration of all legal, economic and technical possibilities, the owner(s) have the responsibility to maintain at the locally customary standard all buildings, rental units and facilities for common use of the buildings' residents.

(2) All maintenance costs accrue to the owner(s).

Improvements

Art. 7 (1) If the owner(s) decide upon improvement works concerning the building, the common parts, or individual flats and if these improvement result in a significant increase in quality or in a considerable decrease in energy consumption for specific tenants, they may arrange with the tenants for a non-contractual, possibly fixed-term, rent increase.

(2) As a matter of principle, the approval of the tenant(s) is necessary in such cases, possibly achieved by the help of arbitration-boards. The owner(s) may, however, enforce such a rent increase at court, if the omission of improvement works would result in a considerable economic disadvantage for them or for other tenants, and if the rent increase is reasonable.

(3) Funding arrangements concerning such improvement works with financial service providers are legitimate („Contracting“).

Housing administrator

Appointment of a housing manager

Art. 8 (1) For the administration activity that includes activities of technical administration, accountancy and pay office, the owners association can hire a natural person licensed as housing manager or can sign a contract of management with judicial persons specialized and authorized, that have as main activity the building management.

(2) The natural persons can be hired through an individual contract of work, according to a straight negotiation.

Art. 9 The housing manager, natural or judicial person, has mainly the following functions:

- a) Professional provision of services;
- b) The management of physical assets and financial funds;
- c) Signing any needed document for hiring providers of utilities for the exploitation and the maintenance of the building, fulfilling and supervising these contracts;
- d) Assuring that everyone knows and respects the rules regarding common property;
- e) Managing the way citizen duties are respected by the owner(s) in the face of public authorities.
Citizen duties are the ones agreed upon, according to law, by the general owners' meeting.
- f) The fulfilment of any other duty provided by the law.

- g) It is the housing manager's responsibility to protect the owners' interests that are connected to the common interest of all owners, and to act to instructions issued by the majority of owners, as far as they are not against the law.

Art. 10 (1) The housing manager is entitled to carry out the administration of the realty and, in connection with this, to represent the owners association. This external representation cannot be restricted. In connection with the representation function, the housing manager may appoint professional representatives of parties.

(2) If the housing manager intends to conclude a legal act with a person to whom he/she is connected narrowly through relation or business, the owners have to be informed of this connection. The housing manager will solicit at least three offers for maintenance works exceeding continuous repairs and for large-scale improvement works.

(3) Concerning the works for common property, the housing manager will take into account the price, the duration and quality of these works and will propose offers to the executive committee of the owners association, in order to analyse, select and approve the offers that satisfy the demands most adequately, and in order to execute these work according to the legislation in force.

(4) The housing manager will present a forecast to the owner(s) at the latest on the last day of the current accounting period. This forecast will mention all maintenance works which in due time will be necessary and exceed continuous repair works, all anticipated improvement works, all necessary reserves for these works, all predictable expenses, especially the running costs and the predictable advance payments based on them.

(5) The housing manager will effect the whole financial transfer (payments effected and payments received) via an individual account pertaining to the owners association that may be consulted by all owners.

(6) All liabilities imposed on the housing manager may not be overturned or limited. If any owner demands it, the housing manager has to inform him/her about the stipulations of the management contract, in particular about remuneration and the coverage of contracted services.

(7) If the housing manager violates his duties severely, the owners association may, in addition to possible claims for damages, demand a decrease in the housing manager's remuneration. This decrease must take account of the utility loss of management services connected with the violation of duties.

(8) The management contract must be time-limited or contain regulations on its cancellation.

Accounting of operating costs

Accounting period

Art. 11 (1) The term of settlement of the accounts is of 12 months and corresponds to the calendar year.

(2) Any term of settlement deviating from the calendar year may be agreed upon by written consent of all persons entitled to settlement – in the case of tenancies and other contracts of use, with the approval of the person responsible for settlement.

(3) The change of any person entitled to settlement or any person responsible for settlement does not alter the term of settlement.

(4) The settlement of the accounts is to be served to every owner at the latest six months after the last day of the term of settlement. Consecutively, all owners have the right to inspect the accounts. The owner's/owners' claim to inspect the accounts has a limitation period of three years starting with the last day of the settlement term.

(5) If the settlement of the accounts is not effected properly or if the inspection of the accounts is not granted, the courts will enforce the housing manager's proper conduct on demand of any owner. If the deficiency of the accounts is due to an incorrectness as regards contents, the courts will limit their considerations on the ascertainment of this incorrectness and correct the accounts concerning surplus or deficit.

(6) If no other procedure is determined, any surplus in the accounts of any owner will be credited against his/her future advance payments to operating costs. Any deficit in the accounts of any owner, will have to be paid by him/her at the latest two months after the day of settlement of the accounts. If there is a change of owners, the deficit must be paid by the one who is owner by the date the payment is due.

Reserves

Art. 12 (1) The owner(s) have to build adequate reserves for future expenses. The volume of reserves has to correspond to the anticipated development of future expenses.

(2) The reserves have to be used for future expenses, especially for maintenance and repair expenses on the residential property. They have to be invested in an interest-bearing account pertaining to the owners association that may be consulted by all owners.

(3) If a management contract terminates, the housing manager has to settle the accounts of the reserves without delay. Any surplus must be paid to the new housing manager; Any deficit must be paid to the owners association.

Division of operating costs

Art. 13 (1) All operating costs of a realty, including the payments for reserves, will be divided amongst the owners according to their respective ownership shares at the end of the term of settlement.

(2) Tenants of dwellings pertaining to the residential property may only be charged with running costs effected to their benefit. They may not be charged with the payments for reserves or for maintenance and repair works, except in the cases stipulated by Art. 6 and 7 of this law.

(3) If any expenses depend on individual consumption and if the individual consumption per ownership fraction may be measured, the division of such expenses may depend on individual consumption, provided that the owners agree to such a division.

(4) If no other procedure is determined, advance payments for operating cost will be made on a monthly basis by the owner(s); for tenants, the general regulations on the maturity of rents apply.

Division of returns

Art. 14 (1) Any returns from individual dwellings accrue to the respective owner(s).

(2) Any returns from common parts of the property accrue to all owners according to their respective ownership fractions.

(3) If costs for any facilities connected with the common parts of the realty were not divided according to ownership fractions, the returns of these facilities may be divided according to the fractions of financial contributions for these facilities.

Approval of settlements, surpluses and deficits

Art. 15 (1) The settlements of the accounts of operating costs presented by the housing manager will be considered as approved, if no precise objections were raised by persons entitled to settlement at the latest six months after the settlement was served on them.

(2) If the settlement of operating costs results in a surplus for any person entitled to settlement, this surplus has to be reimbursed by the person responsible for settlement at the latest two months after notification.

(3) If the settlement of operating costs results in a deficit, this deficit must be reimburses at the latest two months after notification.

G.5 HOUSING SUBSIDY REGULATIONS¹

This section contains important regulations to make PPP Housing operative. It may be implemented into a National Housing Strategy, as defined in Article 26 of the draft new Housing Law (p. 86) or decided as an independent Law. For considerations on implementation see chapter F.6 (p. 53).

Designing the subsidy regulations, the team aimed at the following targets:

- Compliance with EU regulations
- Steering effects
- Acquisition of international funding
- Minimum subsidies – maximum leverage
- Social mix
- Promotion of housing property
- Competition in the provision of subsidies
- Linkage of subsidies to quality standards

General provisions

Financial sources

Art. 1 (1) Financial sources will be provided by:

- contributions by the State;
- contributions by specialized funds;
- contributions by international finance providers;
- Return flows and anticipated redemption payments;
- Returns on subsidy funds.

¹ This draft has been designed by Dr. Wolfgang Amann (IIBW).

(2) Municipalities are to encourage the provision and refurbishment of dwellings, especially by means of providing cheap building land, infrastructure for utilities, water and sanitation, by reductions in municipal fees and taxes and by providing subject-oriented measures.

(3) Unless determined otherwise in the following, subsidy measures will be implemented by municipalities or other legal entities established by municipalities.

(4) Return flows on subsidy loans are to be spent exclusively on housing subsidy measures as defined by this law.

Exceptional return flows

Art. 2 (1) For the anticipated redemption of a loan, a discount may be granted. The discount should be proportionate to the actual cash value of the loan.

(2) Any other sale of receivables to subsidy loans is prohibited.

Housing subsidy programme

Art. 3 The Government has to present a medium-term housing subsidy programme in consideration of regional and municipal interests and the provided funds. This programme must respect the objectives of national development schemes, attend to regional, social and economic needs and include a financial plan.

Housing policy committee

Art. 4 (1) The Government will set up a housing policy committee. This committee will support the Government by furnishing expert opinions on submitted subsidy applications and on fundamental questions of housing subsidies, especially in reference to the design of housing subsidy programmes and the appraisal of regulations concerning housing subsidy law.

(2) The housing policy committee will not have more than 25 members. Its composition will correspond to the proportion of seats held by parties in Parliament. The committee's members will be appointed by the Government for their respective terms of office on basis of propositions by the political parties.

(3) The Government will appoint the director of the housing policy committee on basis of propositions by the political party that stands the Prime Minister. The deputy directors will be appointed on basis of propositions by the political parties that stand the Prime Minister's Deputies.

(4) Further regulations concerning the decision-making procedures of the housing policy committee and its management will be specified by bylaws determined by the Government.

Subsidies and financial provisions

Subsidy guidelines

Art. 5 (1) The Government will conclude guidelines concerning details of subsidy measures. Regulation details that change frequently may be specified by ordinances of the Minister in charge. The content of all regulations will be published for the citizens in adequate form at a homepage implemented for this purpose.

(2) Subsidies may only be granted up to the amount of provided funds according to Art. 3. There is no legal title to the granting of subsidies according to this law.

(3) Subsidies for residential buildings will only be granted if beneficiaries have their principal residence at the subsidised building.

(4) The household income of all household members may not exceed a certain socially reasonable limit. There may be regional differentiations. Further restrictions of access based on household indicators may be established.

(5) Subsidies for new construction may only be granted if the prices for building land are adequate.

(6) Construction related subsidies may only be granted if quality standards concerning the qualification of construction service providers and applied construction materials are safeguarded.

(7) Subject-oriented subsidies may only be granted to persons with legal relations based on written contracts.

(8) In execution of the EU Directive on Energy Performance of Buildings (2002/91/EC), subsidies for new construction must depend on the achievement of energetic minimum-standards. In the case of subsidies for refurbishment, such standards may apply.

(9) A PPP Housing company may not receive subsidies if complaints were decreed by the auditing association, until the shortcomings are rectified.

(10) The Government may make exceptions in justified cases. Furthermore, the Government may implement special purpose programmes, especially

- for the dealing with natural disasters and for measures with a special focus,
- for the enhancement of an integrative urban development,
- for the development of historic urban areas and city centres.

Types of subsidies¹

Art. 6 Subsidies may be granted of the following types:

1. Construction based subsidies, especially by loans, grants, securities and guarantees;
2. Subject-oriented subsidies, especially by income related housing benefits;
3. Other subsidies, especially for accompanying scientific research and evaluations, by grants and loans.

Construction based subsidies

Art. 7 (1) Applicants for subsidies for the provision of dwellings may be:

1. Natural persons for the construction of owner-occupied houses and flats,
2. Municipalities and PPP Housing companies, accredited as such by the PPP Housing Law, for
 - a) the construction of dwellings,
 - b) the construction of homes and residences,
 - c) the implementation of any other housing or living-environment related measures;
 - d) the renting out of certain dwellings.
3. Other judicial persons with goals of public interest (social, welfare) for the construction of homes and residences;

¹ Repayable subsidies (loans) have to bear interests, albeit very low ones. Only in this way Eurostat classifies them as loans, with the result that they are not considered as state expenditure, which is relevant facing the "Maastricht Criteria" of the EU.

4. Other judicial persons for the construction of service dwellings and intervention dwellings;

(2) Applicants for subsidies for the refurbishment of residential buildings may be:

1. The owners of buildings and dwellings; in the case of overall refurbishments of condominiums, the owners association,
2. Housing managers, appointed according to Art. 16 Housing Management and Maintenance Law,
3. Municipalities and PPP Housing companies, accredited as such by the PPP Housing Law, and other judicial persons,
4. in the case of refurbishment of dwellings, tenants according to Art. 22 Rent Law

(3) Applicants for subsidies according to para. 1 Z 1 have to be Montenegrine citizens or equal before the law. Applicants for subsidies according to para. 1 Z 2 and para. 2 Z 3 may also be other housing companies with a head office within the European Union, provided they have similar objectives and are subject to equivalent controls and supervisions. Applicants for subsidies according to para. 1 Z 3, para. 1 Z 4 and para. 2 Z 3 may also be judicial persons with a head office within the European Union.

(4) Due to the accreditation requirements and the long-term commitment as defined by the PPP Housing Law, PPP Housing companies have privileged access to housing subsidies.

Subject-oriented subsidies

Art. 8 (1) Subject-oriented subsidies will be granted to households living in residential buildings that qualified for construction based subsidies, if monthly housing expenditures considerably surpass the affordability of the household concerned.

(2) Subject-oriented subsidies may be granted to households in buildings that did not receive construction based subsidies if there are funds available according to Art. 3 and if monthly expenses should be kept within the limit of reasonableness. If rental dwellings are concerned, the reasonable level of monthly expenses will be below the level of locally customary rents as defined by Art. 15 Rent Law.

(3) The entitlement of households receiving subject-oriented subsidies must be proven on a yearly basis.

(4) Subject-oriented subsidies accruing to households in owner-occupied dwellings and houses will be granted only if the applicant for subsidies agrees to the creation of a senior lien on the property up to the amount of the cumulated subsidies. In the case of sale of the property concerned, the cumulated subsidies of the previous 10 years will have to be redeemed, including 3% interest per year. Special cases of social hardship must be considered.

Construction finance

Art. 9 (1) Construction costs must be covered by the following: Equity capital of the building contractor, equity capital of the future owner, lump sum contributions of the future tenant entering the contract, capital market loans, subsidies according to this law and other contributions.

(2) In connection with the granting of subsidies the Government may issue regulations on the following: Rent levels, minimum equity capital share of builders, conditions of capital market financing, consumer protection exceeding the stipulations of Art. 17-28 Condominium Law, framework-regulations on the inclusion of other financial contributions.

Rent calculation

Art. 10 (1) Rents for subsidised dwellings are subject to the PPP Housing Law and the Rent Law.

(2) The legislative authorities may issue additional regulations in order to reach rent levels in accordance with housing policy goals, especially concerning PPP-dwellings, social dwellings and necessity dwellings.

Purchase option

Art. 11 (1) Lump sum contributions of the future tenants exceeding 50 € per sq. m. of usable floor space (2009 term), will result in a purchase option after ten years of first time use of the dwelling. This limit will be valorised according to the CPI for later years.

(2) The value of the lump sum contribution of the future tenants decreases with 1 % per year (depreciation).

(3) In the case of cancellation of tenancy, the tenant redeems the current value of the lump sum contribution. If the tenant makes use of his/her purchase option, the current value of the lump sum contribution will be deducted from the sales price.

(4) 10 years after first time use of the dwelling, the owner will make a purchase offer to the tenant at a binding sales price according to condominium regulations. The sales price will be calculated as a compound of the actual book value and the market value of the dwelling at the date the purchase offer is completed. If there is no agreement, the courts get to decide.

(5) The purchase option is valid for five years. After that time period, the owner will grant a pre-emption right to the tenant for five more years. 20 years after first time use of a dwelling, any such property restrictions are void; only the property restrictions of the subsidised dwelling remain.

(6) Any tenancy agreements will be unaffected by a rejection of the purchase option or by the pre-emption right.

Fees and tax exemptions

Art. 12 (1) All official acts and written documents concerning this law will be exempt from fees and administrative charges.

(2) Subsidised residential buildings will be exempt from building-land related taxes for a time period of 20 years after the granting of subsidies.

Administration of subsidies

Subsidy procedures

Art. 13 (1) Applications are to be filed including all necessary documents and certificates at offices authorized by the Government. Applications for subsidies will be esteemed by the Government in accordance with the amount of funds provided for the various categories of subsidies.

(2) If the Government reaches a positive decision, it will present a written offer (warranty) including all stipulations and obligations to the subsidy.

(3) Legal titles according to this law only arise with the legally binding acceptance of the offer by the applicant.

Requirements

Art. 14 (1) Any planning permissions by building authorities have to be issued before the application for subsidies.

(2) All necessary construction finance must be secured for the case the subsidy is granted.

(3) Any subsidy loan must be secured in the land charges register to the benefit of the State, if necessary according to its share. The State may agree to a junior lien if capital market loans form a senior lien to the property. Other forms of adequate securitization are legitimate.

(4) In cases of liens as securitization of subsidy loans for the construction of dwellings, an entry in the land charges register, stating the prohibition of sale to the benefit of the State, is necessary. This prohibition of sale aims at third parties and legal successors. According to it, any transfer of title to the realty needs the written consent of the Government until the subsidy loan is redeemed.

(5) In order to guarantee proper construction works and a timely termination of the building, the subsidy may be subject to an adequate security deposit to the benefit of the State.

Data protection

Art. 15 (1) The Government is entitled to collect and electronically process all relevant data for the ascertainment of subsidy requirements, the processing of the subsidy and the control of whether the subsidy is used according to contract.

(2) These data may be forwarded to the municipalities concerned for the reasons stated in Art. 1 (2), Art. 14 (2) and Art. 12 (2), and to the appointed financing institutions for the reasons stated in Art. 14, if the access to these data is a fundamental necessity for recipients to fulfil their obligations as defined by these regulations. Any transfer of data in connection with administrative assistance, especially to other subsidy granting authorities, for the avoidance of the illegal granting of multiple subsidies, remains unaffected.

Obligations of the recipient

Restraint on disposal

Art. 16 Subsidies may only be disposed of, be it by assignation, instruction, pledging or any other way, in order to secure the intended purpose of the subsidy. Third parties do not have a right of execution on them. Subject-oriented subsidies may however be paid directly to the recipient of construction based subsidies.

Premature termination of subsidy relation

Art. 17 (1) Prior to the payment of subsidy loans and grants, the warranty must be withdrawn if the recipient does not fulfil the stipulated requirements.

(2) Subsidies must be cancelled by the Government if there are reasons for cancellation.

H. DRAFT LAW ON HOUSING AND MAINTENANCE OF RESIDENTIAL FACILITIES (MONTENEGRIN HOUSING LAW)

The following version is the proposal of January 2010, including several inputs of IIBW, as documented in this report, and with a revision proposed by Dr. Walter Schwimmer (IIBW) by March 2010 (marked in MS change modus).

I BASIC PROVISIONS

Article 1

This Law shall regulate the rights and responsibilities of the strata owners with regard to maintenance of the residential building and joint parts of the residential building, the access to area-of social housing, and other issues important for the housing area.

Article 2

The strata owner shall exercise the right to property over apartment and joint parts of the residential building in the manner and under the requirements stipulated by the law regulating property-ownership related legal issues and this law.

Article 3

Access to Social housing, in the sense of this Law, shall represent the housing of an adequate standard including care of the environment and energy efficiency as well as the affordability of housing for all citizens of Montenegro with adequate measures taken by the state and the ~~, which is secured with the support of the state and the~~ local self-government unit.

Article 4

The National Housing Strategy (hereinafter: the Strategy) shall be adopted for the purpose of ensuring the exercise of the public interest in the housing area, rational population density, use of space, quality of environment, energy efficiency and identity of the living space.

II RESIDENTIAL BUILDING MAINTENANCE

Article 5

Residential building maintenance shall represent execution of works on joint parts of the building in order to provide for proper operation and safety of the joint parts of the building as a whole and safety of use thereof.

Residential building maintenance shall also consist of the performance of works in the apartment or some other special part of the building, if those works affect the maintenance and safe use of the building and safety of the building as a whole.

Article 6

Works undertaken on the maintenance of common areas of the residential building shall be:

- 1) works on regular maintenance;
- 2) urgent works;
- 3) necessary works.

Article 7

Works on regular maintenance of common areas of the apartment building shall be:

- whitewashing or painting of inside walls;
- painting of outside and inside carpentry and wallpapering works;
- painting of locksmith works, radiators, other heating devices and other adequate elements in the building;
- tile works and other works on final coverings of floors and walls;
- replacement of floor coverings and floor polishing;
- façade painting;
- replacement and repair of carpentry, including the elements for protection against external factors (shutters, window shades, window blinds, and similar)
- repairs of roof and flat roof;
- maintenance of lighting and other electrical devices (replacement of bulbs, switches, plugs, bells, lamps, interphone, etc), as well as maintenance of outside lighting that belongs to the building;
- replacement and repair of locks and other elements belonging to the building;
- regular services of devices for heating and hot water preparation (boiler room, heating plant);
- regular services of common air-conditioning systems;
- regular elevator services;
- regular services of fire-prevention installation and fire-prevention appliances in the building;
- regular services of generators for lighting, water booster pump stations and pump points for water and wastewater;
- regular services of antenna devices, devices for receiving television programme, including devices for cable and satellite television;
- regular services of installations regarding water supply, sewage, electrics, gas and other;
- regular services of other appliances and devices in the building in accordance with the instructions of producers;
- cleaning of chimneys and chimney channels (chimney services), extermination of insects and extermination of rats in common areas of the building and separate parts of the building when it is performed in the entire building for the purpose of permanent elimination of pests and vermin;
- cleaning of garbage tubes;
- cleaning of drain grid, conduits and gutters;
- maintenance of hygiene in common areas of the apartment building;
- other works of regular maintenance.

Article 8

Necessary works shall be the works for the purpose of:

- rebuilding of roof construction, carrying walls, pillars, inter-floor constructions, foundations;
- rebuilding of chimneys and chimney channels;
- rebuilding of flat and slanting roofs;
- rebuilding of landslide;
- replacement of installations on the common areas and devices of the building (water supply, sewerage, electrical, gas, central heating, and similar.);
- rebuilding of façade, i.e. external appearance of the apartment building;
- insulation of walls, floors and foundations of the building.

The works referred to in paragraph 1 of this Article shall be prescribed by the local self-government unit.

Article 9

Urgent works shall be the works executed on the apartment building with no delay for the purpose of protecting life and health of people, their safety and the environment, as follows:

- works on gas installations;
- works on the central heating system and hot-water system;
- works on air-conditioning system;
- works in the case of cracks, damage and obturation of water supply and sewerage installations for the purpose of preventing further harmful consequences;
- works on electrical installations;
- works on substantial damages of chimney and chimney channels;
- works in the case of penetration of water in the building, removing its consequences, as well as substantial roof damage;
- works on the elevator;
- works on the façade;
- works for the purpose of protecting static stability of the building or separate parts of the building.

Article 10

The administrator shall be obliged to provide for the performance of urgent works with no delay.

The administrator shall be obliged to provide the performance of urgent works also on a separate part of the building, if they are not performed by the owner and if it is necessary to do so for the purpose of maintaining common areas of the building and building as the whole.

The strata owner shall be obliged to inform, with no delay, the administrator, as well as business organisation, i.e. other legal entity to which maintenance activities are delegated, on the need to undertake urgent works.

In the case referred to in paragraph 2 of this Article, the strataowner on whose part the urgent works are executed shall be obliged to compensate the funds spent from the joint account.

Article 11

If the apartment building fails to provide for the execution of urgent works, a local self-government unit shall, at the request of a person performing supervision, provide for the execution of these works, through a business organisation, i.e. another legal entity or in another manner, at the expense of the apartment building.

The apartment building shall be obliged to compensate the costs for works referred to in paragraph 1 of this Article to the local self-government unit, within the deadlines and in the manner determined by the local-self government unit.

The bill regarding the executed urgent works shall represent a credible document in the execution procedure.

The owner shall be obliged to enable the performance of urgent works to the extent necessary for removing direct danger for life and health of people and material goods.

Article 12

Costs of regular maintenance, urgent and necessary works regarding the apartment building shall be borne by owners in proportion to the share of area of their separate parts of the apartment building in the area of all separate parts, based on actually incurred costs.

Funds for the execution of necessary works for the maintenance of joint parts of the residential building may be provided through the co-financing arrangements with the interested persons, through loan provision under favourable conditions, which might be provided by the local self-government unit.

The strata owners shall be obliged, as advance payment for the costs referred to in paragraph 1 of this Article, to pay a monthly amount to the joint account of the building, in the following manner:

- for the apartments, the amount of 1 point/m² of the useful apartment area;
- for garages, the amount of 2 points/m² of the useful area;
- for business premises and apartments where non-profit activity (associations of the retired persons, blind persons, the disabled, and similar) is performed, the amount of 3 points/m² of useful area;
- for business premises where commercial and similar activity is performed, the amount of 4 points/m² of useful area.

The value of a point, which cannot be lower than EUR 0.2, shall be determined by the Assembly of strata owners.

The strata owner who covered the maintenance costs for common areas without the authorization of the administrator or Assembly shall not be entitled to reimbursement, unless the costs are urgent costs.

Article 13

The strata owners shall use the funds intended for the residential building maintenance to cover the following costs of the residential building maintenance:

- regular maintenance;
- necessary works;

- urgent works;
- repayment of the loan for financing of costs;
- other costs regarding maintenance of the residential building.

The administrator shall manage the funds for maintenance of the residential building under the terms and within the limits determined by decisions rules of the Assembly of strata owners.

Article 14

The strata owners shall be obliged to open a joint account where funds for maintenance of the residential building shall be paid in, which make the common property of all strata owners.

The local self-government authority shall adopt the instruction, based on the decision of the strata owners assembly, by which it calculates the amount and determines the manner of payment of costs of maintenance of the residential building.

If the residential building management authorities have not been established, the strata owners, that is, the temporary administrator shall manage the funds deposited in the joint account.

The owner who divested his/her separate part of the building shall not be entitled to request reimbursement of funds from the joint account.

Article 15

The administrator whose term of office expired shall be obliged to immediately submit the report on funds in the joint account to the new administrator.

Article 16

The administrator shall be obliged to keep the records of the use of funds intended for maintenance of the residential building.

The administrator shall submit the report on the use of funds for maintenance of the residential building to the strata owners assembly once a year.

All strata owners shall have the right to insight into the report from Paragraph 2 of this Article.

Article 17

Strata owners shall have collective liability for obligations undertaken by the residential building regarding maintenance, in accordance with the criteria for payment of maintenance costs determined by this Law.

Article 18

The Assembly of Strata Owners shall decide on the manner of organising activities regarding maintenance of the residential building.

The Assembly of Owners shall submit the act from Paragraph 1 of this Article to the competent authority of a local administration within 15 days from the date of its adoption.

Article 19

The Assembly of Strata Owners shall ensure the performance of all or some works related to maintenance of common parts of the residential building by signing an agreement with a company, a housing cooperative or some other legal person registered to perform maintenance works, by January 15 of the current year.

The agreement from Paragraph 1 of this Article shall especially contain the following:

- types of works, conditions and manner of their performance;
- price, manner and payment conditions;
- manner of notifying the Assembly on executed works;
- mutual rights and obligations in the case of failing to execute or failing to timely execute the works.

In case of cancellation of the agreement from paragraph 1 of this Article during the year, a new agreement shall be signed within 15 days from the date of cancellation of the previous one.

Two or more residential buildings, building entrances or terraced buildings may jointly organise affairs with regard to the maintenance of a residential building.

In the instance referred to in paragraph 4 of this Article, mutual relations shall be regulated by a contract containing especially the following:

- manner of performing the activities on maintenance of the residential building;
- manner and deadlines for providing the funds for maintenance;
- manner of use and control of use of funds for maintenance;
- mutual rights and responsibilities of the residential buildings, etc.

Article 20

The strata owner shall be obliged to immediately report to the administrator the damage that he learned was incurred on common parts of the residential building, if there is a danger to other parts of the residential building.

When there is a danger of damage from paragraph 1 of this Article, every strata owner shall be obliged to undertake necessary measures without the consent of other strata owners.

Article 21

Strata owners shall report any change with regard to the use of the separate part of the residential building or a part thereof to the assembly of strata owners, that is, to the administrator.

Article 22

It is prohibited to do the following, without the consent of the competent local self-government authority:

- harm the appearance of the residential building by posting devices;
- change the appearance of the residential building by adding glass parts;
- change the appearance of the residential building by building parts of it into bricks;
- change or harm the appearance in some other way.

The scope and type of permitted works from paragraph 1 of this Article shall be prescribed by the competent local self-government authority.

Article 23

The local self-government unit shall keep the register of strata owners, the register of residential buildings and their special parts.

Article 24

Separate and common part of the residential building may be transformed into a business premises in the manner stipulated by the regulation of the Government of Montenegro (hereinafter: the Government).

Article 25

Competent authority of the local self-government unit shall adopt a decision on house rules.

III HOUSING DEVELOPMENT PLANNING

Article 26

The Strategy shall define long-term and mid-term goals ~~of the state~~ in the area of state housing policy, ~~housing development and access to social~~ housing development, as well as outline funds for the implementation thereof, and other elements important for housing, in accordance with the physical planning documents and development programmes of the state.

~~Within the social housing development,~~ The Strategy shall also define measures for the provision of adequate housing standard in the households that, due to social and economic reasons, are unable to solve housing issues based on market conditions and will be assisted by special programmes provided by the state, the local municipal unit or in public-private partnership.

The Strategy shall be adopted by the Government.

The Strategy shall be adopted for the period of ten years.

Article 27

The Strategy shall contain especially the following:

- strategic goals and measures, and conditions for their implementation;
- indicators that are necessary in order to monitor implementation and degree of implementation of the goals;
- overview of funds necessary for strategy implementation;
- presentation of harmonization of goals with the state development programme.

For the purpose of Strategy implementation, the state administration authority responsible for housing issues (hereinafter: the Ministry) shall adopt the annual housing programme, defining in more detail the purpose, pace, implementers of the Strategy, sources and amounts of funds for Strategy implementation.

The programme from paragraph 2 of this Article shall define the priorities for the year for which the programme is adopted, with regard to the projects and amount of funds.

The criteria under which the funds defined by the programme from paragraph 2 of this Article may be used shall be defined by a regulation adopted by the Government.

Article 28

In order to ensure the prerequisites for housing of an adequate standard and implementation of the strategic goals defined in the Strategy, the local self-government unit shall adopt the following:

- local housing strategy;
- in accordance with the local housing strategy and the Strategy, long-term, mid-term and annual ~~social~~ housing programmes.

IV ~~ACCESS TO SOCIAL~~ HOUSING

Article 29

The state, that is, the local self-government unit shall create the prerequisites for sustainable development of ~~access to social~~ housing, may provide funds for ~~social~~ housing development, regulate the manner and conditions for its use, as well as other issues of importance for ~~access to social~~ housing, through the provision of the following:

- housing space for households that, due to economic and social reasons, are unable to secure ~~housing apartments~~ under market conditions;
- quality residential space, i.e. the quality at the level of ~~adopted~~ technological standards with regard to safety, energy efficiency, environmentally sound production techniques, architecture, communal infrastructure, waste removal, etc.

Article 30

When programmes for the access to housing are provided by the state, the local municipal unit or in public-private partnership the state may regulate the conditions of access to housing within these programmes.

~~The social housing apartments in the sense of this Law, shall be the apartments purchased or secured through favourable loans for apartment construction or purchase, or rented to the categories of persons that fulfill the requirements from Article 31, Paragraph 1 of this Law.~~

~~Favourable loans for apartment construction or purchase, in the sense of this law, shall be the loans with subsidized interest rate or loans for apartment construction or purchase granted at the price lower than the market one.~~

~~Social housing apartments from Paragraph 1 of this Article shall be provided by the state, that is, the local self-government unit.~~

~~The affairs of securing the apartments from Paragraph 3 of this Article, provided by the state, shall be performed by the Ministry.~~

Article 31

Right to benefit from such programmes shall be limited apartment based on social housing shall be ~~granted~~ to persons who:

- are citizens of Montenegro;
- have residence in the territory of Montenegro;
- own no apartment, that is, house and do not use an apartment of a prescribed size;
- in the family household acquire monthly income that does not exceed a certain income as described in the programme, ~~one and a half average monthly wages in Montenegro.~~

More detailed requirements and criteria for the procedure of awarding and ranking beneficiaries of programmes can users of social housing shall be defined by a Government regulation.

The conditions and criteria for determination of standard of apartment construction for social housing shall be defined by a regulation adopted by the Ministry.

Article 32

Funds for programmes dedicated to access to social housing can shall be provided from the following sources:

- 1) funds from the Budget of Montenegro, that is, of the local self-government units;
- 2) donations;
- 3) local and international loans;
- 4) funds from repayment of loans approved in accordance with this law;
- 5) other sources in accordance with the law.

Article 33

The Government and the local self-government units may provide construction land and other assets, besides the financial assets from Article 32 of this Law, in accordance with the Law.

Article 34

~~Funds from Article 32 of this law shall be used for the following:~~

- ~~1) approval of long-term loans to companies, physical and legal entities and housing cooperatives, for the purpose of provision of social housing apartments;~~
- ~~2) purchase or construction of social housing apartments, for the purpose of acquiring property, that is, for lease;~~
- ~~3) encouraging partnerships between the public and the private sector in the area of social housing;~~
- ~~4) other purposes in accordance with this Law and the Strategy.~~

~~More detailed requirements and criteria for use of funds from Article 32 of this Law shall be determined by the Government regulation, that is, the regulation of the competent local self-government authority.~~

~~Article 35~~

~~For the purpose of implementation of the local housing policy, implementation of the social housing programme and management of apartments for social housing that were rented, as well as for the purpose of performing other affairs of a public interest in the area of housing, local self-government units, that is, several local self-government units, may establish a housing agency, that is, ensure performance of those affairs in some other manner.~~

Article 36

Local self-government unit can shall provide funds for programmes dedicated to access to housing establishment and work of the housing agency from the following sources:

- 1) budget of the local self-government unit, based on the revenues from apartment rental within the housing programme and rental of apartments owned by the state, which are used by the local self-government unit;
- 2) donations;
- 3) loans;
- 4) proceeds from borrowing from international institutions for housing financing;
- 5) funds from repayment of loans for awarded solidarity apartments, unless regulated otherwise by the act of the responsible local self-government authority;
- 6) other sources in accordance with the law.

Mutual rights and responsibilities of the local self-government units regarding management, financing and operations of the housing agency shall be regulated by the agreement between the local self-government units, founders of the housing agency.

~~Article 37~~

~~Housing agency shall be established as a company, with the status of a legal person.~~
~~Besides the conditions from Article 35 of this Law, the housing agencies shall also perform the following affairs:~~

- ~~* mediation in the provision of funds for social housing development;~~
- ~~* record keeping of lease contracts for social housing purposes;~~

- ~~• maintenance of residential buildings assigned to social housing;~~
- ~~• and other affairs stipulated by the founding act, in accordance with the Law.~~

Article 38

Local self-government unit shall keep record of the apartments sold or rented, based on programmes ~~dedicated to access to housing~~ ~~social housing~~.

Local self-government unit shall submit a report on the data from paragraph 1 of this Article to the Ministry, by the end of July of the current year and by the end of January of the following year for the preceding year.

V PRIVILEGED APARTMENT RENTAL BASED ON ACCESS TO SOCIAL HOUSING PROGRAMMES

Article 39

Right to apartment rental may be acquired by a person who fulfills the requirements ~~for social housing~~ defined in Article 31 of this Law, only on the basis of the lease agreement (hereinafter: privileged lessee).

Privileged lessee shall not conclude an agreement on lease of another apartment, or sub-lease this apartment.

Article 40

Rent shall be charged for the lease of apartment from Article 39 of this Law, and it shall be determined depending on the equipment in the apartment, ability to use the apartment, costs of maintenance of the common parts of the residential building and payment capacity of the household of the privileged lessee (hereinafter: privileged rent).

Privileged rent shall not be lower than the amount necessary to cover the costs of regular maintenance of the residential building.

More detailed requirements and criteria for determination of the level of the privileged rent shall be determined by the Government regulation, that is, regulation of the competent local self-government authority.

Article 41

If the amount of the privileged rent changes, due to change in regulation from Article 40, Paragraph 3 of this Law, the privileged lessee shall pay that rent without amendment to the agreement, and based on the calculation made by the lessor.

Article 42

In case of death of the privileged lessee, the rights and responsibilities thereof shall be transferred to the person from the household who was stated in the apartment lease agreement, if that person fulfills the requirements related to social housing from Article 31 of this Law.

Person from Paragraph 1 of this Article shall request from the lessor to sign the lease agreement within 60 days from the date when the change arises.

Lessor shall sign the apartment lease agreement with the person from Paragraph 1 of this Article for an unlimited period of time, with the rights and responsibilities of the privileged lessee.

If the privileged lessee acquires property rights, that is, lease rights over another apartment, he/she shall return the apartment obtained as a privileged lessee to the lessor, within 30 days from the date of acquiring that right.

In cases from Paragraphs 2 and 3 of this Article, the lessor shall not sign a lease agreement with the person who owns an apartment that can be used immediately.

VI COUNCIL FOR THE PROTECTION OF RIGHTS OF LESSEES

Article 43

The competent local self-government authority may establish the Council for the protection of rights of the lessees (hereinafter: the Council) for the purpose of:

- monitoring the fulfillment of obligations of the lessees;
- ~~provision of free legal advice to lessees regarding the exercise of their rights based on lease;~~
- giving proposals and suggestions to the local self-government unit regarding the rights of lessees.

The Act on establishment of the Council shall define in more detail the composition, manner of work, tasks and other issues important for the work of the Council.

Article 44

Lease of apartments shall take place through a company registered for real estate sales. The apartment lease agreement shall be notarized in accordance with the law, and registered with the company from paragraph 1 of this Article.

The services of the company from Paragraph 1 of this Article shall not exceed the amount of the monthly rent.

The company from Paragraph 1 of this Article shall submit monthly reports to the local self-government unit, no later than the fifth day of the current month for the preceding month.

The report from Paragraph 4 of this Article shall contain the following:

- number of agreements signed;
- data about lessee and lessor (name, surname, personal ID number, address, name, seat/headquarters, tax identification number);
- number, date and place of signing of agreement;
- surface area of each rented apartment;
- amount of rent charged;

- location of the apartment;
- duration of lease, etc.

VII RESOLVING HOUSING NEEDS

Article 45

Companies, other legal persons, state authorities and local self-government units shall provide funds for resolving housing needs of employees in accordance with needs and capacities.

Companies and other legal persons may resolve housing issues of employees by selling dwellings at market or more favourable conditions, awarding housing loans, replacement, gift, leasing, conversion of the common ownership or co-ownership into strata ownership or in another manner, in accordance with the general legal act.

Persons which were the obligors of paying housing construction contribution shall have the right to certain advantages when resolving proper housing needs, in accordance with the general legal act of a company, that is, other legal entity.

Article 46

The Government of Montenegro or the competent local self-government authority shall regulate with their own act the resolution of housing issues of persons whose work is in the interest of the State, i.e. the local self-government unit.

VIII SUPERVISION

Article 47

Supervision over the implementation of this Law and other regulations in the area of housing and maintenance of residential buildings shall be performed by the Ministry responsible for housing affairs, through the housing inspection and in accordance with the authority defined in Article 49 of this Law.

Supervision over the implementation of bylaws that the local self-government units are obliged to adopt in accordance with this Law, shall be performed by the competent local self-government authority, in accordance with the special regulations.

Article 48

The affairs of inspection control in the area of housing and residential building maintenance, within the prescribed authority, shall be performed by the Ministry responsible for housing affairs in accordance with this Law and other laws.

The tasks of supervision over the implementation of regulations adopted by the local self-government unit shall be performed by the competent local self-government authority.

Article 49

The housing inspector shall be obliged to control especially the following:

- whether the residential building management authorities have been organised in accordance with the law (Article 181 of the Law on property relations of Montenegro);
- whether the local self-government unit is keeping record containing data regarding apartments and other real estate sold (Article 38, Paragraph 1 of this Law);
- whether the local self-government unit reports semi-annually to the Ministry about the data kept in its records (Article 38, Paragraph 2 of this Law);
- whether the residential space lease agreement has been signed and notarized by the company dealing with real estate sales (Article 44 of this Law);
- whether the local self-government unit keeps the record of strata owners, register of residential buildings and their special/ separate parts and register of residential building managers (Article 23 of this Law);
- whether the owner of the special part has changed the outer appearance of the building without the approval of the local self-government, by putting parts of it into glass structure, closing parts of it with bricks, posting devices on the outer wall – facade, or in some other way harms the appearance of the building (Article 22 of this Law);
- whether the building manager has ensured, without delay, the performance of urgent works on common and special parts of the residential building, which are necessary in order to maintain the common parts of the building and the building as a whole (Article 10, Paragraphs 1 and 2 of this Law);
- whether the owner has informed the manager, company, other legal entity, that is, local self-government authority entrusted with maintenance tasks about the need to undertake urgent works (Article 10, Paragraph 3 of this Law);
- whether the owner on whose parts the urgent works have been performed has refunded the funds spent from the joint account (Article 10, Paragraph 4 of this Law);
- whether the local self-government unit has ensured performance of urgent works, if the residential building failed to do so, in accordance with the law (Article 11, Paragraph 1 of this Law);
- whether the residential building has refunded the local self-government unit the costs of performance of urgent works (Article 11, Paragraph 2 of this Law);
- whether the owner of a special part informs the assembly of owners and the manager about each and every change related to the use of special part of the building or a part thereof (Article 6, Paragraph 1);
- whether the manager informs the local self-government authority about changes (Article 6, Paragraph 2);
- whether the owner of a special part pays monthly advance payment for the costs of regular maintenance, investment maintenance and urgent works to the joint account of the residential building (Article 14, Paragraph 3 of this Law);
- whether the manager, that is, other person performing the tasks of the manager whose mandate has ceased, submits the report on the funds in the joint account to the new manager, that is, other person (Article 15 of this Law);
- whether the manager, that is, other person performing the tasks of the manager keeps the record of funds allocated for residential building maintenance (Article 16, Paragraph 1);
- whether the manager, that is, other person performing the tasks of the manager submits a report to the assembly of owners once a year (Article 16, Paragraph 2);

- whether the assembly of owners has adopted the act on manner of organisation of tasks related to residential building maintenance and whether it has signed an agreement on the organisation of maintenance works (Article 19 of this Law).

Article 50

Once he/she finds that the law or other regulation has been violated, the housing inspector shall do the following:

- inform the residential building that the management authorities have not been organised in accordance with the law, that is, to initiate the procedure for assessment of legality of decision on establishment of management authorities;
- to instruct the residential building to organise management authorities in accordance with the law;
- to instruct the established management authorities of the residential building to perform the affairs in accordance with the law, if he/she finds irregularities in the performance of those affairs;
- to instruct the local self-government unit to keep records in accordance with this Law and to submit reports to the Ministry on the data kept in its records;
- to instruct undertaking of adequate measures stipulated by the law regarding the proper and safe maintenance of residential building and the need to undertake urgent works on the common and special parts of the residential building;
- to pronounce a fine to the residential building, residential building management authorities or strata owner, if he/she finds irregularities, in accordance with the law;
- to submit a request for initiation of misdemeanour proceedings against the residential building, residential building management authorities or strata owner;
- to file a criminal or other adequate denouncement.

Once the housing inspector finds during the execution of control that there are grounds to undertake administrative measure that falls within the responsibility of another authority, it shall inform that respective authority about such fact.

IX PUNITIVE PROVISIONS

Article 51

A pecuniary fine in the amount from 10 fold to 300 fold of the minimum wage in Montenegro shall be imposed for an offence on a company or other legal entity, if it:

- 1) Fails to keep records on sold dwellings and other real estate, related to social housing (Article 38, paragraph 1 of this Law);
- 2) Fails to submit a report to the Ministry with data on the record of apartments assigned as property or rented based on social housing, by the end of July of the current year and by the end of January of the following year for the preceding year (Article 38, paragraph 2 of this Law);
- 3) Fails to rent the apartments through the company registered for real estate sales (Article 44, paragraph 1 of this Law);
- 4) The owner of the special part harms the outer appearance of the building without the consent of the local self-government, by putting glass structures, closes parts of the building with bricks,

- posts devices on the outer wall- facade or harms in some other manner the appearance of the building (Article 22, Paragraph 1 of this Law);
- 5) Fails to pay the costs of regular maintenance, urgent and necessary works on the residential building, paid by the strata owners proportionate to the share of their special parts of the residential building in the surface area of all special parts, according to the costs that were incurred in practice (Article 12 of this Law);
 - 6) Fails to sign a contract on maintenance of common parts of the residential building with the company, housing cooperative or other legal entity registered for the performance of maintenance activities by January 15 of the current year (Article 19 of this Law)
 - 7) Does not allow access to authorised persons in its part, if so necessary for maintenance of common parts of the residential building and the entire building (Article 174, paragraph 6 of the Law on Property Rights of Montenegro);
 - 8) Makes modifications in its part which could undermine the architectonic layout of the building or impair safety and stability of the building or common part or separate part or to cause damage in other manner to such parts (Article 175, paragraph 2 of the Law on Property Rights of Montenegro);
 - 9) Performs works which could cause damage to the stability or safety of the residential building, which are changing its architectonic layout or which are causing that certain parts of common parts of the building cannot be used by a single owner (Article 176, paragraph 3 of the Law on Property Rights of Montenegro);
 - 10) Performs extension which impacts the stability and safety of the residential building, if such extension causes damage to the architectonic layout of the building or significantly impairs aeration and air flow of lower storeys (Article 177, paragraph 2 of the Law on Ownership Rights of Montenegro);
 - 11) Fails to repair malfunctions and damages caused as a result of performance of works, no later than within 30 days of the day the malfunctions and damages occur (Article 178, paragraph 2, item 1 of the Law on Ownership Rights of Montenegro);
 - 12) Fails to provide to the owner another dwelling for temporary use, in case of the need to temporary relocate the owner from the dwelling, which is worsening the living conditions, including also appropriate costs (Article 178, paragraph 2, item 2 of the Law on Ownership Rights of Montenegro);
 - 13) Within 10 days upon completion of works, fails to bring to the state as it was prior to the performance of works premises, devices and installations (Article 178, paragraph 2, item 3 of the Law on Ownership Rights of Montenegro);
 - 14) Fails to notify owners on the beginning of performance of works by no later than 30 days prior to the commencement of works (Article 178, paragraph 2, item 4 of the Law on Ownership Rights of Montenegro);
 - 15) Fails to form the management bodies as stipulated in Article 181 of the Law on Ownership Rights of Montenegro (Article 180 of the Law on Ownership Rights of Montenegro).

A pecuniary fine in the amount from ½ fold to 20 fold of the minimum wage in Montenegro shall be imposed for the offence referred to in paragraph 1 of this Article on a responsible person in the authority, company or other legal entity and the physical person.

X TRANSITIONAL AND FINAL PROVISIONS

Article 52

Regulations based on the authorization under this Law shall be adopted within one year from the date of coming into force of this Law.

Regulations adopted based on the Law on strata ownership ("Official Gazette of RoM" no. 71/04) shall be enforced until the adoption of the regulations from paragraph 1 of this Article.

The National Housing Strategy shall be adopted within one year from coming into effect of this Law.

Article 53

Procedures which were initiated prior to the entry into force of this Law, based on which no final decision was adopted, shall be completed in accordance with the provisions of the law in effect at the time when the procedure was initiated.

Article 54

Persons who initiated the dwelling buyout procedure or have acquired the right to buyout the dwelling prior the day of coming into effect of the Law on strata property ("Official Gazette of RoM" no. 71/04), shall proceed with the buyout in accordance with the provisions of Article 67 of that Law.

Article 55

The Law on Strata Ownership ("Official Gazette of RoM" no. 71/04) shall cease to be valid from the date of coming into effect of this Law.

Article 56

This Law shall enter into force on the eight day of its publication in the *Official Gazette of Montenegro*.

I. APPENDIX – MATERIALS

I.1 DRAFT LAW ON HOUSING COOPERATIVES

(draft, march 2009)

I BASIC PROVISIONS

Article 1

This Law shall regulate the legal status of the housing cooperatives and their members – cooperative members, establishment of the housing cooperatives, field of activity, seat and firma of the cooperative, acquiring and losing the status of cooperative member, book of cooperative members, housing cooperative management and bodies of the cooperative, property and operations of the housing cooperative, distribution of profit, termination of housing cooperative and establishment and operations of the union of housing cooperatives, as well as other issues important for the operations of the housing cooperatives.

Article 2

Housing cooperative shall be an association of an unlimited number of cooperative members that is established in order to solve housing needs of the cooperative members through the construction of housing units, business premises and maintenance of the housing fund, on the basis of the cooperative principles, without the intention to earn profit.

Montenegro and the local self-government units encourage realization of goals from Paragraph 1 of this Article through measures of social, land, credit and fiscal policies, i.e. by prescribing tax relieves in accordance with the tax laws.

Article 3

Housing cooperative may be the founder of a company, other cooperative or other legal entity, in accordance with the law and cooperative rules, if it realizes in this way the goal for which the cooperative has been established.

If the housing cooperative earns profit in the performance of its activity, in accordance with the founding agreement and cooperative rules, it shall be used exclusively for the improvement of its activity by which the goals of establishment of the cooperative are achieved, in accordance with this law and housing cooperative rules.

Article 4

Housing cooperative shall regulate the relations between its members based on the following international cooperative principles:

- Voluntarism and openness towards membership
- Solidarity, which includes the principles of mutuality and self-assistance
- Democracy
- Economic participation and thrift
- Equal management right
- Independence
- Democratic control of operations by its members
- Participation of members in the distribution of profit and coverage of losses from operations

- Business autonomy and information of the members
- Cooperation between cooperatives and care for the local community.

Article 5

Housing cooperative shall have the status of a legal entity.

Housing cooperative shall obtain the status of a legal entity by being registered in the Central Register of the Commercial Court.

Provisions of the Company Law shall apply to registration and duty to publish data in the “Official Gazette of Montenegro”, unless regulated otherwise by this Law.

Application for entry into the register shall be submitted to the authority responsible for registration, within 30 days from the date of holding founding assembly meeting.

The following shall be enclosed with the application for entry into the register:

- Founding agreement
- Cooperative rules
- Minutes from the founding assembly meeting,
- Evidence of payment or input of founding deposit in accordance with the founding act
- Other instruments and evidence in accordance with the Law.

Article 6

In legal operations, the housing cooperative shall act in the name and to the account thereof; in the name and to the account of the cooperative member; and it may operate in its own name and to the account of the cooperative member, in accordance with the founding agreement and cooperative rules.

In legal operations, the housing cooperative shall be held responsible for its obligations with its property.

Housing cooperative shall not be organised as a company, and shall not be merged or attached to a company or other legal entity that is not a cooperative, and it shall not change its status into company or other legal entity.

II ESTABLISHMENT OF A HOUSING COOPERATIVE

Article 7

Housing cooperative may be founded by minimum 30 physical entities with the capacity to work, who fulfill the requirements stipulated by the law and cooperative rules.

Housing cooperative shall be established for an unlimited period of time, unless stipulated in the founding act that it is established for a specific period of time or for the performance of a specific task.

Founding agreement

Article 8

Housing cooperative shall be established by the act of signing of the founding agreement.

Founding agreement shall contain the provisions regarding the following:

- Name and seat of the housing cooperative,
- Names, professions, addresses and personal identification numbers of the founders,
- Field of activity of the housing cooperative,
- Amount of the founding capital and amount and form of deposit of the individual founders, deadline for payment of funds by the cooperative members and associated members and manner of securing those funds,
- Rights and responsibilities of the founders and other cooperative members regarding the performance of activities of the cooperative, cooperative management, decision-making

- regarding distribution of profits and coverage of losses of the housing cooperative, responsibility and return of deposits and other funds,
- Manner of calling for and deadline by which the founders are obliged to call for the founding assembly meeting, and decision-making method, and
- Other provisions important for the establishment, operations and termination of the cooperative.

Founding assembly

Article 9

The founders shall call for the founding assembly meeting of the housing cooperative within 30 days from the date of signing of the agreement on founding of the housing cooperative and input of the membership deposits.

Founding assembly shall consist of all the members of the housing cooperative.

Founding assembly shall adopt cooperative rules, elect and appoint the president and members of the Board of Directors and Supervisory Board and elect and appoint the Manager-Director of the housing cooperative.

Founding assembly shall decide by majority vote.

Cooperative rules

Article 10

Cooperative rules shall contain the provisions regarding the following:

- Name and seat of the housing cooperative
- Field of activity
- Cooperative principles
- Status changes and termination of cooperative
- Presentation and representation of the cooperative
- Conditions and manner of acquisition of the status of cooperative members and associated cooperative members
- Conditions and manner of termination of status of cooperative members and associated cooperative members
- Other rights and responsibilities of the cooperative members
- Form and amount of deposit invested by the cooperative members and deadline for payment of deposit and input of funds
- Amount and manner of payment of membership fee of the cooperative members
- Responsibility of the cooperative members for the obligations of the cooperative
- Decision-making regarding distribution of profit and coverage of losses from operations
- Part of the profit allocated into the mandatory reserve fund
- Election, revocation and scope of work of the cooperative
- Manner of decision-making of the assembly of the cooperative, election, revocation and rights and responsibilities of the representatives of the cooperative members and representatives of the cooperative staff, if the assembly also consists of these representatives
- Return of deposit
- Cooperative book of records
- Information of cooperative members, employees and confidentiality clause
- General acts of the cooperative and manner of their adoption
- Cooperation between cooperatives and cooperative education of the cooperative members

- other issues important for management and operations of the cooperative.

Article 11

Work of the housing cooperative shall be public.

Responsible bodies of the housing cooperative shall inform the cooperative members about their work.

Manner of exercise of the principle of publicity of work of the housing cooperative shall be stipulated by the rules of the housing cooperative.

Field of activity of the housing cooperative

Article 12

Field of activity of the housing cooperative shall include the activities for the performance of which it has been established, and for the performance of which it fulfills legally prescribed requirements.

The subject-matter of operations – field of activity of the housing cooperative may be as follows:

- 1) organisation of construction and maintenance of apartments,
- 2) construction, additional construction, adaptation, reconstruction of and repairs in apartments,
- 3) performance of all investor business and professional supervision in the construction of new facilities, additional construction, adaptation, reconstruction, repairs and maintenance of apartments,
- 4) acquisition and equipping of construction land for housing and other construction purposes,
- 5) acquisition and development of investment-technical, urban-planning and other documentation,
- 6) works regarding regular maintenance, urgent and necessary works on apartments and other open and other areas that belong to them,
- 7) development of elements for housing construction, procurement, storage, keeping and control of use of construction material,
- 8) organisation of savings for specific purposes and credit provision for its members and joining funds with the funds of the banks and other legal and physical entities, collection of personal funds from the cooperative members, for the purpose of construction, that is, purchase of residential buildings, apartments and business premises,
- 9) collection of funds from the housing cooperative members for the construction and purchase of apartments,
- 10) obtaining and using loans and funds from banks and other financial organisations for the construction and maintenance of apartments,
- 11) Performance of other tasks that support the construction and maintenance of apartments and spatial development and provision of other services of interest for development of housing cooperatives activities.

Name and seat of the housing cooperative

Article 13

Name of the housing cooperative shall be the name under which it operates.

Name of the housing cooperative shall contain the sign of the type of cooperative, the sign “housing cooperative”.

Only the associations that are founded in accordance with this law shall have the right and responsibility to use in their name the sign in accordance with Paragraph 1 of this Article.

Seat of the housing cooperative shall be the place where it performs the activity of a housing cooperative.

If the activity of the housing cooperative takes place in several places, the seat of the cooperative shall be the place where the seat of the director of the housing cooperative is located.

Adequate application

Article 14

The provisions of the law regulating legal status of the companies shall apply accordingly to the field of activity, name, seat, registration number, responsibility of the authorities for illegal decisions, responsibilities of the members of the authorities for the damage caused to housing cooperative, limitation of appointment as a member of the Board of Directors, representation, information, confidentiality clause, competition clause and statute of limitation of the claims, unless regulated otherwise by this Law.

Acquiring the status of cooperative member

Article 15

Founders of the housing cooperative shall acquire the status of a cooperative member by the act of establishment of the cooperative.

Status of the cooperative member, upon establishment of the housing cooperative, shall be acquired by accession, based on the request and accession statement, by which the signatory accepts the rights, responsibilities and duties of a housing cooperative member stipulated in the founding agreement, that is, cooperative rules, i.e. by the acceptance of the application thereof by the authorities of the housing cooperative stipulated in the cooperative rules.

Together with the accession statement the interested person shall submit the following: evidence of payment made, that is, input of the deposit with the certificate of the responsible authority about the estimated value of that deposit, statement of the signatory by which he accepts the provisions of the founding agreement, cooperative rules and confirms that he is informed about the responsibilities for the obligations of the cooperative created prior to signing of the accession statement.

Status of a cooperative member shall not be acquired just by input of membership deposit.

Cooperative member shall not be employed in the cooperative and shall not, on such grounds, acquire rights based on employment.

Article 16

Decision on acquiring the status of a cooperative member shall be made by the authority of the housing cooperative stipulated in the cooperative rules.

Housing cooperative shall inform in writing the applicant whether the application has been accepted within 30 days from the date of receipt of the application.

If the housing cooperative fails to inform the applicant of the decision thereof within the deadline from Paragraph 2 of this Article, it shall be considered that the application has been accepted.

Applicant whose application has been rejected shall have the right of appeal to the assembly of the housing cooperative within the deadline stipulated in the cooperative rules.

The Assembly of the housing cooperative shall decide on the appeal within 90 days from the date of receipt of the appeal.

Article 17

Upon acceptance of the application for acquisition of status of a cooperative member, the applicant shall sign an accession statement and thus obtain the status of a cooperative member.

By acquiring the status of a cooperative member, the cooperative member shall be responsible for the obligations of the housing cooperative created prior to acquisition of such status.

Cessation of status of a cooperative member

Article 18

Status of a cooperative member shall cease by leaving the housing cooperative, by being expelled, by death of the cooperative member and by termination of the housing cooperative.

Article 19

Cooperative member may leave the housing cooperative based on the written statement about leaving the cooperative.

Status of a cooperative member shall end on the date when the housing cooperative receives the written statement about leaving the cooperative from that member.

If the cooperative member has obligations towards the housing cooperative that have fallen due, the status of a cooperative member shall cease upon the fulfillment of those obligations.

If the cooperative member has obligations that have fallen due towards the legal entity with which it has established credit relationship through the housing cooperative, i.e. through the operations of the housing cooperative, the status of a cooperative member shall cease upon the fulfillment of those obligations.

Article 20

Cooperative member may be expelled from the housing cooperative based on the reasons stipulated in the cooperative rules.

Decision on expel shall be adopted by the authority stipulated in the cooperative rules.

It shall be possible to file an appeal against this decision to the authority stipulated in the cooperative rules, within 15 days from the receipt thereof.

The authority from Paragraph 3 of this Article shall decide on the appeal within 60 days from the date of receipt of the appeal.

Status of the cooperative member shall cease on the date stipulated in the decision on expel, that is, on the date of adoption of the decision by which appeal is rejected.

Article 21

Successors of a deceased cooperative member may obtain the status of a cooperative member, with rights and responsibilities of the deceased cooperative member, based on a written request, if so decided by the authority specified in the cooperative rules.

Article 22

Rights and responsibilities of the cooperative member shall cease as of the date of cessation of the status of a cooperative member, except for the property rights and responsibilities stipulated in the founding agreement, cooperative rules and this Law.

Book of cooperative members

Article 23

Housing cooperative shall regularly maintain and permanently keep the book of cooperative members.

The following shall be entered into the Book of cooperative members: name, place of residence, personal identification number of the cooperative member, ID card number and profession of the cooperative member, date of acquiring the status of a cooperative member, form, amount and date of registered deposit and membership fee, date and manner of cessation of the status of a cooperative member, housing status of a cooperative member and other data of interest for the cooperative stipulated in the cooperative rules.

Book of cooperative members shall have the character of a public instrument.

All persons that prove legal interest may request insight into the book of cooperative members.

Article 24

Cooperative member may perform expert and other tasks in the housing cooperative according to personal professional capacities, he may be employed in the cooperative and acquire rights and status of a cooperative member, if this is in accordance with the cooperative rules.

For the performance of the expert and other tasks in the housing cooperative, the cooperative may employ persons who are not cooperative members or entrust those tasks to other legal and physical entities.

Person employed in the housing cooperative may become a cooperative member in that cooperative in accordance with this law and cooperative rules.

III HOUSING COOPERATIVE MANAGEMENT AND AUTHORITIES OF THE HOUSING COOPERATIVE

Article 25

Housing cooperative shall be managed by the cooperative members.

In housing cooperative management, the cooperative members shall have equal right to vote – the principle of one member- one vote.

Bodies/ authorities of the housing cooperative

Article 26

Authorities of the housing cooperative shall be as follows: assembly, board of directors, supervisory committee and director of the cooperative.

President and members of the board of directors and supervisory committee and the director of the housing cooperative shall be elected for the period stipulated in the cooperative rules, which cannot exceed five years, with the possibility of reelection.

Housing cooperative may also have other authorities, if defined so in the cooperative rules.

Election of all authorities shall be executed through secret ballot, according to the cooperative rules.

Housing Cooperative Assembly

Article 27

The housing cooperative assembly shall consist of all cooperative members.

Housing cooperative assembly:

- adopts and changes cooperative rules;
- defines business policy of the housing cooperative;
- decides on status changes and termination of the housing cooperative;
- adopts annual statement and reports on business operations;
- adopts development programmes and plans;
- decides on the distribution of profit and coverage for losses;
- elects and discharges from duty the president and members of the board of directors and supervisory committee;
- elects and discharges from duty the director of the cooperative;
- adopts the rules of procedure thereof;
- decides on other issues stipulated by the law, founding agreement and cooperative rules.

Article 28

Housing cooperative assembly meeting shall take place minimum once per year.

Calling for the sessions of the housing cooperative assembly, manner of decision-making, manner of work and other issues regarding the work and decision-making of the assembly shall be regulated by the cooperative rules.

If the housing cooperative has more than 100 members, the cooperative rules may stipulate that the tasks within the scope of responsibility of the assembly may be transferred to the assembly of representatives of the housing cooperative members.

Representatives of the housing cooperative members shall be elected for the period of up to five years, with the possibility of reelection.

Manner and procedure of election, issues regarding rights and responsibilities of the members of the assembly of the housing cooperative members shall be regulated by cooperative rules.

Article 29

The assembly meeting shall be called for if so required by minimum one third of all housing cooperative members, the supervisory committee, the director and in other cases stipulated in the cooperative rules.

The cooperative assembly shall decide on the adoption of rules of the housing cooperative, status changes and termination of housing cooperative, establishment of a company, distribution of profit and coverage of losses, election and revocation of the president and members of the Board of Directors, and president and members of the Supervisory Committee, and appointment and discharge from duty of the director of the cooperative, with majority vote of the total number of members thereof.

If it is not possible to obtain quorum for decision making in two consecutive meetings of the housing cooperative assembly with the same agenda of the meeting, in the next session that will be called for within 30 days, decisions can be made by majority of the housing cooperative members, irrespective of their number.

The assembly may decide in the manner from paragraph 3 of this Article if the housing cooperative members have been regularly invited and if the same agenda as in the previous session has been defined.

Article 30

Minutes of the meeting of the housing cooperative assembly shall be prepared and shall contain the following:

- Date and place of holding the assembly meeting,

- Agenda of the meeting,
- Decisions adopted, with voting results, and
- Objections of the members, which are entered into the minutes.

The minutes shall be signed by the president of the housing cooperative assembly and the minute-taker, and the validity thereof shall be confirmed by the adoption thereof in the next meeting.

Every housing cooperative member shall have the right of insight into the minutes and its annexes.

Board of Directors

Article 31

Board of Directors shall consist of minimum five members.

The number of members shall be odd.

Members of the Board of Directors shall be elected from amongst the cooperative members.

Board of Directors does the following:

- implements business policy of the housing cooperative;
- analyzes and proposes to the housing cooperative assembly the adoption of the annual financial statement;
- prepares proposals of decisions for the cooperative assembly and executes the decisions of the assembly;
- prepares reports on business operations, balance sheet and income statement and implementation of business policy;
- proposes distribution of profits and ways to cover losses;
- adopts investment decisions in accordance with the founding act and cooperative rules; adopts rules of procedure thereof;
- performs other tasks stipulated by the law, the founding agreement and cooperative rules.

Article 32

Board of Directors may decide if the session is attended by the majority of the total number of members.

Board of Directors shall decide by majority vote of all present members, unless cooperative rules stipulate some other qualified majority.

Calling for sessions, manner of work and other issues related to the work and decision-making procedure of the Board of Directors shall be regulated by cooperative rules.

Article 33

President and members of the Board of Directors shall have joint liability for the damage they cause with their decision if such decision was adopted by severe negligence or with the intent to cause damage.

Persons from Paragraph 1 of this Article shall not be held responsible for damage if they were against the adoption of the decision and if they have expressed a different opinion in the minutes of the meeting.

Supervisory Committee

Article 34

Supervisory Committee of the housing cooperative shall consist of minimum three members.

The number of its members shall be odd.

Members of the Supervisory Committee shall be elected from amongst the cooperative members.

Article 35

Supervisory Committee shall do the following:

- Perform supervision over legality of work of the Board of Directors and the Director,
- Analyze periodic and annual financial statements and determine whether they are prepared in accordance with the regulations,
- Determine whether business records and other documents of the cooperative are kept regularly and in accordance with the regulations, and it can also send them to obtain an expert opinion,
- Analyze reports submitted to the assembly that relate to business operations and balance sheet and income statement of the cooperative,
- Analyze audit reports and propose measures to overcome detected irregularities,
- Analyze proposals for distribution of profits,
- Inform the cooperative assembly, and when necessary the Board of Directors and the Director of the cooperative, about the results of supervision,
- Submit to the cooperative assembly an annual activity report thereof,
- Adopt rules of procedure thereof, and
- Performs other tasks stipulated by this Law and cooperative rules.

Article 36

Board of Directors and the Director of the housing cooperative shall inform the Supervisory Committee about the operations of the cooperative and enable its uninterrupted work.

Supervisory Committee shall request calling for session of the housing cooperative assembly if it determines in the performance of supervision that the interests of the cooperative have been violated, and especially if it determines serious irregularities in the work of cooperative authorities.

Article 37

Supervisory Committee may decide if the session is attended by two thirds of its members.

Supervisory Committee shall decide by majority vote of the total number of its members, unless stipulated otherwise in the cooperative rules.

Director of a housing cooperative

Article 38

Director of the housing cooperative shall organise and manage operations of the cooperative, represent the cooperative, take care of legality and shall be held responsible for legality of work of the cooperative, and shall perform other tasks stipulated by the law, founding agreement and cooperative rules. If the cooperative director is not elected, the cooperative assembly shall appoint the acting director.

The acting director shall perform that duty until the appointment of the cooperative director, but for maximum one year.

Article 39

Director of the housing cooperative may be discharged from duty due to losses in operations, violation of the law, incapacity to work and for other reasons stipulated in the cooperative rules.

Director of the cooperative shall also have material responsibility for decision made, by which the cooperative suffered material damage, if that decision was adopted by severe negligence or with the intent to cause damage.

Limitation of election

Article 40

President and members of the Board of Directors, the Director and members of the Supervisory Committee of the housing cooperative shall not be persons who are convicted for criminal offenses of violation of duty that resulted in legal consequences of conviction, for the duration of those consequences.

The director shall not be elected president or member of the Board of Directors and president or member of the Supervisory Committee.

Member of the Board of Directors shall not be elected president and member of the Supervisory Committee.

Competition clause

Article 41

President and members of the Board of Directors and the Supervisory Committee and the Director shall not perform the activity that falls under the activity of the housing cooperative for their own account or the account of the third party, and they shall not be cooperative members or employees in another cooperative, or owners and employees in a company or other legal entity that performs the same or similar activity as the housing cooperative.

Cooperative rules and collective agreement may also define the prohibitions from Paragraph 1 of this Article for cooperative members and specific employees in the cooperative.

If the president and member of the Board of Directors, Supervisory Committee or the Director violate the prohibitions from Paragraph 1 of this Article, the housing cooperative may revoke them, discharge them from duty and expel them from the housing cooperative, and if the prohibition applies also to cooperative members and specific employees, the cooperative may expel them from the housing cooperative, that is, decide on termination of the employment thereof.

Rules of the housing cooperative may also prescribe other measures in case of violation of the prohibitions from Paragraph 1 of this Article.

Rules of the housing cooperative may define that the prohibition from Paragraph 1 of this Article shall last even upon termination of status from that Paragraph, but for maximum two years.

IV PROPERTY OF THE HOUSING COOPERATIVE

Article 42

Property of the housing cooperative shall consist of the property right and other material rights over mobile and immobile assets, moneys and securities and other property rights.

Initial property of the housing cooperative shall consist of the deposits of the members thereof and they shall represent the basic capital of the cooperative.

The level of deposit and manner of payment by the cooperative members shall be stipulated in the founding agreement and the cooperative rules.

Cooperative property shall be formed from the deposits of the cooperative members that are transferred into property of the cooperative and membership fees paid by the cooperative members,

funds acquired through work and operations of the cooperative and funds that the housing cooperative acquired through legal business or on other legal grounds.

In the performance of its activity, the cooperative shall use cooperative property, and on the basis of other property rights it can also use the funds owned by the cooperative members, as well as funds of other local and foreign legal and physical persons.

Housing cooperative shall dispose of its property in the manner stipulated by the law, the founding agreement and the cooperative rules.

Basic capital of the cooperative

Article 43

Basic capital of the housing cooperative shall consist of the deposits of the cooperative members.

Deposits shall represent funds that the cooperative members provide for the establishment and operations of the cooperative.

All the cooperative members shall input equal deposits into the housing cooperative.

Deposits shall be determined as a percentage of the monthly net wage of an individual cooperative member, which will be determined in the founding agreement or cooperative rules.

Cooperative member shall input the deposit in moneys, and he can also, fully or partially, input the deposit in non-financial assets, which are expressed in money, if so stipulated in the founding act, that is, in the cooperative rules.

The value of a non-financial deposit from Paragraph 4 of this Article shall be estimated, according to regulations and in market value by the authority stipulated in the cooperative rules.

Cooperative member shall acquire share in basic capital of the cooperative in proportion to the value of his deposit paid, that is, in proportion to the estimated value of the paid deposit.

Associated member of the cooperative

Article 44

A legal entity that invests into the cooperative money, assets or rights in the minimum amount stipulated in the cooperative rules, who requests to become a cooperative member, may be accepted as an associated member of the cooperative.

All mutual rights and responsibilities between the cooperative and the associated member regarding funds invested in the cooperative, the status thereof, possibility to participate in housing cooperative management, distribution of profit and other issues shall be regulated in a separate agreement.

Article 45

If the cooperative member inputs the property right over one item or several items, the provisions of the sales agreement shall apply accordingly with regard to responsibility for material and legal shortcomings of the item.

If the cooperative member brings the right of use of an item, he shall be responsible for the material and legal shortcomings of the item, according to the provisions of the agreement on rent, that is, service.

If the cooperative member brings in a claim, he shall be responsible for the existence and ability to collect the claim.

Article 46

Deposits shall not be returned, subject to pledge or used for fulfillment of obligation of a cooperative member.

Cooperative member shall not subject his deposit in the cooperative to legal business.

Upon termination of status of a cooperative member, deposits shall be returned to cooperative members, that is, their successors, in accordance with the cooperative rules.

Deposits shall be returned in the form, manner and within the deadline specified in the cooperative rules.

Membership fee

Article 47

In accordance with the cooperative rules, the level of membership fees shall be determined and it shall represent the material basis for realization of current operations of the housing cooperative.

Housing cooperatives established and operating without deposit of the cooperative members, may secure the funds for the performance of their activities and their operations from the membership fees paid by the cooperative members.

Membership fees shall not be refunded upon termination of status of cooperative member.

V DISTRIBUTION OF PROFITS AND COVERAGE OF LOSSES

Article 48

Upon the establishment thereof, the housing cooperative shall form an indivisible fund with minimum 10% of the registered basic capital, with the duty to add to it minimum 10% of annual net profits, until its amount reaches the level of half the registered basic capital of the housing cooperative.

The housing cooperative assembly shall decide on the distribution of annual profit at the time of adoption of the annual financial statement and activity report.

The right of the housing cooperative member to participate in decision-making on distribution of profit shall exist only for the period of duration of the status of cooperative member.

Coverage of losses

Article 49

Housing cooperative shall cover losses at the expense of the indivisible compulsory fund, and if it cannot be covered with the assets of this fund, from the assets for other purposes in accordance with the cooperative rules.

Article 50

The cooperative shall keep business records and prepare and present financial, i.e. accounting statements and perform audit of the financial statements in the manner prescribed by the law regulating accounting and audit.

VI TERMINATION OF COOPERATIVE

Article 51

Housing cooperative shall be terminated in the following cases:

- if it has been pronounced the measure of prohibition of performance of activity because it fails to fulfill the requirements for the performance of the activity, and if it fails to fulfill those requirements, that is, fails to change its field of activity within the deadline stipulated in the pronounced measure;
- by merger with another cooperative, accession to another cooperative, that is, division into several new cooperatives;
- by expiry of the period of time for which it has been established, and the housing cooperative assembly fails to decide prior to the expiry of that period that the cooperative shall continue with its operations;
- if the effective decision of the court determines that the entry into the register is null and void;
- if the number of cooperative members falls under the number stipulated for the establishment of the housing cooperative, and fails to increase within six months up to the stipulated number, of which the cooperative shall inform the Central Register of the Commercial Court;
- if it fails to perform the activity for over two years continuously;
- due to bankruptcy;
- in other cases stipulated by the Law.

In the case from Paragraph 1, Items 1 and 4 the court liquidation procedure shall take place in accordance with the Law.

In cases from Paragraph 1, Items 3, 5, 7 and 9 of this Article voluntary liquidation of the cooperative shall take place, in accordance with the Law.

In cases from Paragraph 1, Item 6 of this Article, the cooperative assembly shall not decide on termination of the cooperative if a specific number of cooperative members, which cannot be lower than the number for the establishment of the cooperative, states in writing that the cooperative shall not terminate prior to the adoption of decision on termination of the cooperative.

In such cases, individual voting by name shall take place, and the cooperative members that have voted in favor of termination of the cooperative shall be considered to have left the cooperative.

Article 52

Housing cooperative shall lose the status of a legal entity by being erased from the Central Register of the Commercial Court.

Erasure of a housing cooperative from the Register shall be published in the "Official Gazette of Montenegro".

Article 53

In case of termination of the cooperative by merger, accession or division, property of the cooperative shall be transferred to its legal successors.

In other cases of termination of the cooperative, after satisfying the claims of the creditors and returning deposits to the cooperative members, the remaining cooperative property shall be transferred to the Union of housing cooperatives, for the establishment of a new cooperative.

In case of termination of the cooperative, the funds of the cooperative members that are kept in a special account shall not be subject to satisfaction of claims of the creditors of the cooperative.

VII UNION OF HOUSING COOPERATIVES

Article 54

Union of housing cooperatives shall be an independent, interest and professional business organisation that is established in order to promote the activities of the housing cooperatives and to protect their common interests.

Union of housing cooperatives shall be established for the territory of the state of Montenegro.

Article 55

Union of housing cooperatives shall especially perform the following tasks:

- Representation of housing cooperatives abroad and establishment of cooperation with international cooperative organisations;
- Organisation of the court of honor and regulation of its work;
- Taking care of promotion of cooperatives as a system;
- Keeping record of cooperatives (cooperative register) and cooperative statistics;
- Providing professional and other assistance in establishment and improvement of operations of the housing cooperatives;
- Representing interests of the cooperatives before state authorities and organisations and banking and other financial organisations in the field of cooperative work;
- Organising and encouraging professional development, scientific-research work and information-publishing and marketing activity of interest for promotion of cooperative activity;
- Deciding on transfer, that is, giving for use the property that was given to them upon termination of a cooperative, in accordance with this Law;
- Adopting rules of the Union of housing cooperatives;
- Organising arbitration and regulating the manner of its work;
- Collecting data necessary for keeping cooperative statistics;
- Performing other tasks entrusted by cooperatives, in accordance with the rules of the Union of cooperatives.

Article 56

Union of housing cooperatives shall be a legal entity.

Union of housing cooperatives shall be established by the housing cooperatives, by signing a founding agreement and adopting rules of the Union of housing cooperatives.

The founding agreement shall define tasks and affairs of the union, name, seat and authorities of the Union, how to become a member of the Union and other issues important for the establishment of the Union.

Article 57

Rules of the Union of housing cooperatives shall regulate the following: tasks, obligations and responsibilities of the union, authorities of the union and their scope of work, manner of their election, requirements and manner of their revocation, mandate, manner of representation of the cooperatives before the responsible authorities, publicity of work, manner of performance of expert and other tasks, and other issues important for the work of the Union.

Article 58

Funds for work of the Union of housing cooperatives shall be secured in accordance with the founding agreement.

VIII PUNITIVE PROVISIONS

Article 59

Housing cooperative shall be punished with a fine ranging from ten times to thirty times the amount of the minimum wage in Montenegro for the following offence:

- if it uses in its name the sign “housing cooperative” and it is not established and does not operate in accordance with this Law, or if it is established and operates in accordance with this Law but it does not use in its name the sign “housing cooperative” (Article 13, Paragraphs 2 and 3);
- if it performs the activity for which it does not fulfill the prescribed requirements or that activity is not in accordance with the field of operations of the cooperative or if it initiates performance of the activity, it performs the activity or changes the conditions for the performance of the activity before the responsible authority adopts the decision that the requirements have been fulfilled in accordance with the special regulations for specific types of activities (Article 14, Paragraph 1);
- if it fails to keep or fails to keep regularly the book of cooperative members (Article 23, Paragraph 1);
- If it fails to provide the creditor of the cooperative or some other person with legal interest, with insight into the book of cooperative members (Article 23 Paragraph 4);
- If, upon expiry of the deadline stipulated in this Law, it fails to inform the Central Register of the Commercial Court that the number of cooperative members has reduced below the level stipulated for the establishment of the housing cooperative (Article 51, Paragraph 1, Item 6).

The responsible person in the housing cooperative shall be punished for the misdemeanor offense in case of actions stipulated in Paragraph 1 of this Article, and for the action from Paragraph 1, Item 1 of this Article, the responsible person in the legal entity shall also be punished, with the fine ranging from one half to ten times the amount of the minimum wage in Montenegro.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 60

Provisions of Article 85-94 of the Law on housing relations (“Official Gazette of the Socialist Republic of Montenegro” no. 45/90, 21/95) shall cease to be valid as of the date of coming into effect of this Law.

Article 61

This Law shall come into effect on the eighth day from the date of being published in the “Official Gazette of Montenegro”.

I.2 PPP HOUSING SCHEMES IN SELECTED EUROPEAN COUNTRIES

I.2.1 LIMITED-PROFIT HOUSING ASSOCIATIONS IN AUSTRIA

By providing discounted building land, grants, public loans or tax favoured investment, the federal government of Austria, together with its regional (Länder) and municipal governments has strategically promoted the development of limited-profit, cost-capped housing with estate-based cost rents. Limited-Profit Housing Associations (LPHA) in Austria comprise altogether 190 housing cooperatives, private-limited and public-limited companies with a total housing stock (rental dwellings and owner-occupied apartments) of some 865,000 units (approx. 22% of the total housing stock in Austria). The LPHA are responsible for one third of new residential construction. That is more than half of all multi-apartment housing construction. With this very high market share, LPHA have not only outperformed municipal housing, but also private multi-apartment housing construction. The housing associations are cooperatives or are owned by public authorities, charity organisations, parties, unions, companies, banks or private persons. To avoid moral hazard, it is prohibited for construction firms to be owners of LPHA.¹

LPHA are undertakings organised according to private law and a strict federal law. They are exempt from corporate tax, are not classified as state or "charitable" undertakings and are limited in the extraction and distribution of profit and in their field of operation. They aim at creating a housing sector that is characterized by a legally defined long-term binding of the built-up capital within the housing sector and the constraint to therefore reinvest in housing matters. The aim of LPHA is the provision of affordable housing for large parts of the population.

In short, the limited-profit housing system is characterised by four principles:²

- Cost coverage principle: the obligatory calculation of rents based on construction costs in combination with rent limitation defined by the subsidy schemes guarantee a low and continuous level of rents (3-5 €/m² net).
- Limited field of action: the housing associations have to focus on housing construction, refurbishment and housing management. In fact it is an important aspect for long term success of the system that housing associations in general manage the houses they have produced before.
- Binding of property – limited-profit: Housing associations ought to make profits. But these profits have to be reinvested: in purchase of land, refurbishment or new construction. A limited part of the profit (max. 3,5% of registered capital) may be divided to the owners or shareholders.
- Control: Self control through umbrella organisation, supervision through provincial governments.

The present system of social housing finance in Austria provides guarantee-like effects, even without using explicit guarantees. This derives from the combination of public subsidies (low interest loans, annuity grants), the prior role of limited-profit housing associations in new construction and the effectiveness of housing banks ("Wohnbaubanken"). Therefore, limited-profit housing associations are regarded as low risk borrowers. The guarantee-like functioning of the housing subsidy scheme in all its complexity – financial support as well as control and supervision – is responsible for the very good conditions LPHA face on the capital market.

¹ Amann & Mundt (2009).

² Amann et al. (2009).

I.2.2 HLM IN FRANCE

The social rented sector in France is centred around the concept of subsidised rent projects, called “low-cost housing” (Habitations à Loyer Modéré: HLM). The associations providing HLM vary in legal form, ownership and management. Yet, some general features of HLM providers can be distinguished.¹

- They receive supply-side subsidies for building new dwellings or buying and refurbishing existing ones, but no subsidies to cover operating costs.
- The social rental housing supply is financed mainly through off-market long-term loans, with the aid of state subsidies and local authorities. There are three broad types of social housing, corresponding to the three types of loans used to fund them. They each have different income ceilings controlling access and charge lower to higher social rents.
- The loans are obtained from a public bank funded by deposits in the housing savings scheme. Guarantees are provided for these loans by local authorities or by a mutual fund. In addition, off-market loans are provided from an employers’ fund financed by a housing tax on wages. HLM often benefit from state and local land subsidies.
- HLM organisations can take various legal forms: HLM Public Offices, HLM Public Planning and Construction Offices and privately-run HLM (capital companies, subject to commercial law). Some HLM also take the form of semi-public companies, foundations and cooperatives, part of which focus on home-ownership.
- HLM are designed in a way that a sound financial balance is maintained. They are managed according to public accountancy standards, with (in the case of privately-run HLM) profit-limits to a certain share of capital invested. HLM organisations are financially and legally controlled by the Ministries of Housing and of Finance, and they are monitored so that their activities conform to their social objectives.
- The allocation of HLM dwellings is subject of family circumstances, housing conditions and income. Local authorities are allocating a percentage of the housing stock according to their access criteria.

From these general concepts it is quite clear that the system of HLM in France has many similarities with the Austrian Limited-Profit Housing Associations, as described in the previous section. Yet, one important difference remains in the funding, which in Austria relies on capital market sources to a much greater extent. The HLM-scheme was used as a model when introducing the TBS system in Poland (see below).

I.2.3 “WONINGCORPORATIES” IN THE NETHERLANDS

Nowhere in Europe limited-profit housing is more dominant than in the Netherlands. It is owned and carried out by housing associations (“woningcorporaties”), which in many cases are foundations without real owners. These have to act on a commercial basis, but any profits they make must be reinvested in housing. They participate in one of six performance areas, such as providing target groups with suitable housing, maintaining the standards of homes, ensuring financial security and contributing to the quality of life in neighbourhoods.² Housing associations are very flexible and may buy and sell their dwellings on the market.

After a process of deregulation, in 1995, housing associations became financially independent through the so-called “grossing and balancing operation” (“brutering”). Over the last decade, the stock of limited-

¹ Levy-Vroulant & Tutin (2009).

² Boelhouwer (2007).

profit housing remained stable (around 2.4 million), because the number of sold and demolished dwellings more or less equalled the number of new-built and purchased dwellings. At present, there are around 500 housing associations with a tendency of mergers due to efficiency reasons.

Despite its independence from the government, the limited-profit housing sector is subject to two 'safety bodies', the Guarantee Fund for Social Housing (WSW) and the Central Housing Fund (CFV). Both are financially independent from the government and act as guarantors to housing association loans, which result in loans that are cheaper than those available on the capital market. Associations must register with the WSW and undergo a credit check. The fund is now financed by contributions from housing associations, which are required to set aside a certain amount, in case the assets of the WSW fall below a minimum level. If, for any reason, a housing association is not able to meet the financial demands of the WSW and is unable to obtain funds, it may be eligible for financial support from the Central Housing Fund (CFV). The CFV maintains financial supervision on behalf of the Minister of Housing and may restructure financially weak associations. In return, associations must consent to undertake reorganisation in order to establish financial stability. Once CFV support is accorded, the association can once again apply for membership and, in turn, WSW loan guarantees.

An internal supervisory body advises management, monitors the work of associations and takes action where necessary. Although central government withdrew from the field, the Minister of Housing still retained some powers of intervention. The Minister of Housing also has the power to block plans by the associations that were adopted without his prior permission. The associations endeavour to show that they act responsibly to society by promoting transparency of their policies and encouraging collaboration with others. A decision of the EU Commission from 2009 demanded a clearer separation of commercial and social activities of housing association and ensured that the allocation of dwellings is conducted in a transparent and objective manner, focussing more on a pre-defined target group of socially less advantaged persons. Other than that, the Commission confirmed the operation of Dutch housing associations to be in line with EU competition law.

1.2.4 MUNICIPAL HOUSING COMPANIES IN SWEDEN

In Sweden, providing adequate housing is the responsibility of the municipalities. Most municipality have their own independent non-profit housing company. SABO is the federation for the municipal housing companies (www.sabo.se) and now includes approx. 300 member organisations. These member organisations own and manage around 780,000 dwellings all over the country (18% of the total stock, 2005). Since the early 1950s municipal housing companies are run as independently as possible from wider municipal budgets and are usually organised as limited companies. Municipalities have the primary responsibility for planning and supplying good housing for the local population and those who wish to move to the area, while the federal government is responsible for providing the necessary legal and financial instruments.

Municipal housing companies combine commercial aims with social responsibilities and may only engage in a business activity if it is conducted without a prospect of profit and is essentially concerned with providing municipal amenities or services for the residents of the municipality. The social responsibility of the municipal housing companies today primarily means that they focus on offering good-quality, safe housing at reasonable costs. The dwellings are allocated by the housing organisation itself or by a housing association run by the municipality.

New construction by the municipal sector roughly corresponds to its share in the total housing stock (around one fifth). It is funded on the open credit market, with loans sometimes backed by municipal guarantees. A typical project might be financed up to 90% of building costs by long-term loans, the rest is covered by the housing company's own capital.¹

The solidity of municipal housing companies has improved over time as their net worth, i.e. their assets minus liabilities, averaged 20% in 2005. The recent increase in property values contributed considerably to the rising solidity of municipal housing companies. The return on capital invested is around 6-7%. It is usually reinvested in building activities. Municipal housing associations' rents are set by negotiation with local tenants' associations and function also as a benchmark for the rent levels in the private rental market, which has in the past caused problems with EU-law on competition and level playing fields.

In addition, there is a very particular system of housing cooperatives in Sweden. HSB and Riksbyggen are the main actors in this sector, both of which are umbrella associations for many small cooperatives. Housing dependant on these cooperatives is equivalent to 700,000 apartments or 17% of the total housing sector. HSB currently represents close to half of this market.

1.2.5 THE POLISH TBS-MODEL

In 1997, Poland introduced a rental housing construction programme aimed at municipalities. Some 100,000 units have been constructed so far. The administration of this programme is carried out by the state-held BGK Bank and finance consists of long-term interest-subsidised loans (3.5% double-indexed). Construction is realised by non-profit housing associations (TBS), owned by municipalities, and by a few cooperatives. The rental apartments are targeted more at middle than at low income groups. Subsidies are subject to 30% private equity funding and the remaining 70% of funds are contributed by the National Housing Fund (KFM), which is financed predominantly out of the state budget. Since 2002, the funding was to a large part provided by state-guaranteed loans from the EIB and the CEB.² The large requirement for public outstanding loans amounts to a considerable problem. Also, within the political debate, insufficient targeting of the subsidies has been criticised, because objective criteria for the allocation of these very cheap dwellings are lacking. Narrowing the gap with market conditions is increasingly needed. Therefore co-financing and refinancing with commercial banks and the issue of domestic bonds should be considered to relieve the pressure of budgetary funding. Meanwhile, production output of the TBS sector has decreased strongly.

1.2.6 COOPERATIVES IN THE CZECH REPUBLIC

In the Czech Republic, neither social housing nor non-profit housing associations are legally defined. Yet, in 1995, special subsidy programmes for new "quasi-rental" municipal housing construction appeared, with total subsidies amounting to approximately one quarter to one third of average dwelling construction costs. The programme allowed for the creation of cooperatives (PPP) between municipalities and participants (future tenants): a municipality, with the help of a commercial developer, secured the state subsidies. The remaining costs of development were covered by down-payments from future tenants and by commercial mortgage loans. Though a right to buy was allowed

¹ Turner (2007).

² Le Blanc (2009).

only after 20 years from the year of completion, the share in a housing cooperative could, under valid legislation, be liquidated immediately, resulting in a quasi-ownership structure. Even though this programme helped to increase new construction considerably, it was highly criticized for several reasons. Amongst these were the emergence of a black market in rent-regulated municipal dwellings and the illegal “sale” of rental contracts on rent-regulated municipal apartments, carried out via fictitious dwelling exchanges. Also, there were no limitations concerning the maximum cost or the maximum area of the dwelling and no means-testing was applied in the allocation. Owing to this body of criticism, the system was largely amended in 2003. The cooperative form was forbidden, cost and income ceilings were introduced and the participation of private capital was further encouraged. Apartments constructed with this state subsidy now have to remain in the ownership of the municipality and have to be used for the purpose of housing based on a lease right. Only some income groups (lower-incomes) may become tenants in such apartments, on condition that they do not own any other real estate intended for housing. The rent level corresponds approximately to cost rents.

1.2.7 THE SLOVAK NON-PROFIT HOUSING SCHEME

Only 4% of the Slovakian housing stock is constituted by municipal dwellings and 14% by cooperative dwellings. Due to the scarcity of social housing, rental contracts with the municipalities are generally limited to three years. As a result, the existing law on non-profit organisations was amplified on the subject of housing. The tax reductions that were introduced benefit associations and cooperatives, but they do not apply to capital companies. Owners may be municipalities or private individuals. Nevertheless, only housing associations that are predominantly owned by municipalities may receive state subsidies. They also have to respect specific building cost caps. After a set-up period of several years, in 2004 and 2005, the first two housing associations following this model were founded. One of them is owned by the city of Bratislava (90%) and Istrobanka (10%). The other one, based in the Northern Bohemian city of Martin, received important help from DIGH (Dutch International Guarantees for Housing). These two associations have just begun building activity. The foundation of these associations met with considerable difficulties. Approbation from the local authorities had to be obtained. The authorities are concerned about a capital outflow and so have established strict control mechanisms.

I.3 LETTER OF INVITATION TO IIBW

Montenegro

Ministry for Economic Development

Ref: /
Podgorica, November 20, 2008

**IIBW – Institute for Real Estate, Construction and Housing
Dr. Wolfgang Amann**

PB 2
A 1020 Vienna, Austria

Reference: Research and consultancy project „Gap assessment on the Montenegrine Housing Law – development of additional regulations“

Dear Mr. Amann,

Your organisation, together with DIGH – Dutch International Guarantees for Housing, is preparing a financing model for the Solidarity Fund of Montenegro, which aims at the implementation of an affordable rental housing sector in Montenegro.

You propose as attendant activity to assess the existing Montenegrine Housing Law and develop additional regulations to make the financing projects for the Solidarity Fund operative. This concerns regulations in the following fields:

- Rent regulations: until today there is no Rent Law in force, the few rent contracts are regulated with Contract Law alone. It is necessary to define the terms of rent for the establishment of a new social housing sector.
- Subsidy regulations: The new rental housing sector is to be subsidised by the included municipalities, the shareholders of the Solidarity Fund and DIGH.
- Company law: Similarly to PPP Housing in The Netherlands or Austria it seems most important to secure the assets and profits of a new social rental housing sector from taking out of the circle of housing investments.

Your organisation intends to realise this research and consultancy project based on your experiences with a new Housing Law for Romania and in other CEE

countries. The project will be funded from Dutch sources and will cause no further financial obligation from the side of Montenegro.

The Ministry for Economic Development of Montenegro welcomes this initiative to establish an affordable rental housing sector in our country. Therefore we consider the implementation of the outcomes of the proposed project.

We appreciate the fastest possible provision of results.

Yours sincerely,

Maja Velimirović Petrović

DEPUTY MINISTER



A handwritten signature in blue ink, which appears to be "Maja Velimirović Petrović". The signature is stylized and written over the printed name and title.

I.4 GOVERNMENT DECISION ON INTRODUCTION OF A PPP HOUSING LAW

Montenegro
GOVERNMENT OF MONTENEGRO
No° 03-13405
Podgorica, 22nd January 2009

MINISTRY FOR ECONOMIC DEVELOPMENT

PODGORICA

In the session held on 15th January 2009, The Government of Montenegro has considered the Analysis of realization of the Action Plan for Housing Policy in Montenegro, which was submitted by the Ministry for Economic Development.

In this respect, the Government has brought the following

CONCLUSIONS

1. The Government accepted the Analysis of realization of the Action Plan for Housing Policy in Montenegro.
2. The Ministry for Economic Development is entrusted to prepare the Law on Apartment Rental and the Law on Housing Private-Public Partnerships by the end of 2009.
3. The Ministry for Economic Development is entrusted to provide all the necessary assumptions for the beginning of realization of the Project "Solidarity Apartments", in cooperation with the Ministry of Finance, the Government Commission for Housing Issues and Montenegrin Fund for Solidarity Housing Development.
4. The Ministry for Economic Development is entrusted to continue cooperation with the Stability Pact and UN-HABITAT with the purpose of fulfilling the obligations assumed by signing the Vienna Declaration.

SECRETARY GENERAL
Žarko Šturanović

CO:

- Ministry of Finance
- Government Commission for Housing Issues
- Montenegrin Fund for Solidarity Housing Development
- Commission for Economic Policy and Finance

I.5 REFERENCES

I.5.1 LEGAL REGULATIONS

- Law on Property-Legal Relations (Official Gazette MNE, No 19/09),
Law on condominium (Official Gazette MNE, No 71/04, 13/07, 47/08),
Draft Law on housing and Building Housing Maintenance (submitted to the MNE Government for adoption),
Draft Law on Housing Cooperative (submitted to the MNE Government for adoption),
Directive on converting specific and common elements of residential building to commercial property (work program for 2010),
Decision on the manner and criteria for addressing the housing needs of government officials (work program for 2010),
Decision on the manner and criteria for addressing the housing needs of civil servants (work program for 2010),
Decision on conditions and criteria for procedure of allocation and ranking based on social housing (work program for 2010),
Decision on measures and criteria for using funds in social housing (work program for 2010),
Decision on detailed measures and criteria for determining height protected rental (work program for 2010).

I.5.2 COUNTRY SPECIFIC LITERATURE

- Čejović, V., Čejović, S. (2009): Short history of Montenegrin housing regulations (unpublished presentation).
CFSSI (2009): Presentation of the "Montenegrin Fund for Solidarity Housing Development" (CFSSI).
Garcia, A. e.a. (2005): Housing Finance in the Western Balkans. Executive Summary and country report on Serbia & Montenegro (Madrid, AFI - Analistas Financieros Internacionales and Registra in commission for the IFC - International Finance Corporation).
Housing Policy Action Plan (2005), proposal (Podgorica, Ministry of Environmental Protection and Urban Planning of Montenegro).
IMF (2009): Republic of Montenegro: 2008 Article IV Consultation (Washington, IMF).
Krgović, L. (2009): Montenegro: Macroeconomic Environment, Investment Opportunities and Development Outlook. Presentation December 21, 2009 (Central Bank of Montenegro).
Monstat – Statistical Office of Montenegro (2007): Household Budget Survey in 2006.
Monstat – Statistical Office of Montenegro (2009a): Statistical Yearbook 2008.
Monstat – Statistical Office of Montenegro (2009b): Household Budget Survey in 2008.
UNDP (2005): Diversities – Potential for Development. Montenegrin Human Development Report, HDR 2005
UNECE (2006): Country profiles on the housing sector Serbia and Montenegro (Geneve, UNECE).
Council of Europe (1996): European Social Charter. Revised version of the Charter from 1961. European Treaty Series - No. 163 (Strasbourg).
United Nations Human Settlements Programmes (UNHSP) (2001): Building a sustainable future. Rapid survey of the housing sector in the Republic of Serbia. United Nation Centre for Human Settlements, Republic of Serbia.

I.5.3 GENERAL LITERATURE

- Amann, W., Mundt, A. (2010a): Institutions: Housing Developers - developed world (Housing Encyclopedia, MS 442).
Amann, W., Springler, E. (2010b): Housing Finance Institutions: Transition societies (Housing Encyclopedia, MS 408).
Amann, W. (2009a): New policies to facilitate affordable housing in CEE. in: The Housing Finance International Journal, December 2009.
Amann, W. (2009b): Maßnahmen Europäischer Staaten zur Konjunkturbelebung im Hochbau (Wien, IIBW).
Amann, W. & Mundt, A. (2009): Indicators of a unitary rental market in Austria. Paper presented at the ENHR Conference in Prague 28.6.-1.7.2009.

- Amann, W., Lawson, J. & Mundt, A. (2009) Structured Financing Allows for Affordable Rental Housing in Austria. In: Housing Finance International, June 2009, S.14-18.
- Amann, W. (2008): Die österreichische Wohnungsgemeinnützigkeit als Europäisches Best Practice-Modell. In: Lugger/Holoubek (2008), 3-13.
- Amann/Bejan/Böhm/Komendantova/Mereuță/Mundt/Österreicher/Păun/Schuster/Sommer/Stănescu/Tancsits (2008): Implementation of European Standards in Romanian Housing Legislation (Vienna: IIBW, commissioned by the Romanian Ministry of Development, Public Works and Housing).
- Amann, W.; Hauer-Exner, V.; Koch, G.; Schwarzmüller, N. (2007): Social housing as key factor for sustainable European policy - position paper of the European construction products industry (Vienna: IIBW / Wienerberger AG).
- Amann, W. (2006): Rental housing for middle income groups: a challenge for PPP-models, proceedings of the World Bank Conference "Housing Finance in Emerging Markets" March 15-17, 2006.
- Amann, W., Mundt, A. (2006): Following a different track: the Austrian system of social housing (applied for the Housing Studies).
- Amann, W. Beijer, E., Komendantova, N., Neuwirth, G., Roy, F., Schimpel, M., Schwimmer, W. (2006): HFA - A Housing Finance Agency for CEE/SEE. Feasibility Study with Romania as pilot country (Vienna, IIBW, in cooperation with DIGH-Dutch International Guarantees for Housing, Austrian Federal Ministry for Economy and Labour, Vienna Municipality, Austrian Association of Cities and Towns, Bank Austria Creditanstalt AG, Kommunalkredit Austria AG, Raiffeisen International).
- Amann, W. (2005): How to boost rental housing construction in CEE-/SEE-Countries, The Housing Finance International Journal (HFI).
- Arbaci, S. (2007) Ethnic Segregation, Housing Systems and Welfare Regimes in Europe. European Journal of Housing Policy, Vol. 7 (4), pp. 401-433.
- Barlow, J. & Duncan, S. (1994) Success and Failure in Housing Provision, European Systems Compared (Oxford, New York, Tokyo: Elsevier Science Ltd.).
- Boelhouwer, P.J. (2007) The future of Dutch housing association. In: Journal of Housing and the Built Environment, Vol. 22, p.383-391.
- Buckley, R., Tsenkova, S. (2001): Housing market systems in reforming socialist economies: Comparative indicators of performance and policy. Eur Hous Pol 2:1-34.
- Buckley, R.M., Van Order, R. (2004): Housing Finance in Transition Countries: Finding Bills on the Street (Washington, World Bank).
- Chiquier, L., Lea, M. (2009): Housing Finance Policy in Emerging Markets (Washington, The World Bank).
- Clapham, D., Hegedüs, J., Kintrea, K., Tosics, I., Kay, H. (eds) (1996): Housing privatization in Eastern Europe. Greenwood Press, Westport.
- Council of Europe Development Bank, The World Bank (2004): Housing in South Eastern Europe. Solving a puzzle of challenges. Proceedings of the Ministerial Housing Conference, Paris, April 2003 (Paris, CEB).
- Czsichke, D. (2009): Managing Social Rental Housing in the EU: A Comparative Study. In: European Journal of Housing Policy, Vol. 7 (2), pp. 121-51.
- Dübel, H.-J. (2003): Housing Policy in Central European Countries in Transition (Wien, Center of Legal Competence).
- Dübel, H.-J., Brzeski, W.J., Hamilton, E. (2006): Rental Choice and Housing Policy Realignment in Transition. Post-Privatization Challenges in the Europe and Central Asia Region (Washington, The World Bank).
- Ecorys Research and Consulting (2005) Housing Sector Study in Central Eastern and South Eastern Europe, Final Draft Report, 25/07/2005. Study prepared for the European Investment Bank. Budapest: Ecorys.
- Esping-Andersen, G. (1990) The Three Worlds of Welfare Capitalism (Princeton, J.J.: Princeton University Press).
- Golland, A. & Oxley, M. (2004) Housing development in Europe. Chapter 12. In: Golland, A. & Blake, R. (Eds.) Housing Development. Theory, Process and Practice. London & New York: Routledge, p. 295-320.

- Gruis, V., Nieboer, N. (Ed.) (2004): *Asset Management in the Social Rented Sector. Policy and Practice in Europe and Australia* (Dordrecht e.a., Kluwer).
- Healey, P. & Barret, S.M., (1990) *Structure and Agency in Land and Property Development Processes: Some Ideas for Research*. *Urban Studies*, Vol. 27 (1), pp.89-104.
- Hegedüs, J. (2006): *Constraints on the emerging social rental housing sector - case of Hungary* (ENHR, Conference proceedings).
- Hegedüs, J. (2007) *Social Housing in Transition Countries*. In: Whitehead, C. & Scanlon, K. (Eds.) *Social Housing in Europe*. London: LSE, pp. 165-177..
- Hegedüs, J., Mayo, S., Tosics, I. (1996): *Transition of the housing sector in the east central European countries*. *Rev Urb Reg Dev Stud* 8:101-136.
- Hegedüs, J., Mayo, S., Tosics, I. (2006): *Transition of the Housing Sector in the East Central European Countries*. *Review of Urban & Regional Development Studies*. 8, pp. 101-136.
- Hegedüs, J., Tosics, I. (1992): *Conclusion: Past tendencies and recent problems of the East European housing model*. In: Turner, B., Hegedüs, J., Tosics, I. (eds): *The reform of housing in Eastern Europe and the Soviet Union*. Routledge, London, pp. 318-335.
- Keivani, R. & Werna, E. (2001): *Modes of housing provision in developing countries*. In: *Progress in Planning*, Vol. 55, p. 65-118.
- Kemeny, J. (1995): *From Public Housing to the Social Market, Rental Policy Strategies in Comparative Perspective* (London, Routledge).
- Kemeny, J., Andersen, H.T., Matznetter, W. & Thalman, P. (2001) *Non-retrenchment reasons for state withdrawal: developing the social rental market in four countries*. Institute for Housing and Urban Research Working Paper 40 (Uppsala, Uppsala University).
- Kemeny, J., Kersloot, J., Thalman, P. (2005): *Non-profit Housing Influencing, Leading and Dominating the Unitary Rental Market: Three Case Studies*, *Housing Studies*, Vol. 20, no. 6, pp. 855-872.
- Le Blanc, D. (2009) *Residential Rental Housing Finance*. In: Chiquier, L. & Lea, M. (Eds.) *Housing finance policy in emerging markets*. Washington: The World Bank, pp. 363-94.
- Lugger, K., Amann, W. (Ed.) (2006): *Amann, W., Ball, M., Birgersson, B., Ghekiere, L., Lux, M., Mundt, A., Turner, B.: Der soziale Wohnbau in Europa. Österreich als Vorbild* (Vienna, IIBW).
- Lugger, K.; Holoubek, M. (Hg.) (2008): *Die österreichische Wohnungsgemeinnützigkeit – ein europäisches Erfolgsmodell* (Wien: Manz).
- Lux, M. (2004): *Efficiency and effectiveness of housing policies in the Central and Eastern Europe countries* (Wien, FGW).
- Lux, M. (2006): *Gemeinnütziges Wohnen: Eine Herausforderung für Mittel-Ost- und Südost-Europa*, in: Lugger/Amann et al. (2006), pp. 77-91.
- Mundt, A. (2009): *EU-Legislation and social Housing - an Overview* (Paper presented at the ENHR Conference Prague 28.6.-1.7.2009).
- OECD (2002): *Housing Finance in Transition Economies* (Paris, OECD).
- OECD (2005): *Housing Finance Markets in Transition Economies. Trends and Challenges* (Paris, OECD).
- PRC Bouwcentrum International (2005): *Sustainable Refurbishment of High-Rise Residential Buildings and Restructuring of Surrounding Areas in Europe*. Report for European Housing Ministers' Conference held in Prague, 14-15 March 2005 (The Netherlands, PRC).
- Sillence J. (ed.) (1990): *Housing policies in Eastern Europe and the Soviet Union*. Routledge, London.
- Sommer, A., Österreicher, T. (2008): *Limited-profit housing within ongoing models of public utility management and good governance*. In: Amann et al. (2008).
- Springler, E. (2008) *Wohnbaufinanzierung aus volkswirtschaftlicher Sicht*, in: Lugger, K. and Holoubek, M. (Ed.) *Die österreichische Wohnungsgemeinnützigkeit – ein europäisches Erfolgsmodell*, Vienna, Manz, pp. 281-92.
- Stabentheiner, J. (Hrsg., 1996): *Mietrecht in Europa* (Wien, Manz).
- Tsenkova, S. (2005): *Trends and Progress in Housing Reforms in South Eastern Europe* (Paris, CEB).

- Tsenkova, S. (2009): Housing Policy Reforms in Post-Socialist Europe. Lost in Transition (Heidelberg, Physica).
- Tsenkova, S. (2009b): Self-made Cities. In Search of Sustainable Solutions for Informal Settlements in the United Nations Economic Commission for Europe Region (Geneve: UNECE).
- Turner, B. (2007) Social Housing in Sweden. In: Whitehead, C. & Scanlon, K. (Eds.) Social Housing in Europe. London: LSE, pp. 148-164.
- UIPI – International Union of Property Owners (2003): Immovable Property in Europe: Report 2003 about Protection of Property, Taxation, Rentals, Technical Requirements & Services for Property Owners (Conference Proceedings, Berlin).
- UNECE (2005a): Guidelines on Social Housing (Geneva, UNECE).
- UNECE (2005b): Housing Finance Systems for Countries in Transition. Principles and Examples (Genova, United Nations Publications).
- UNECE (2005c) Guiding Principles for Public/Private Partnerships (PPP) in Land Administration, Genova, United Nations Publications.
- UNECE, Real Estate Market Advisory Group (REM) (2010): Policy Framework for Sustainable Real Estate Markets. Principles and guidance for the development of a country's real estate sector (Geneve, UNECE).
- UNHABITAT (2003): Rental Housing. An essential option for the urban poor in developing countries (Nairobi, UNHABITAT).
- Whitehead, C. (2003): Financing Social Housing in Europe, Housing Finance International 17 (4) pp. 3-9.