

Upgrading of Informal Settlements Pobrdje / Rutke and Canj Municipality of Bar / Montenegro

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EXECUTIVE SUMMARY

Rationale for systematic intervention

Montenegro has signed the *Vienna Declaration on Informal Settlements in South Eastern Europe* (2004) with an obligation to resolve the issue until 2015. The *Strategy on Informal Settlements* (2010) outlines major policy measures for effective implementation. The rationale for comprehensive intervention is driven by attempts to: i) address public safety and earthquake vulnerability; ii) improve conditions for tourism in the coastal region and ecologically sound development; iii) introduce efficient legal framework for property development and functioning real estate markets; iv) improve living conditions of residents through access to communal services (technical and social infrastructure). Regularisation of informal settlements, home to about a third of Montenegro's population, is a key measure for European integration. Regularisation on such as scale, however, requires comprehensive intervention and effective collaboration of central, local governments, international institutions, NGOs and local communities. Success is conditional upon changes in the planning and fiscal framework for regularisation bringing together a set of regulatory, financial and fiscal measures reviewed in this report. In terms of implementation, it requires a new type of planning that is action-oriented and builds consensus among affected owners, businesses and the municipality to ensure that plans for regularisation are actually implemented with minimum costs for public sector and with the active support of local residents and businesses.

SWOT analysis and constraints for regularisation

A SWOT analysis of the two pilot settlements Pobrdje / Rutke and Canj II in the Municipality of Bar highlights the following main characteristics:

- Large historically established settlements since the 1970s, with a boom of informal construction in the last two decades;
- Different manifestations of informality: in most of the cases land ownership titles and in place without building permit, in some cases buildings are registered in the cadastre, but illegally expanded; and finally in some cases squatting on public or private land in areas prone to natural disasters (landslides, high seismic risk) or forests;
- Mix of land uses and intensity of use: predominantly residential development with a fair number of small family hotels and retail businesses without building/occupancy permit; mix of high and low quality buildings;
- Deficiencies in infrastructure: road access to the settlements, parking, sewerage and waste disposal; many (private) roads are very narrow and steep, often provided by the residents; public service companies (electricity, water, telephone) have provided infrastructure over time with some financial contribution by residents.

Difficulties in regularisation are mostly associated with the legacy of tolerance for informal development. Over several decades the land has been parcelled, sold and registered in the cadastre, even though it was agricultural land not dedicated for urban development. Without DUPs, which do not exist for more than 40% of the urban land in Montenegro, no building permits could be issued. Such constraints were ineffective in a very dynamic real estate market, particularly in the coastal areas and Podgorica, where housing and business pressure has wiped off rule of law. There was no effective action against informal construction until recently. Non-action of public authorities against construction in informal settlements, as well as the provision of essential technical infrastructure, has *de facto* implied some form of legalisation—a customary right in opposition to the rule of law. Regularisation is hampered for several reasons: i) cadastre maps are imprecise and incomplete; ii) planning standards

do not comply with the requirements of existing settlements that have evolved organically; iii) the content of DUPs does not allow effective implementation, flexibility at the local planning level and retroactive building permits; iv) there are no incentives to change the *status quo*, even in cases with approved DUP residents are reluctant to legalise (e.g. pay communal fees, property taxes, etc.); v) without a DUP no registration of buildings is possible. Regularisation must overcome this vicious circle. Having analysed regularisation strategies in many European countries, including Greece, Serbia, Croatia and Albania, it is concluded that a new strategic approach is required to be pilot tested in the two areas in the Municipality of Bar.

Upgrading and regularisation strategy in pilot areas

A regularisation strategy and action plan is based on the following objectives:

1. Provide a DUP for regularisation that is realistic and pragmatic with measurable and well defined objectives;
2. Ensure that minimum requirements for public access, safety and security are met;
3. Improve the living conditions of residents in the area by ensuring security of tenure and access to essential technical infrastructure;
4. Regularise with minimum displacement and demolition;
5. Raise communal fees with a procedure that is universally applied, fair, transparent and legally sound;
6. Complete regularisation within a defined and manageable period of time and provide opportunities for incremental upgrading in the future.

A strategy for regularisation needs to be developed in a participatory manner effectively engaging residents, business owners and municipal officials in defining priorities as well as in implementing them. It needs to incorporate the following elements:

- a) Analysis and evidence-based documentation (survey) of the existing *status quo* in the neighbourhood (plot boundaries, buildings & their use, existing roads, infrastructure, etc.);
- b) Land use plan, zoning, building and lot coverage, infrastructure servicing grandfathering existing developments that do not compromise public safety;
- c) Investment plan for implementation with timelines and responsibilities;
- d) Financial, fiscal and regulatory measures and guidelines for plan implementation.

This new approach emphasises the following:

- a) Supporting the existing strengths of the settlements: high level of self-organisation, social integration, mix of uses, less traffic, system of footpaths, relatively good quality construction;
- b) Addressing the weaknesses of the procedure for regularisation through a two-tiered process: first settlement upgrade, followed by building legalisation through retroactive occupancy permits;
- c) Minimizing public sector costs and displacement through DUP with alternative planning standards, followed by communal fee levy from every owner on the basis of the real use of buildings regardless of registration or building permit;
- d) Implementing an effective scheme of communal fee levy, coupled with municipal investment in major public infrastructure (e.g. access roads, tunnel, sewer) to kick-start the process;

In terms of alternative planning standards for the two pilot areas, it is recommended to establish road infrastructure with limited changes in the existing settlement structure, as large scale expropriation is

neither financially feasible nor accepted by the residents. Single lane-roads, designated public parking for lease (to meet parking requirements off-site for small hotels), and right-of-way for infrastructure connections need to be negotiated, as well as land swaps in order to provide functional road and infrastructure servicing. These alternative planning standards require legal reform mainly in the *Law on Spatial Development and Construction of Buildings* and in the *Rulebook* (2010).

Two tiered approach to legalisation

The survey documentation will be the basis for registration of rights of way and estimates for communal fees. It is expected that less than 3% of the existing buildings have to be removed for reasons of overriding public interest (infrastructure corridors) or because of critical location (e.g. in forests or plots vulnerable for landslides). Following the approval of such a DUP, communal fees may be charged. As neither registration of the building nor a building permit is required, payment may be enforced for every owner. The municipality will guarantee to reinvest 90% of all fees within the settlement. Communal fees for an average single family house are estimated at € 5,000-10,000, with some discount for lump sum payment and primary residence use. Settlement upgrade has to be in line with social targeting. Low income households will be protected from hardship with instalment payment schemes, extension of payments, the introduction of an allowance scheme, subsidies for building upgrade and supply of affordable multi-apartment housing. Extended payments and allowances shall be registered as liens with an obligation of repayment in the case of sale or inheritance. The municipality can administer instalment payment schemes that allow monthly payments of € 70 per household for 10 years.

Legalisation of individual buildings shall be executed with retroactive occupancy permits. The occupancy permits will be issued following streamlined administrative procedures on the basis of: i) compliance with the DUP; ii) access to the parcel (or right-of-way); iii) structural safety and seismic stability; iv) access to technical infrastructure; v) maximum density and parking; and vi) finishing of construction works. Legalisation of buildings shall proceed voluntarily, but promoted with efficient disincentives for non-action, (tax penalties, exclusion from subsidies, etc.).

Public investments recommended

Settlement upgrades for the pilot area Pobrdje / Rutke include public investments in access to the settlement (a new tunnel opposite of the bus terminal, connection road to Partisanski Put, safe pedestrian access to the train station), an upgrade of existing roads to infrastructure corridors (with built-in technical infrastructure), realisation of additional corridors to provide closed traffic circuits to allow for a consistent one-way system, fee-based public parking, definition of a system of narrow roads and footpaths (mostly on private land, secured with registered right-of-way) to access parcels, renewal of the existing technical infrastructure in close cooperation with the service providers (electricity and water company), provision of a sewerage system with access points along the infrastructure corridors and the obligation to connect within 10 years. Further, elements of social infrastructure and enhanced public transport in the summer season are recommended as well as affordable multi-apartment housing for relocated households in cases of demolition.

For the pilot area Canj II, the existing DUP needs to be augmented to ensure better access to the area during the peak season (additional road Kufin – Canj), fee-based public parking to protect and enhance the Pearl Beach.

This new approach of informal settlement upgrade seems financially, social and politically feasible. Implementation is possible within a few years. It is recommended to proceed with the pilot areas in the Municipality of Bar to test implementation, before extending the procedure to whole Montenegro.

ACKNOWLEDGEMENT

This report is the result of our commitment to understand the drivers of informal settlements in Montenegro as well as to contribute to the development of pragmatic approaches for their economic, social and spatial integration. Although decidedly problematic, the search for policy solutions is on the agenda of central and local governments, which has implications for better management of economic and social policies in cities and for the well-being of local communities. The Mayor of Bar—Mr Žarko Pavićević—was instrumental in shaping a vision for a streamlined approach for regularization of informal settlements in the municipality. In our work we were assisted by Mr Djuro Karanikic, Head of Planning Department of the Municipality of Bar, and his team of experts. Municipal officials working for public utility companies and the Departments of Economics, Transportation, Public Works and Property Taxes shared available data and future plans for the areas under study. They were also candid about the challenges associated with the process of regularisation and previous attempts to address the problems. We thank them all for their insights and professionalism.

At the central level, we were assisted by the team in the Ministry of Sustainable Development and Tourism, consisting of Ivan Đurišić, Maja Remikovic and Ivan Kuzman. Their efficient work was critical for our productive missions in Montenegro and we sincerely appreciate their advice and logistical support. We owe thanks to Mr Marko Vujović, former Deputy Minister for Housing in the Ministry of Sustainable Development and Tourism, and his successor Marko Čanović, for critical feedback and direction, as well as to Mr Danilo Gvozdenović, Deputy Minister in the Ministry of Sustainable Development and Tourism for insights into the regulatory framework. Ms Yvonne Müller from Deutsche Gesellschaft für Technische Zusammenarbeit GmbH in Podgorica was particularly helpful sharing her insights and reports on the topic. Ms Jelena Janjusevic—UNDP Office in Montenegro—provided much-needed support in validation of the translation, while Mr Ekrem Zejnilovic, IIBW representative in Montenegro was a constant source of advice and practical support throughout the project. Our special thanks go to Mr Djordjije Kalezic, who takes credit for a very professional translation of the report into Montenegrin language, for his excellent interpretation and commitment.

Finally, we would like to acknowledge the support of many residents of the informal settlements in Pobje / Rutke and Canj who shared their views about the past and the future of their communities, opened their homes for us during our field work and participated in workshop discussions on priorities for regularization. We hope that the future process will accelerate the integration of these communities and will bring progressive change.

Dr Amann and Dr Tsenkova

1 INTRODUCTION

Montenegro's transition to a market economy and democratic governance has accelerated population growth in major cities, often accompanied by illegal construction and rapid expansion of informal settlements. An already fragile urban infrastructure system is no longer able to cope with this growing demand. Over 80,000-100,000 homes and/or non-residential buildings illegally constructed in the last thirty years are estimated to have limited or no access to basic urban services: water, sewage, roads, solid waste management, and electricity. The environmental costs of this pattern of urban development are mounting and the Government of Montenegro in partnership with local governments is determined to address these challenges.

The Ministry for Spatial Planning and Environment has launched a new strategy and prepared a platform for more systematic actions to solve the problems of informal settlements. This much-needed approach aims at addressing a complex economic, social and environmental problem critical for the country as well as in line with obligations assumed by signing *The Vienna Declaration on Informal Settlements in South Eastern Europe (SEE)*. It is clear that urgent activities have to be undertaken to conduct necessary analyses and to develop policies, which will be the basis for concrete field activities. This feasibility study is providing the basis for analysis and identification of solutions in a pilot project with the objective of learning from this experience and scaling up to other informal areas across the country.

1.1 THE SCALE OF INFORMAL SETTLEMENTS IN MONTENEGRO

Montenegro has a population of 620,000, with half of the people living on 22% of the territory. Economic opportunities are the major drivers of these choices as well as determinants of the scale and concentration of informal developments in the capital city Podgorica and the coastal region. Studies indicate that all of the 21 municipalities across Montenegro have a fair share of informal developments. In some cases this is associated with property speculation in the last ten years and the tenfold increase in foreign investment in land and real estate since 2004. In other cases, informal settlements have been established since the late 1970s, but have experienced additional growth during the transition period. Most post-socialist countries, part of the former Yugoslavia, have inherited informal settlement formations differing in size, location and socio-economic characteristics.

The Strategy for Converting Informal Settlements into Formal and Regularisation of Building Structures with Special Emphasis on Seismic Challenges¹ of the Government of Montenegro indicates that close to 100,000 illegally constructed buildings exist in the country with over two thirds concentrated in Podgorica and the municipalities on the Adriatic coast. As most of the buildings are residential and/or incorporate small scale commercial elements, the Strategy suggests that half of Montenegro's population lives in informal structures. Furthermore, these developments are often spatially concentrated forming relatively large settlements on per-urban tracts of land.

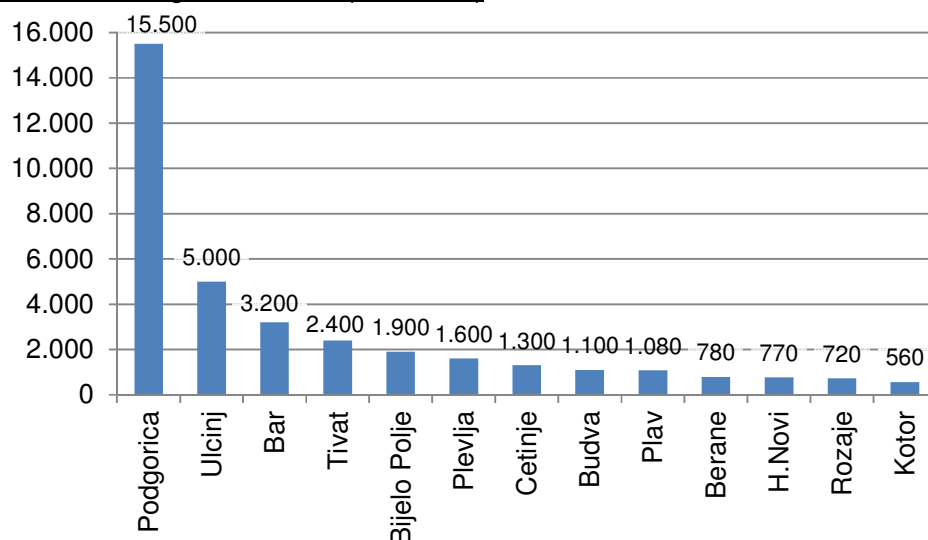
¹ MSPE (2010).

Figure 1: Map of Montenegro



Data from the Real Estate Administration (REA) indicate that there are 39,922 illegally built structures in Montenegro, with the largest number concentrated in Podgorica and another 11, 930 in coastal municipalities (see Figure 1)¹ Further, close to 15 percent of all illegally constructed properties are owned by foreigners. Notwithstanding problems regarding the reliability of data, its consistency and coverage, the problem is clearly very significant in economic, social, and environmental terms. Problems of this magnitude require national solutions and consistent intervention to resolve a rather complex set of issues.

Figure 2: Number of illegal structures (REA data)



Source: Ministry for Spatial Planning and Environment, 2010

¹ The coastal region covers 1,591 km² and it includes the following municipalities: Ulcinj, Bar, Budva, Kotor, Tivat and Herceg Novi.

1.2 RATIONALE FOR SYSTEMATIC INTERVENTION

1.2.1 DEFINITION AND TYPES

The Vienna Declaration on National Regional Policy and Programmes on Informal Settlements in South Eastern Europe provides the following definition:

Human settlements, which for a variety of reasons do not meet requirements for legal recognition (and have been constructed without respecting formal procedures of legal ownership, transfer of ownership, as well as construction and urban planning regulations), exist in their respective countries and hamper economic development. While there is significant regional diversity in terms of their manifestation, these settlements are mainly characterized by informal or insecure land tenure, inadequate access to basic services, both social and physical infrastructure and housing finance (Vienna Declaration, 2004, p.1).

Although there are different levels of informality in Montenegro, the main characteristics are:

- Non-compliance with land-use plans;
- Lack of adequate infrastructure provision;
- Inadequate access to basic public services;
- Land squatting (property built on land not owned by the housing owner);
- Properties built in hazardous locations, infrastructure corridors or environmentally sensitive areas.
- Substandard housing or inadequate building structures.

Figure 3: Squatter settlement in Sutomore, Bar municipality



Source: Authors

a) Squatter Settlements

One of the most enduring manifestations of informal settlements consists primarily of squatter housing built by people on legally or illegally occupied land, usually through self-help (Figure 2). The history and evolution of informal settlements in the country is diverse and varied in terms of standard (from slums to luxurious residences), location (from suburbs to city cores and protected areas) and size

(from several small units to settlements for over 5,000 residents). A 'second generation' of such formations has emerged as an ad hoc response to the transition processes since the 1990s, the influx of refugees and internally displaced people (IDP) as well as growing poverty. The development patterns are quite different compared to the 'first generation' of informal settlements during socialism and do not necessarily exhibit the characteristics of slums.¹ On the contrary, the areas may be inhabited by middle class families, and contain housing construction of good quality, often on publicly or privately owned land. The informal nature of these developments is associated with the lack of formal urban plans and/or building permits. Informalities are due to different factors—inadequate spatial planning, old and complex legislation, lack of housing policy, and outdated public administration structure. Apart from addressing urgent housing needs, illegal investments in real estate have been used by many households and small scale property developers as a 'shield' against instability and hyper-inflation.²

Figure 4: Roma refugee informal settlement, Podgorica municipality



Source: Tsenkova, 2009

b) Settlements for Vulnerable Groups

Recently developed informal settlements by refugees and internally displaced people across the region are often similar to the squatter type, but they might have been established with the permission of the state or the municipality as a temporary, rapid response to a major crisis, such as the war-related conflicts in the 1990s. The settlements, although newer, often have extremely poor conditions with shacks built of recycled materials, plastic sheets and leftover construction materials. In some of these settlements residents were expected to be there for a short time before accommodation in camps or collective centers was provided, but this turned out to be a more permanent solution

¹ *Slums* are defined as settlements where inhabitants are characterized as having: (i) insecure residential status; (ii) inadequate access to safe water; (iii) inadequate access to sanitation and other basic infrastructure and services; (iv) poor structural quality of housing; (v) overcrowding (UN-HABITAT, 2003).

² For extensive discussion on these issues refer to Tsenkova (2010a).

attracting more people to the original group. These slums with limited access to essential services are generally found in the urban periphery, in pockets of marginal land, or close to collective centers for refugees such as the largest Roma refugee camp in Europe on the outskirts of Podgorica (Figure 3).

1.2.2 COORDINATED APPROACH FOR 'FIRST' AND 'SECOND' GENERATION OF INFORMAL SETTLEMENTS

Such diversity requires systematic intervention within a policy framework that is fair, transparent and accountable. In Montenegro some settlements which have evolved without the proper planning permit on illegally subdivided land, have mostly good quality housing, serviced by infrastructure but lack government planning, development permits or registration in the cadastre. In other cases, construction might have been carried out by construction companies that are not legitimate and in violation of building codes. In cases where settlements have existed for more than three decades, they have become a lasting structural phenomenon and the traditional perception of insecurity of tenure, vulnerability and marginalization is not necessarily applicable. Residents of such settlements, as well as others in more recent informal subdivisions simply have created a housing asset that exists outside of the regularized system of planning, land registration, and property tax collection. Although the level of infrastructure provision might be lower compared to other parts in the formal city, residents never really contributed to the full costs of infrastructure, nor tend to be excluded from access to education, jobs, health care and political representation. So the traditional policies and methods to deal with informal settlements established in other regions (Asia, Latin America and Africa) are not really appropriate.

In summary, the scale of informal settlement formation, both 'first' and 'second' generation, requires a coordinated approach by different levels of government (central and local) as well as targeted assistance from the donor community. Addressing the diversity of informal settlement manifestations in a fair and systematic way requires changes in the system of planning, land management, municipal service provision and more importantly more effective and strong institutions addressing a crisis of national proportions. The problem has significant economic, social, and environmental costs both in the short- and the long-term and affects the economic prosperity of the country and its residents. A common element of this process is the combined effect of economic transformation, decentralization in governance and war-related conflicts, which has provoked a sudden acceleration of urban migration and proliferation of informal settlements. Central and local governments were largely unprepared to face the pressures on land, housing and services. Twenty years later, informal settlements cover large tracts of peri-urban land being the home of both socially vulnerable groups, relatively well off migrants to the cities and property investors.

1.3 PURPOSE AND OBJECTIVES OF THE STUDY

This *Feasibility Study for the Regularisation and Upgrading of Informal settlements POBRDJE / RUTKE and CANJ* is responding to the need for more strategic and systematic intervention in Montenegro. Its purpose is to assist national and municipal governments implementing Montenegro Strategy on Informal Settlements¹ in taking action to transform them into viable neighbourhoods. It focuses on alternatives to address a national problem through a pilot project designed to test different

¹ MSPE (2010).

approaches and alternatives in the municipality of Bar. The choice is appropriate since both areas manifest the typical characteristics of 'first' and 'second' generation informal settlements. The residents, due to their higher social and economic status in many cases, are interested in possible legalization and are more likely to proceed with much-needed payments of communal fees. The municipality, its leadership and planning staff, are committed to legalization and upgrading and have supported the development of detailed urban plans for several areas as well as done modest experiments with legalization.

The study has the following objectives:

- To provide examples of contextually appropriate practices for regularisation and upgrading;
- To analyse the informal settlements in terms of patterns of development, building types and informality;
- To provide an evaluation of the policy environment/tools for regularisation and upgrading with an emphasis on barriers;
- To provide recommendations to the central and local government for a successful regularisation and upgrading strategy.

1.4 APPROACH OF THE STUDY

The study applies a *strategic planning model* which establishes relationships between past, present and future to design alternative strategies for plan implementation (Tsenkova, 2007).¹ The strategic planning process explores different alternative futures and incorporates the most appropriate one in the strategic plan. Selecting priorities and action plans implies a good understanding of trends, patterns of change in the natural, built, organizational and social environment and clear definition of ways to influence the implementation process. The model applies the following stages of the strategic planning process: Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis, selection of key issues/priorities and the development of goals, objectives, and definition of strategies in key priority areas. Since the institutionalization of the process is an important element, the approach highlights the significance of key decision-makers in the SWOT analysis and in articulating strategic actions in the future.

The methodology of the feasibility study draws on a variety of methods. It incorporates information from government reports, policy studies and reviews on the topic. It draws on comparative evaluations of solutions to informal settlements in South East Europe, UN-HABITAT capacity building programs, NALAS initiatives and findings from the World Bank LAMP project (Land Administration and Management Project). With respect to the case study areas, the analysis draws on provisions in the adopted General Urban Plan for the municipality of Bar, national strategic policies – *Strategy for Converting Informal Settlements into Formal and Regularisation of Building Structures with Special Emphasis on Seismic Challenges, the National Spatial Plan and Sustainable Development Strategy of Montenegro*. The analysis of policy documents and legislation is organised to elicit information on several important themes:

- The phenomenon of informal settlement: assessment and factors affecting the process (e.g. constraints in the planning system, land management and access to affordable housing);

¹ Review of strategic planning in six eastern European countries is provided in Tsenkova (2007).

- Policy approaches and strategies to address the problems (e.g. legal acts to regularize and upgrade informal settlements and municipal or national programs in place).

Data are collected through analysis of cadaster information and ortophotographs, detailed urban plans of Canj, intense one week field visits and observation in both localities in September and December 2010. Field research includes key informant interviews with over 40 officials working at the central and municipal level, planning staff, representatives from municipal utility companies, the cadastre office, real estate and property tax divisions. Meetings were held with staff from The World Bank PIU, UNDP, and GTZ to determine possible synergies with other projects operating in the same field. The strategy proposal also incorporates ongoing consultation with residents of the informal settlements as well as informal interview data with several residents.

Interim findings have been presented at two seminars to municipal staff as well as to planners and municipal experts from different municipalities. Dr Tsenkova contributed to round table discussions on alternatives for informal settlement integration in Montenegro at the *Practical Experiences in the Implementation of the Law on Physical Development and Construction* seminar organised by the Ministry of Spatial Planning and UNDP in December 2010. Dr Amann has presented and discussed first outcomes of the project at a UNECE workshop on *Spatial planning to improve security of tenure in the UNECE region* in October 2010 in Antalya, Turkey.

Finally, this study is the first attempt to identify the diverse manifestations of the problem in Montenegro. It focuses on two pilot areas and some of the proposed measures might not necessarily work as a universal solution. Based mostly on desk review of available reports, studies and conference presentations and restricted primary research, the study no doubt has many limitations. The lack of spatially disaggregated data from the census and the tax office of Bar municipality is a significant constraint for the quantitative and qualitative assessment, which is an essential ingredient of a feasibility study. Data provided by municipal utility companies are the only source of information on infrastructure provision, but do not account for different building types and levels of informality. For example, some buildings are constructed on state-owned land, whilst others are constructed on one's own land; for some buildings there is a building permit, but owners have constructed additional floors and extensions illegally. In some cases people have paid communal fees as well as property tax, in other situations they continue to evade the system of taxation. While sensitive and fair solutions require the analysis of different forms and scales of informality, there is no data that allows this to be carried out. In addition, time and resource constraints are also a factor that poses constraints for the research and its proper execution.

2 POLICY BACKGROUND

2.1 VIENNA DECLARATION ON INFORMAL SETTLEMENTS IN SOUTH EASTERN EUROPE

The challenge of informal settlements is widely recognised in international and national programs for change and action. At the global level, the *UN Habitat Agenda*, adopted in 1996, and the *Declaration on cities and other human settlements in the new millennium* adopted by the Special session of the UN General Assembly in 2001, reaffirm the commitment of Governments to ensure access to adequate housing. Addressing the challenge of informal settlements is also critical for the achievement of The *Millennium Development Goals*, particularly Target 11 on slums. On a regional level, The *Vienna Declaration on National and Regional Policy Programmes* regarding informal settlements in South Eastern Europe identifies the issue as a priority and engages countries in policies to legalize and improve informal settlements in a sustainable way. It argues that the prevention of future settlements formation is critical through sustainable urban management, principles of good governance, and inclusive capacity building (Vienna Declaration, 2004).¹ Successful regularisation efforts contribute to long-term economic growth as well as to social equity, cohesion and stability. The Declaration states:

Every person in the city or community has the right to be an equal member of the community. Legalisation/regularisation of informal dwellers will make them individuals with equal rights. As such, inhabitants of the city should enjoy the same opportunities to realise his/her access rights to an adequate standard of living and access to services as everyone else in the city, as well as the same obligations to respect the law and pay taxes and user charges (VD: p2).

The obligations of the signatory countries are to: i) aim at the complete regional resolutions of informal settlements by the year 2015 and ii) undertake regularisation and upgrading to the maximum extent (but only in cases that do not threaten proper urban development, i.e. contravening rights, environmental protection, cultural heritage protection). A Capacity Building Programme managed by UN-HABITAT Warsaw Office with a budget of \$US 6 million supports training activities and small scale pilot projects targeting effective solutions in Albania, Bosnia-Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo.

2.2 POLICY RESPONSES TO INFORMAL SETTLEMENTS IN SEE AND EUROPE

2.2.1 INFORMAL SETTLEMENT LEGALIZATION & UPGRADING

The solutions implemented so far in SEE range from legalization and inclusion in formal urban plans, regularisation and provision of essential social services (schools, medical clinics) and technical infrastructure (safe roads, public transit, water and sewer), as well as resettlement programs in social housing.²

LEGALISATION of informal settlements in the region is implemented in Albania and Croatia. Overall, responses to legalisation vary according to local contexts, the types of informal settlements,

¹ See Tsenkova (2010c).

² For a more detailed discussion of policy solutions refer to Tsenkova (2009) and Tsenkova, Potsiou and Badina (2009).

governments' political orientation, and pressure from concerned communities. In some countries (Serbia, Croatia, Republic of Srpska, Montenegro) legalisation is carried out as an integral part of renewed efforts to develop statutory plans regulating development at the local level. In other countries (Albania and Serbia), legalisation of informal settlements is addressed through special legislation, although implementation has been limited. Albania's *Legalization Law*, adopted in 2006 with amendments in 2007 & 2008, provides special provisions for legalization despite violation of existing planning and construction legislation. In Croatia, legislation has been introduced in 1992 permitting legalization of all informal buildings estimated at 100,000. Within three years about a third has been legalized. Legalization is integrated with the planning process and demolitions are carried out (over 2,000) (Tsenkova, 2009). Serbia has recently implemented a *Legalization Law* and in Macedonia the drafting of such legislation has taken more than three years, while approval is uncertain.¹

REGULARISATION AND UPGRADING of informal settlements imply a more comprehensive intervention. Nevertheless, the solutions are not cut and dry: legal versus illegal, formal vs. informal. The choice of legalization vs. regularisation depends on the political will of local authorities, the lobbying and negotiating capacities of the residents and last but not least, on the location of the settlement itself, its size and quality. The practice of regularisation and upgrading emphasises the importance of planning interventions, land and real estate registration, plans for the provision of infrastructure and social services. In several countries (Albania, Serbia and Macedonia) pilot projects on a small scale demonstrate the value of incremental upgrading using this approach. While it is difficult to judge its effectiveness, it implies collaboration of residents, planners, municipalities and central government authorities. Such strategic approach is often incorporated in the new generation of master plans and city strategies in the region (e.g. Tirana, Durres, Belgrade, Skopje), but actual implementation has been limited.

RESETTLEMENT A possible solution to informal settlement problems is associated with resettlement in social housing or some form of subsidised housing development. This is probably the most expensive solution and it is not surprising that its implementation is fairly limited. In most of the cases resettlement is targeting poor residents of informal housing or vulnerable groups such as Roma, refugees and internally displaced people. There is no general model for the difficult task of re-housing large groups of poor migrants and refugees and their subsequent integration into existing cities. Many of the solutions related to resettlement are small scale projects funded by international agencies and/or bilateral assistance.²

2.2.2 EXPERIENCES WITH LEGALIZATION

In Serbia the first attempt at normative regulation of problems related to informal settlements is addressed in the *Law on Special Requirements for the Issuing of the Building Permit or Certificate of Occupancy* of 1997. Amendments to the Construction Law attempt to prevent illegal construction through penalties and treat it as criminal offence. *The Planning and Construction Law* from 2003 provides new opportunities for legalization through plan reviews and preparation of temporary building

¹ See Studiorum (2009).

² More significant contributions in re-housing refugees have been made by the Council of Europe Development Bank. Bank funded projects allowed more than 2,300 people in Bosnia and Herzegovina and Serbia and Montenegro to be re-housed in 2005 with another project benefiting 1,081 former residents of collective centres in Serbia and Montenegro in 2006. Similar schemes have been supported through grants from the European Commission to Bosnia and Herzegovina under its Return of Refugees and Displaced Persons Programme. The European Agency for Reconstruction has allocated € 2.4 mill. to construct affordable housing for refugees and IDPs in Montenegro.

rules, with simultaneous registration of illegal construction. The legislation has seen 560,000 applications for legalization with 150,000 in Belgrade alone. Some incentives are provided, for example the communal fees ranging from 20-160 €/m² are reduced by 50% with further reductions for socially disadvantaged households. Differential treatment is provided for owners of primary residences vs. developers and speculators.

In the Republic of Srpska the legalisation laws are introduced in 2006 with very detailed provisions and strict deadlines for application till 2009 documenting the presence of illegal buildings by aerial photo survey done in 2007. The cost of legalization is reduced, plus some standard discounts are applied if the fee is paid at once (40-50%); demolition and penalties are foreseen for non-compliance. While there are between 100,000 and 150,000 buildings without permit, in Sarajevo out of estimated 26,000 illegal buildings 16,000 applications were received by end of 2008.

ALUIZNI is the responsible national Agency for Legalization and Urbanization of Illegal Constructions and Settlements in Albania with 27 offices across the country. It deals with the legalization in 681 informal zones. The agency has recorded some 350,000 requests for legalization till the end of 2008, out of which some 80,000 multi-dwellings apartments and shops have been approved and documented.

Figure 5: ALUZIONI staff in the field (Albania)



Source: ALUZIONI, Tsenkova

2.2.3 EXPERIENCES WITH UPGRADING AND RESETTLEMENT

Illegal construction in Greece resulting in informal settlements dates back to the 1950s. Today's activity takes place in coastal zones and the Athens region. Several attempts have been made to minimize the problem either by applying procedures toward massive, nation-wide legalization with a parallel provision of urban planning improvements (Law of 1977 and 1983) or by applying tough penalties (Law of 2003). None of the measures has proved to be efficient; with over 1 million residences or 15% of the housing stock classified as illegal and over 31,000 residences added every year. Part of the problem is related to cumbersome requirements related to the process of legalization and upgrading. An urban plan is a prerequisite to initiate legalization as well inspection of the building to determine compliance with building standards and land use by-laws. As the planning and

regularisation process is undertaken retroactively, when a critical mass of informal settlement emerges, such requirements are difficult to implement. Normally the regularisation process is carried out as a regeneration project on 300 ha of land with relatively dense unplanned development (see Figure 6). The process takes anywhere between 3 to 5 years (just 9 months for a cadastre survey, 12 months for a geological study and another 12 months for the urban plan). The implementation cycle is 8 to 10 years for an area of 300 ha (Potsiou and Dimitriadi, 2008).

Figure 6: Informal developments in the coastal areas of Greece



Source: Tsenkova et al., 2009

Box 7: Resettlement programmes in Lisbon



Perhaps the most comprehensive solution to informal settlements in Europe has been provided in Portugal for more than 130,000 families living in shantytowns in the metropolitan areas of Lisbon and Porto. The Special Re-Housing Programme – Programa Especial de Realojamento (PER) – launched in 1993 was expected to eliminate the shantytowns in the 27 participating municipalities by 2001 through provision of social housing. PER is still 30% short of its original target and its timeframe has been extended. The program operates with the extensive

support of the central government covering 40% of the costs with another 40% covered by municipalities through soft loans for a total of € 1,280 million by the end of 2006. The remaining 20% is municipal in-kind contribution through land and infrastructure. Housing is built by private firms under contractual arrangement at fixed prices regulated by the State.

In Lisbon, housing provided through PER has added close to 30% to the social housing stock (8,700 apartments). Tenants pay highly subsidised rents which recover less than 5% of the costs, which fundamentally challenges the long-term sustainability of the project. Municipalities shoulder the bulk of the operational costs, finding it difficult to manage the public housing stock where different sets of urban, social and economic problems have been identified.

Source: Tsenkova, interview data, Lisbon 2010

2.2.4 LESSONS FOR INFORMAL SETTLEMENTS REGULARISATION IN MONTENEGRO

Strategies in European countries have not provided an efficient and streamlined solution to informal settlement formation. In Greece a very cumbersome process for regularisation with rigid requirements for plan development, planning and building permits, and inspections is difficult to implement and may inadvertently lead to continuous informal practices. Subsequent amnesties and delayed regeneration projects of informal areas, coupled with administrative barriers, proliferate informality and illegal developments.

In Portugal the approach of massive resettlement in social housing suggests a strong political will and commitment to social welfare, but is undermined by the lack of fiscal sustainability in the long-term. As it applies extensive fiscal commitment, it might not be appropriate for Montenegro given its limited financial resources at the central and municipal level.

Strategies in some SEE countries indicate that a well defined legal framework for legalization is helpful in promoting voluntary registration and legalization (Croatia, Albania). The practical implementation is often associated with central agencies that have the mandate to deal with related issues such as conflicting property rights, compliance with planning standards and collection of fees. The process

may be costly and bureaucratic, and citizens need to be encouraged to participate by strict timelines (sticks) and financial incentives (carrots) to ensure a critical mass of successful legalization.

The experience suggests that there is a need for a well defined procedure for legalization as well as adequate administrative capacity at the central and local level to deal with the influx of requests for regularisation. The process needs to be monitored to ensure that the legislation is implemented in a consistent manner with adequate inspection service, mechanisms for complaints and conflict resolution.

Political will and consistency at the central level is particularly important, as well as clear commitment to move ahead with unpopular measures such as demolition and reallocation in the case of vulnerable households.

Box 8: Lessons for informal settlement regularisation in Montenegro

1. Political will to regularisation at the central level is particularly important, as well as clear commitment to the establishment of an efficient regulatory, fiscal and financial framework for implementation.
2. A cumbersome process for regularisation with rigid requirements for plan development, building permits, and inspections is difficult to implement and may inadvertently lead to continuous informal practices.
3. Administrative barriers for building permits and inadequate plans proliferate informality and illegal developments.
4. A well defined legal framework for means tested regularisation is helpful in promoting voluntary registration and legalization.
5. An adequate administrative capacity at the central and local level to deal with the influx of requests for regularisation is necessary.
6. Monitoring of the process to ensure that the legislation is implemented in a consistent manner with adequate inspection service and mechanisms for complaints and conflict resolution is needed.
7. The financial costs of demolition, compensation and reallocation in the case of vulnerable households need to be shared between the central and local governments.

2.3 POLICY FRAMEWORK TO ADDRESS INFORMAL SETTLEMENTS IN MONTENEGRO

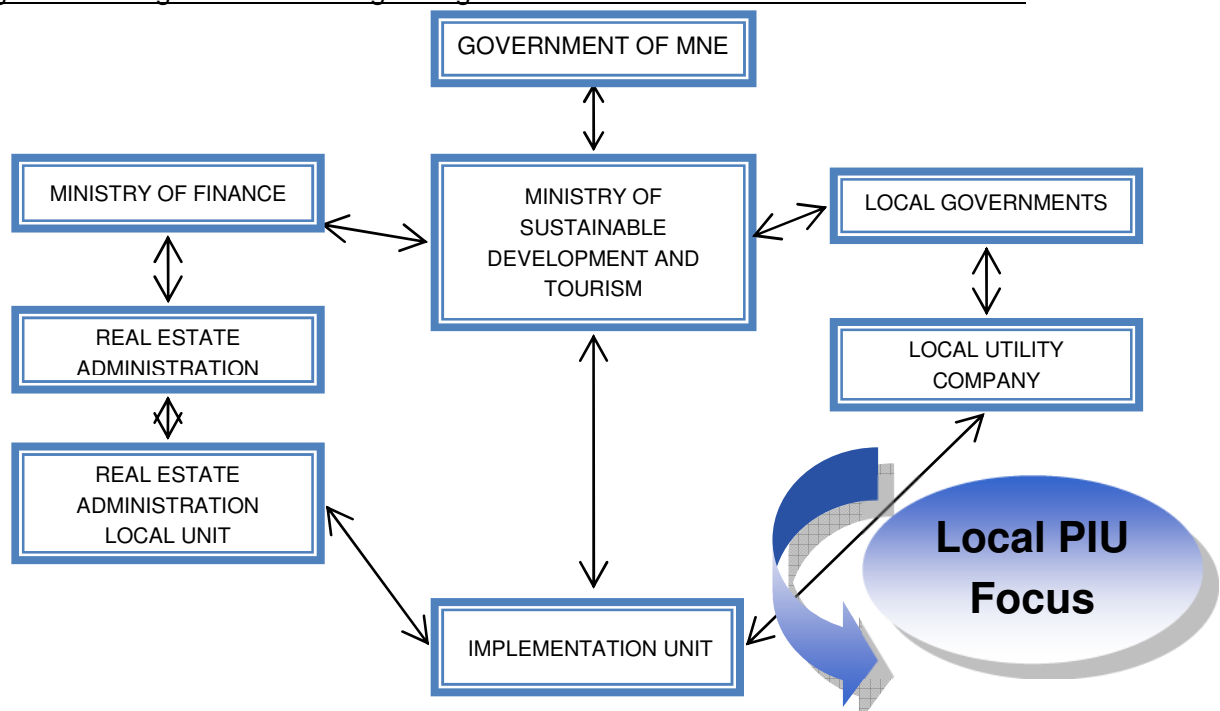
2.3.1 NATIONAL STRATEGY ON INFORMAL HOUSING

The Strategy Converting Informal Settlements into Formal and Regularisation of Building Structures with Special Emphasis on Seismic Challenges,¹ adopted by Parliament in 2010, is the most important and comprehensive document outlining government policy to address the problem. The strategy provides a summary the economic, social and environmental challenges associated with informal settlements and outlines legal and fiscal measures to initiate the regularisation process. Consistent with the provisions in the planning framework, it focuses explicitly on alternatives to regularize settlements with existing planning documentation – detailed urban plans (DUPs). Some estimates suggest that close to 15,000 buildings in informal settlements exist with DUPs with the potential to regularize over 1.5 mill.m² of built space raising over € 100 mill. in communal fees in municipal budgets.

¹ MSPE (2010).

Precondition for regularisation are up-dated topographical and cadastre plans, ortophotos, data on location, types, ownership of illegally constructed buildings in a database ready for administrative procedures and subsequent entry into the cadastral records. The requirement is that buildings are legalised when they meet planning requirements and construction requirements in seismically risky areas. The process is also associated with payment of communal fees as well as fees for land lease and/or purchase of land (public or private) illegally occupied by the owner. The planning and building code compliance requirements are indeed appropriate, but extremely difficult to implement in practice, given the fact that a lot of buildings have been constructed 20-30 years ago.

Figure 9: Regularization through Integrated central and local institutional structures



Source: Autors

On the financial side, the *Strategy on informal settlements* introduces provisions for differentiated treatment of building owners who have provided housing for their own needs on land that they own vs. owners who have occupied illegally state or municipal land. Further, it proposes tax penalties and increase of property taxes from 0.8% to 3% (five times) as an incentive to proceed with regularisation. Another important element is the payment of communal fees (infrastructure burden), which is part of the retroactive legalization process. This is a serious source of locally generated income for the municipal budget, ranging from 7-10%. The *Strategy* outlines a procedure for legalisation through a retroactive occupancy permit (consolidated building permit plus certification of buildings as safe and in compliance with the Building Code). Consideration is given to some operational aspects of the *Strategy* such as sources of financing for communal fees for socially disadvantaged households, promotional and outreach campaign as well as donor assistance to kick start the process.

In terms of institutional structures for implementation, the *Strategy on informal settlements* proposes a model for collaboration of central and local government institutions with a central implementation unit. The experience from other countries in Europe and the region, however, suggests that such central

structures need to work with locally dedicated institutional resources to achieve effective implementation. Correspondingly, the institutional map in Figure 9 emphasises such arrangements.

2.4 LEGAL FRAMEWORK FOR REGIONAL PLANNING AND REGULARISATION

2.4.1 CIVIL LAW

A main current reform of criminal law has concerned the legal perception of informal construction. It is now treated as a crime. With this reform, new informal housing construction has reportedly almost entirely stopped.

2.4.2 SPATIAL PLAN OF MONTENEGRO

An important policy document which guides the preparation of Spatial Urbanistic Plans (SUPs) and general urban plans (GUPs) is the *National Spatial Plan (NSP) of Montenegro until 2020* adopted in 2008. It provides a general strategic framework for sustainable spatial planning, as the basis for harmonisation of general and sectoral policies. The basic principle of NSP is sustainable development, which implies continuous undertaking of measures and activities that simultaneously address environmental protection, economic development and social needs. It recognises informal and unplanned construction of settlements as one of factors that threaten natural resources and economic development.

2.4.3 LAW ON SPATIAL DEVELOPMENT AND CONSTRUCTION OF BUILDINGS

The planning sector in Montenegro is governed by the *Law on Spatial Development and Construction of Buildings* (Official Gazette of Montenegro, No. 51/08), which replaced the *Law on Physical Planning and Development* approved in May 2005. The Law regulates the fundamentals of physical planning and development; types, content and procedures for preparing and adopting planning documentation; it establishes the requirements for the preparation of the planning documents and their enforcement; and it provides for monitoring of the implementation of these planning documents. National spatial planning is the task of the Planning Directorate within the Ministry of Sustainable Development and Tourism (MSDT). Urban planning is performed by the planning departments of twenty one municipalities. Following the adoption of the National Spatial Plan, municipalities are required to prepare new local spatial plans and GUPs for selected areas. Article 24 specifies the following hierarchical structure:

- a) spatial-urban development plan (SUP) of local self-government;
- b) detailed urban development plan (DUP);
- c) urban development project; and
- d) local study.

Some municipalities – Podgorica, Bar, Budva – have commissioned such plans, while smaller municipalities in the north have neither the funds nor the capacity to prepare new spatial plans and GUPs. The lack of up-to-date planning documentation is a major constraint for the regularisation process in Montenegro.

The *Law on Building Construction* approved in November 2000 regulated the construction and reconstruction of structures and the procedures for issuing the building permits. In accordance with

Article 70 of the law, by December 2002, municipalities had to prepare lists of structures constructed without building permit or without use permit and initiate the proceedings to determine the possibility to issue the permits or demolish the structures where the issuance of the permits is not possible, i.e. interfering with public interest or in protected areas. It was expected that these measures would be implemented within one year from the preparation of the lists. Interviews suggest that such lists have not been prepared and the municipalities do not have the financial or technical capacities to undertake such tasks.

The *Law on Spatial Development* is currently in the process of reform. The *Rulebook* (2010) was set up pursuant to Article 29 and 74 of this Law.

2.4.4 RULEBOOK (2010)

The *Rulebook on Detailed Contents and Format of Planning Documents, as well as on Criteria for Land Use, Elements of Urban Regulation and the Standardized Graphical Symbols*, developed in cooperation of the Montenegrin Ministry for Spatial Planning and Environment and the German GTZ, was adopted in 2010. It defines at length (131 articles) contents of planning documents, formal issues, land use categories, elements of urban regulation and other regulations on urban planning. Basically, the *Rulebook* targets at urban planning of new settlements. Many of the defined standards are not applicable for existing settlements, even more for informal ones (see recommendations for amendment in chapter 4.6.1, p. 63).

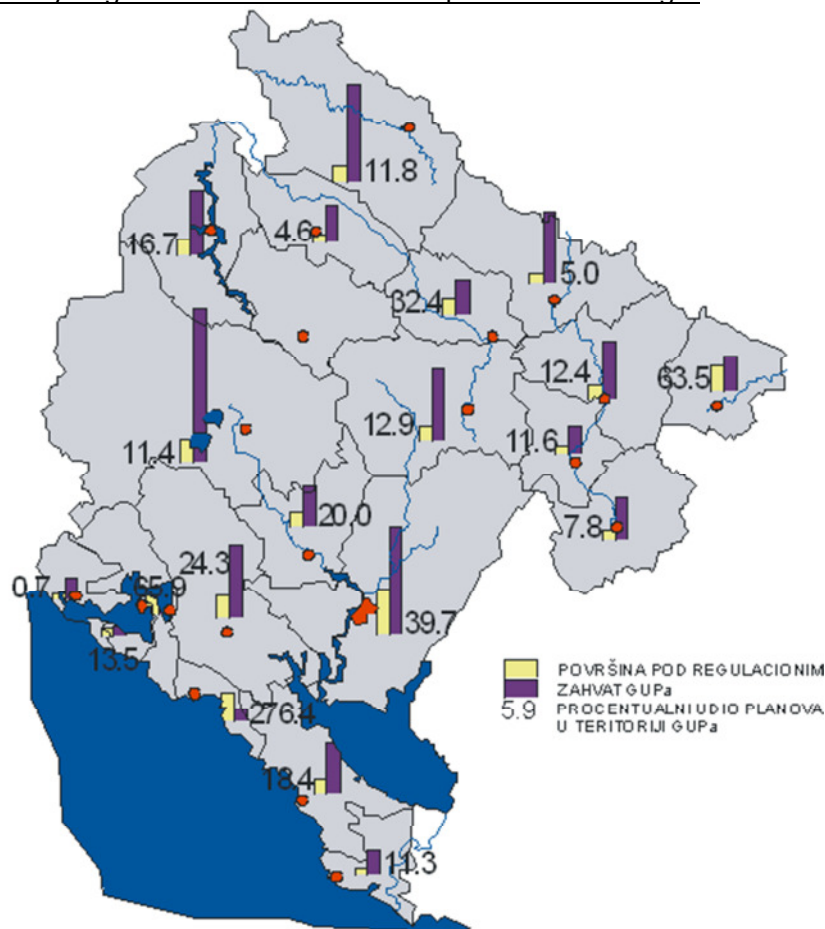
2.5 IMPLEMENTATION CHALLENGES OF POLICY AND LEGISLATION

2.5.1 INEFFICIENT PLANNING PROCESS AT THE LOCAL LEVEL

Planning has a critical role in guiding urban development and in defining the appropriate strategies to integrate informal settlements. SUPs, complemented by detailed regulatory plans, provide the essential legal framework for regularisation. In Montenegro the critical constraints are associated with the lack of plans that are in compliance with national spatial development plans and take into account new market based processes and demand for urban development. In most of the cases regularisation cannot proceed without DUPs available in about a third of the territory of Montenegrin municipalities as presented in Figure 10 (Müller and Lješević, 2007). Since planning is delegated to the local level, there is a lack of essential resources and institutional capacity to effectively plan and manage local development and regularisation. The decentralization of functions to municipal authorities without a commensurate transfer of resources in Montenegro is a fiscal constraint for investment in essential infrastructure and services, as well as in allocating staff to enforce compliance with detailed plans and normative building permits.¹ Not only is the process of regularisation constrained by the lack of up-to-date plans, but also by local governments' lack of capacity to finance necessary infrastructure and a cumbersome and lengthy approvals process.

¹ The municipalities are self-financing based on their own revenues (municipal taxes, fees, compensations); assigned Republic revenues (revenues from personal income tax, real estate transfer tax and from concession fees for the use of natural resources); the Equality Fund (to balance municipal budgets from the wealthier coastal and central municipalities to the poorer northern municipalities); and conditional subsidies from the State Budget for the financing of capital projects (such as large infrastructure investments).

Figure 10: Availability of general and detailed urban plans in Montenegro



Source: Müller and Lješević, 2007

2.5.2 CUMBERSOME BUILDING AND OCCUPANCY PERMITTING PROCESS

In addition to the constraints created by the lack of detailed regulatory plans, municipalities in Montenegro face the challenge of regulating development in the absence of clear legal and technical frameworks with a high degree of operational applicability. Frequent changes in the normative and legal basis, new construction laws, standards and norms and the lack of normative standards for enforcement is a much more significant constraint for the small and often underfunded departments that deal with building and occupancy permits (see Tsenkova, 2009). Furthermore, a complex and less transparent system for obtaining permits and licenses for construction contributes to delays and abuse. A recent study by GTZ demonstrates that a permit to build 1,000 m² is conditional upon 15 approvals, 3 certificates, and 2 official statements from 15 different institutions, which was delineated in 14 laws and a number of bylaws and municipal decisions. Even more complex are the legal stipulations regarding administrative fees to obtain the necessary documents, which might range from € 2,000 - 30,000 in addition to a contribution for communal fees (infrastructure burden) around 5% of the construction costs (Müller and Lješević, 2007). It is not surprising that such cumbersome and expensive procedures discourage investors, in particular small ones, and unintentionally act as incentives to illegal construction.

In the global business survey Montenegro ranks 66th out of 183 countries in terms of competitive environment to do business. However, the construction permit process is extremely constrained

pushing the country to 161st place. It involves 19 procedures, takes on average 230 days at cost of 1,213% of income per capita (World Bank, 2010).¹

2.5.3 INCOMPLETE CADASTRE AND PROPERTY REGISTRATION

Montenegro has incomplete land and property registration system covering about half of the territory.² The administrative and legal institutions responsible for land management and administration have undergone major changes, but essentially have failed to catch up with a very dynamic property market. Together with legal and institutional developments related to land cadastre and valuation, policy reforms have facilitated the establishment of a modern land administration system with different levels of success in implementation. Not only is the system incomplete in terms of coverage of formal development, but it essentially excludes informal settlements as illegally constructed buildings without a permit, not included in the plans, cannot be registered in the cadastre. While this measure might defer some investors from purchasing such real estate, the lack of such registration does not provide a good foundation for the development of DUPs and acts as a major operational barrier for their practical implementation. Interviews suggest that planning and building permits cannot be issued since the parcel boundaries do not match, there are multiple owners claiming rights and in some cases the DUP does not necessarily match the reality in informal areas designated for regularisation. In many cases the new land administration systems are challenged by the legacy of previous systems in place and require consolidation of cadastral and property rights registration. In other cases, new land registration systems, such as those in the coastal areas, are fundamentally challenged by a huge task of digital modernization, lack of staff and funding to cope with a large volume of transactions.³

2.6 CURRENT PRIORITIES AND PROGRAMS TARGETING REGULARISATION OF INFORMAL SETTLEMENTS

2.6.1 DONOR ASSISTANCE

The Germany funded GTZ has financed the preparation of the Municipal Spatial Plan for Danilovgrad, one GUP for Kolasin; the amendments to 4 GUPs and various DUPs, urban projects and local studies. GTZ has provided assistance in the implementation of the GIS for real estate taxation in the municipalities. They also assisted MSDT in developing guidelines on the content of planning documents, planning standards and codes related to the new *Law on Spatial Planning of 2008*. GTZ continues to assist in the area of legal reforms related to property taxation, planning and regularisation. Despite of its successful performance, GTZ is to quit its activities in Montenegro, as Montenegro ceased to be a target country of German development aid.

¹ The survey refers to construction permit for 1000 m² warehouse, which on average takes less than 30 weeks to build (World Bank, IBRD, 2010).

² Approximately 51% of the country has a completed real estate cadastre and this includes 90% of the urban and coastal areas. The cost of completing the cadastre is very high, at about €80 per hectare (see World Bank Project Appraisal Document, 2008).

³ Following an unprecedented boom in 2007, the value of the real estate market (defined as the sum total of all sales) has exceeded the €2 billion threshold corresponding to some 315% of central government budget and some 90% of the GDP in 2007. In terms of the number of transactions, the market has grown at an annual average rate of 13% over the last 8 years (World Bank, 2008).

UNDP is providing assistance to the Planning and Housing sector in Montenegro since 2004. The first phase of activities has started in 2004 with: (i) support for the development of the *Housing Policy Action Plan (HPAP)* within the Housing and Urban Management Initiative of the Stability Pact for South Eastern Europe; and (ii) providing assistance to the Government in drafting the *Law on Physical Planning and Development* of 2005. The second phase of the assistance started in January 2007 and has targeted: (i) finalizing the NSP; (ii) providing technical and financial assistance to municipalities in preparing local SUPs and GUPs; (iii) support for the preparation of a draft law on legalization of illegal buildings. Currently UNDP is refocusing its efforts to work on pilot projects for three villages Zabljak, Bijelo Polje (Rasnik-Rasovo) and the flooded area in Berane (Donji Talum). The pilots will create a inventories of facilities with all characteristics (dimensions, ownership, purpose, number of floors, the level of energy efficiency, seismic risk assessment). Further, it will pool UNDP grants of € 250,000 and loans of € 200,000 from the World Bank (LAMP) to support the conversion of informal settlements to formal.

THE WORLD BANK LAND ADMINISTRATION MANAGEMENT PROJECT (LAMP) was initiated in 2009 with a loan of € 11 million and a contribution of the Government of Montenegro of € 11 million (World Bank, 2008). Two of the components are particularly relevant to the regularisation process and are expected to provide a much-needed boost to the technical, administrative and institutional capacity to implement the *Strategy on informal settlements*. Furthermore, the development of SUPs and DUPs targets municipalities where such planning documentation is non-existent acting as a major constraint for regularisation but also for the administration of building permits during the significant construction boom till 2008. The focus of the LAMP is as follows:

- *Component A: Real Estate Administration.* This component has four subcomponents: (i) improving registration services; (ii) information system development; (iii) provision of basic maps; and (iv) completing the real estate cadastre.
- *Component B: Improving Planning and Permitting.* This component will support the planning and permitting processes in all 21 municipalities and at the central level with four subcomponents: (i) improving the planning process and support to MED; (ii) improving planning at the municipal level and completion of plans; (iii) improving construction permitting and inspection; and (iv) support to the business environment.

Progress achieved by the end of 2010 in the areas of development of spatial and urban plans under component B is the selection of teams of work on SUPs in six municipalities: Cetinje, Danilovgrad, Bijelo Polje, Plav, Kolasin, and Savnik. Two SUPs are in process of finalization: Andrijevica and Pljevlja. Further, a Public Awareness for Planning and Permitting Campaign (PAC) is under preparation, which is expected to: (i) incorporate the preliminary findings of the social survey into the background section; (ii) prepare a SWOT analysis which should serve as a basis for articulating a strategic vision and objectives; and (iii) stress the importance of public engagement in the planning process as a strategic priority. In operational terms, the action plan is expected to: (i) prepare a month-by-month schedule of actions for the first 13 months; (ii) specify key messages to be delivered for each theme and target group; and (iii) identify relevant spokespersons for each theme within MSDT.

Neither the social survey on regularisation, nor the PAC draft documents were available for review by the team working on the Feasibility Study.

2.6.2 CENTRAL AND LOCAL GOVERNMENT INITIATIVES

The responsibility for dealing with illegal buildings is split between the national government, with responsibility resting with the Ministry of Sustainable Development and Tourism (MSDT, until 2010 Ministry of Spatial Planning and the Environment), and local municipalities. MSDT is responsible for buildings over four stories, buildings larger than 1,000m², and those constructed in special zones, such as the coastal zone and national parks. Municipalities are responsible for all other buildings that do not fall under these categories. The utility companies also have responsibilities, particular in relation to illegal connection to water and electricity.

An institutional response to this situation has been the formation of a national coordination committee since 2007 to oversee the response to illegal buildings. It is comprised of representatives of the line ministries dealing with planning, social affairs, tourism, transport, agriculture, culture and labour, plus representatives from READ, police, national parks, utility companies and the coastal zone management authority. MSDT has recently established a Working Group comprised of the Minister, Deputy Minister and Mayors of Bar, Podgorica, and Zabljak to propose a plan for the regularisation of buildings without permits.

Since 2004 the Government has initiated some measures to address illegal construction when it issued an order to stop unauthorized construction in the coastal zone and in national parks. In 2007, the campaign has been extended to six coastal municipalities. In some cases demolitions have taken place in the coastal zone and in Podgorica. MSDT reports on demolition of 70 buildings in national parks, mostly at the construction stage. In Podgorica, authorities have been active in both regularizing illegal constructions through new DUPs and demolition. Similarly in Ulcinj ten partially completed buildings were sealed or demolished, while in Budva this number reaches 31 (World Bank, 2008). These results are indeed very modest compared to the scale the problem in Montenegro. The experience of other SEE countries discussed earlier documents more significant achievements over a shorter period of time.

Some of the ongoing work to improve the regulatory environment for planning and building permits is expected to result in more streamlined processes, legal changes and other provisions to create 'a one stop shop' for planning approval. Two seminars with roundtable discussions in 2009 and 2010 have supported this process. MSDT is expected to provide recommendations for legal changes in that regard by the end of 2010. Such changes hopefully will create a more transparent regime for regularisation in the future. The proposals were not available for review at the time of writing.

3 ANALYSIS OF THE STATUS QUO IN THE PILOT SETTLEMENTS

3.1 RAPID ASSESSMENT OF SETTLEMENT LAND USE PATTERNS

3.1.1 POBRDZE, RUTKE AND PARTIZANSKI PUT

Pobrdze, Rutke and Partizanski Put are predominantly residential, with some mixed use developments along the railway lines. The historic patterns date back to 1960s when the railroad was built connecting Podgorica with Bar (1958) and Belgrade with Podgorica and the Adriatic Sea (1975). Some older plans produced in the mid-1970s refer to over 700 houses of favela style development lacking basic infrastructure services (see Figure 11). Parts of the settlement have a grid system with narrow roads that provide access to houses that have grown organically over time. But a substantial part of houses has no direct road access at all. An informal grid of footpaths plays an important role in connecting these plots.

Figure 11: Physical barriers to integration, constrained access and public safety challenges



Source: Authors

Most of the homes are built on privately owned land. More entrepreneurial homeowners and small scale tourism operators have set up small scale retail on the ground level, or in some cases in the middle of the road, to provide much-needed retail services within walking distance. In formal

settlements with low to medium density (less than 250 inhabitants/ha), there seem to be no legal restrictions for mixed-use with services such as tourism, retail, banking, day care, food establishments, small scale production, and/or medical practices to be integrated with residential functions.¹ But in an informal environment, such small business is always in a legally grey area.

The areas have a strip of supermarkets and hotels along the small river adjacent to the railway lines, mostly clustered in close proximity to the tunnel connecting the area with Sutomore centre (see Figure 12). There are no public green areas, and limited space allocated for technical infrastructure (power stations, water reservoirs, etc.). The road network has evolved historically with ad hoc investment from the municipality and the residents themselves. A substantial part of roads is in private property. The topography is challenging and even if it was a greenfield development it may not be possible to ensure vehicle access to all urban lots. In the present land use distribution, the roads probably consume less than 10% of the land but are complemented with an organically developed system of stairs, pathways and linkages which ensure connectivity and access for residents and tourists through the area in a more sustainable manner. Despite the flow of tourists, and potentially daily commuters to Podgorica, with the train, there is no safe access to the railway station, creating serious liabilities.

Figure 12: Mixed use development along railway lines serving neighbourhood centre functions



Source: Authors

3.1.2 CANJ

The area has DUP from 1960s, and the new DUP is in process of adoption (see 3.2.4, p. 36). The area is adjacent to the beach with a group of hotels built in the 1970s with more recent developments stretching the hotel zone with informally built five-six storey hotels. Contrary to Rutke and Partizanski Put that are predominantly residential, the area functions as a tourist destination with a mix of hotels, small villas with B&B accommodation built in the 1980s and more substantial profit driven investments since 2000s (see Figure 13). Road access is constrained, but likely to meet present standards with some road widening and on street parking, there are a number of unfinished buildings and challenges

¹ Rulebook (2010).

related to public safety that need to be addressed. The area has unique elements, it is a competitive tourist destination where more modest cabins have been replaced with large scale hotels in the future vision of DUP, thus creating considerable market potential for present landowners. Reportedly all developments in Canj II are informal. In some cases informal construction is combined with upright approvals for touristic facilities.

Figure 13: New informal hotels in Canj II



Source: Authors

3.2 PLANNING POLICY DIRECTIONS FROM HIGHER LEVEL PLANS

3.2.1 GENERAL URBAN PLAN (GUP)

Bar municipality has commissioned a SUP in accordance with provisions in the *Law on Spatial Planning*.

The General Urban Plan (GUP) 2020, approved in 2007, establishes a concept for the future development of the municipality integrating land use, economic, social and environmental requirements for a number of rural and urban settlements under municipal jurisdiction. The total population is 40,000 (in 2003), out of which 17,300 is classified as urban. The projections indicate a substantial growth till 2020 of up to 53,200, almost equally distributed between urban and rural areas. The GUP recognises some deficiencies in the provision of infrastructure and social services,

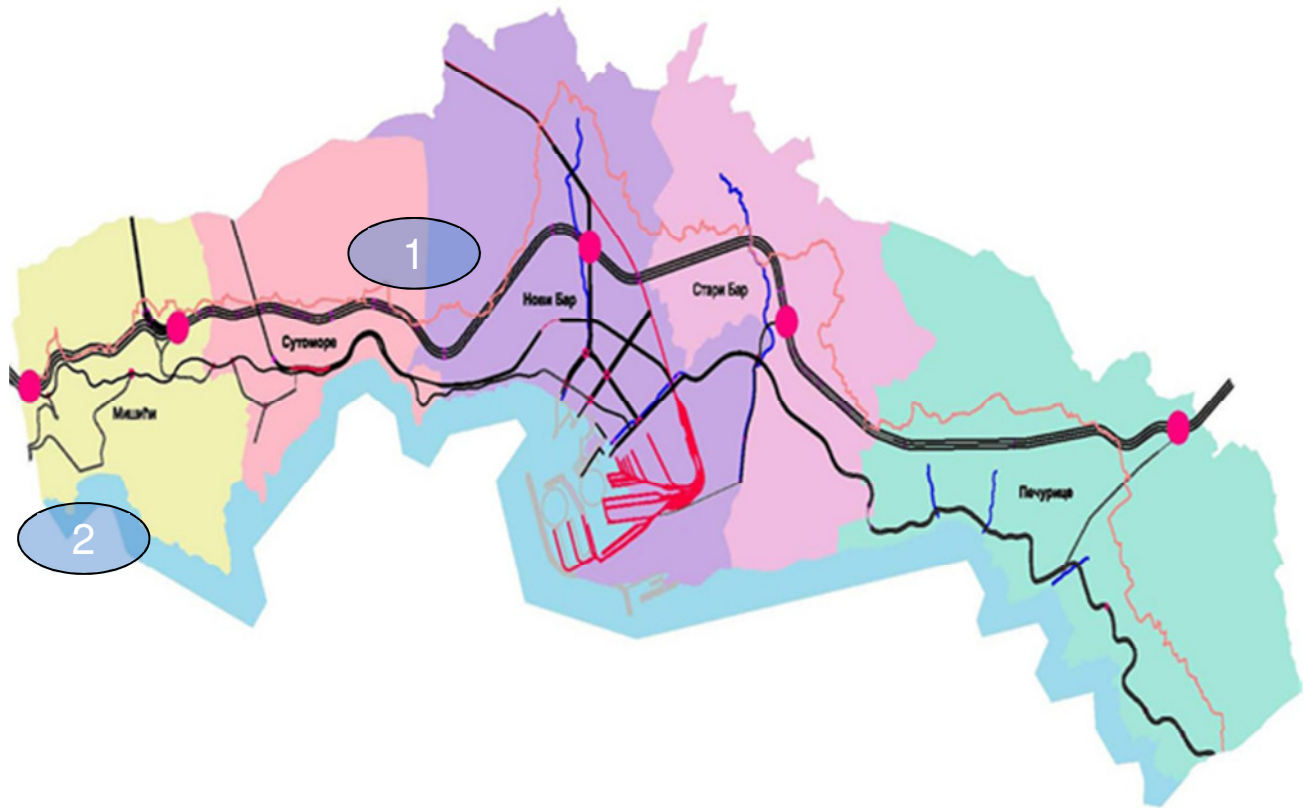
particularly in rural areas. In the economic realm it emphasizes the potential of tourism, the port and some service related economic activities as potential sources of employment growth in the future. Nearly half of the people in the municipality are employed in the service sector with 20% in industry, warehouse and logistics.

Tivat, Budva, and old town Bar are part of the Bar Riviera with attractive climate, beaches and other future opportunities for naval, recreational and convention tourism. The municipality has mostly 3-star hotels with a fairly high number of rooms, bed and breakfast (B&B) offered in private accommodation. The GUP identifies 12,900 beds (out of which 3,400 in hotels) and unknown number of beds in private accommodation rented informally. While there are 63 registered hotels, informal construction for such purposes is prevalent. Beaches in Canj (1,100 m of length; 5.5 ha) and Sutomore (1,440 m of length; 5.8 ha) are considered major tourism destinations (project areas 1 and 2 on Figure 14). Skadar Lake is another anchor for future tourism development.

The average density in Bar municipality is below 50 people/ha. The spatial structure is dispersed and social service provision – education, primary health care, recreation – is concentrated in several centres. The GUP does not treat important issues such as public transit, fire safety, quality of public spaces, public parking, permeability and alternative routes to beaches, particularly during peak season when the population probably quadruples. Overall the projections are based on very limited data and no consideration is given to the fiscal capacity of the municipality to implement infrastructure measures. Existing boundaries allow for infill development at low density (below 50/ha) and accommodation of 89,400 people in the long-term future. Some urban areas are designated as high- to medium-density with the potential to accommodate demand from tourism and/or multi-family development. Sutomore, adjacent to pilot project area 1, is designated as the social and economic subcentre for the area with educational, health, cultural, and recreational functions and concentration of higher density development adjacent to these facilities (see Figure 14).

The housing conditions are reported as good, particularly in urban areas, with over 95% of the housing built since 1960. There are over 360 dwellings per 1,000 residents (although it is not clear if the informal housing is included in this estimate), which is particularly high compared to other SEE countries, but some 20% below EU average. Additionally, the big number of holiday homes and the very high price level of newly built apartments put this number in a perspective. While the housing stock is considered adequate in terms of basic quality, its servicing with communal infrastructure tends to be problematic. GUP reports that 61.7% is serviced by piped water and only 44.8% is serviced by piped sewer. These metrics of service provision are very different across the municipality with Bar Centre and old Bar services twice the average.

Figure 14: Pilot Project areas in Bar Municipality: Pobrdje / Rutke (1) and Canj (2)

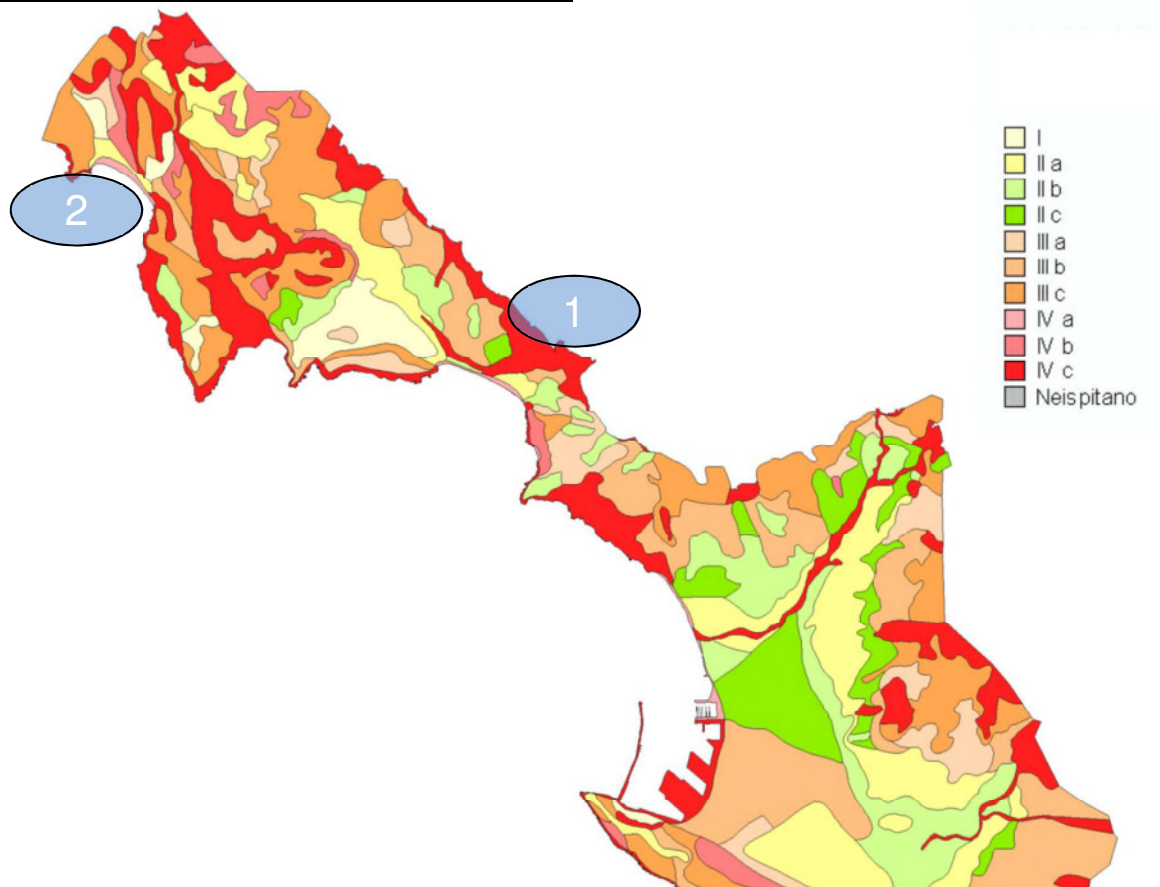


Source: GUP Bar Municipality 2020

Informal development, while recognized in the GUP, is not given any particular attention in terms of regularisation challenges. The statistical part of the plan provides some crude estimates; it specifies that the total number of objects is 22,047, while only 19,873 are registered (out of which 18,777 belong to physical persons). It is safe to assume that this number has grown significantly during the construction boom period after 2007.

With respect to seismic conditions, the DUP identifies areas in Zone D, Xth degree of seismic intensity on MKS scale, and in Zone H classified as unstable with high seismic risk. Such conditions need to be considered in the planning of infrastructure and engineering reinforcement of buildings. The spatial distribution of development in accordance with seismic risk on the territory of the municipality is presented in Figure 15 with pockets of land classified as unsuitable and/or extremely unsuitable for urbanization (categories 4 a, b and c on the seismic risk map) present in pilot project area 1 & 2.

Figure 15: Seismic Risk Map of Bar Municipality

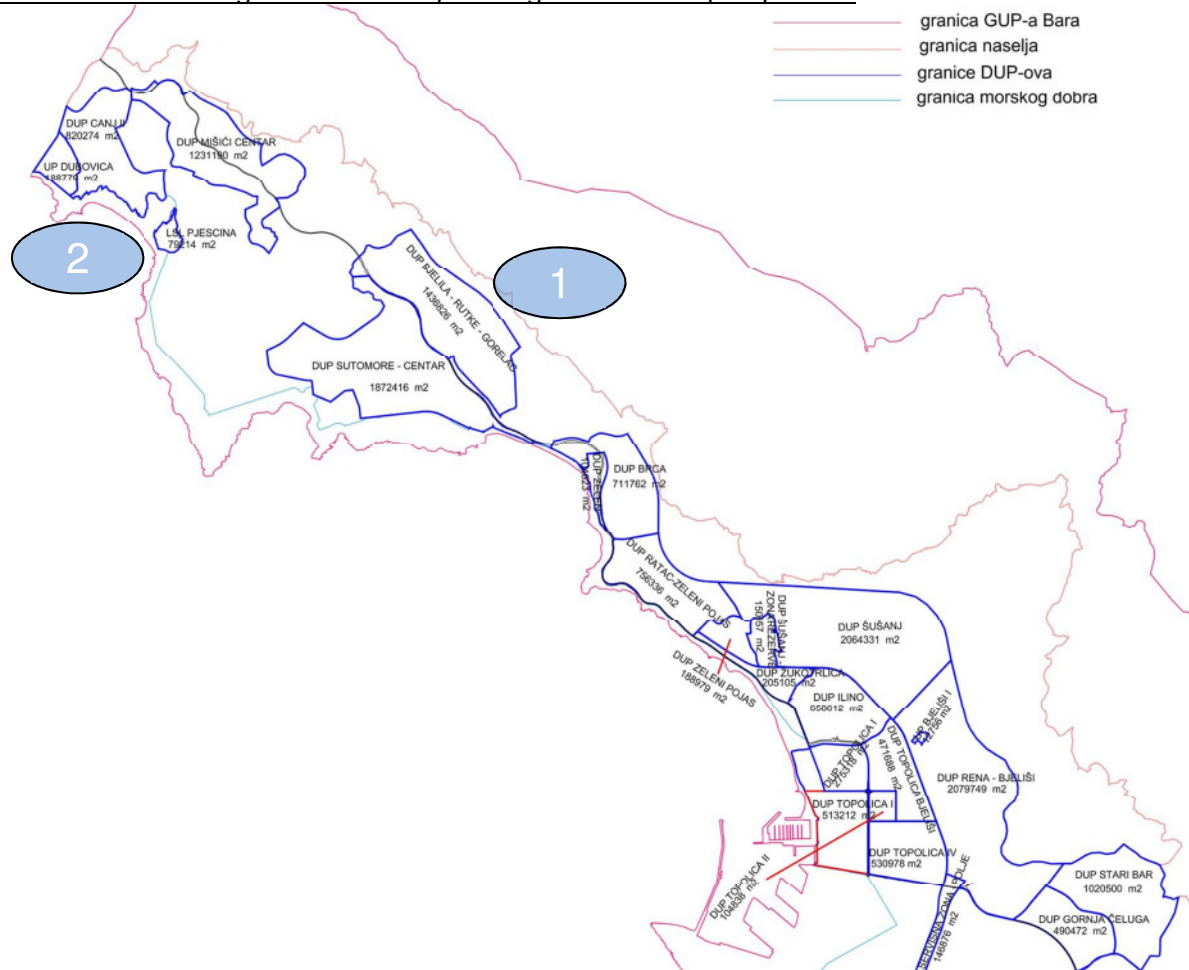


Source: GUP Bar Municipality 2020

3.2.2 AREAS WITH DUP PLANNING IN BAR

The biggest part of the settled area of the municipality of Bar is designated to have DUPs. But only for parts of them such detailed plans have been executed so far. This is the case for e.g. Canj II, but not for Pobjrje / Rutke (Figure 16).

Figure 16: Areas designated for DUP planning in the municipality of Bar



Source: GUP Bar

3.2.3 SUTOMORE CENTRE PLAN

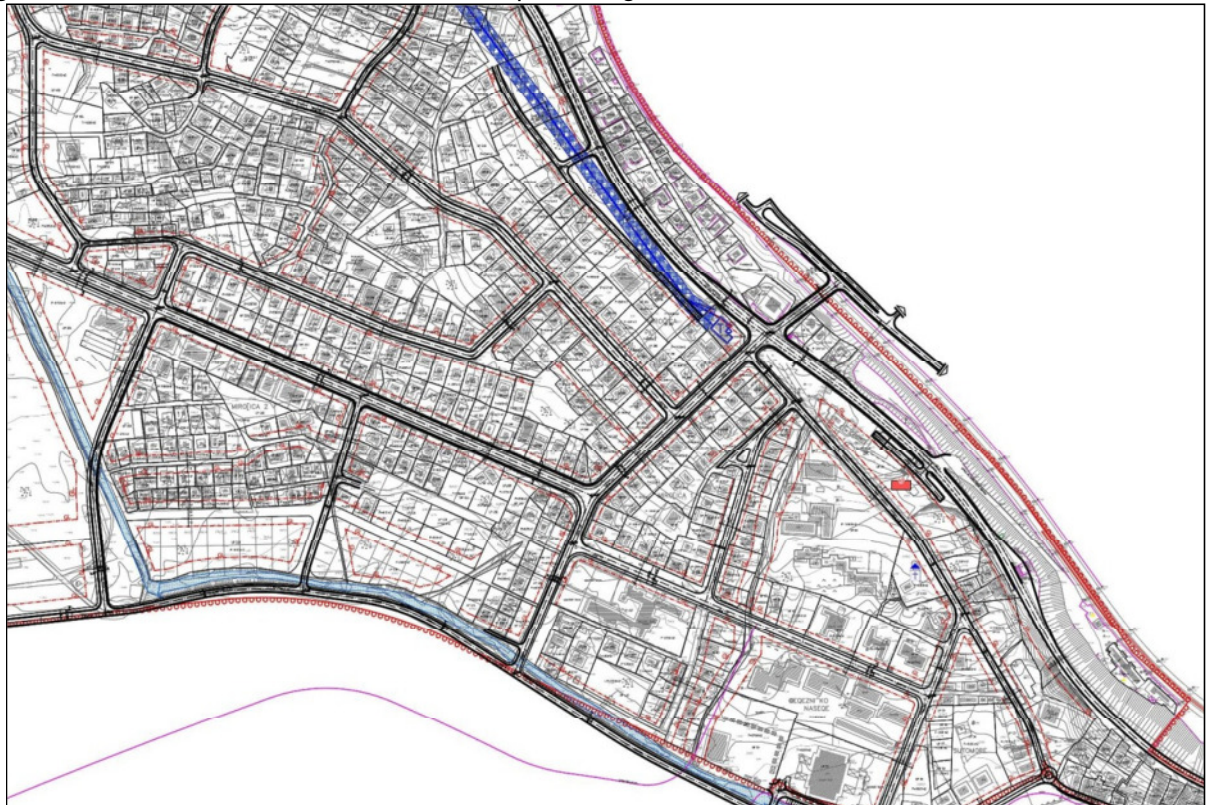
Sutomore Centre Plan is currently in an advanced stages of discussion. Urban planning was executed by the local agency Montenegro Project. It covers the area south west of the project area Pobrđe / Rutke, on the other side of the magistral and the railway. In Centre Sutomore all the social infrastructure is available which lacks in the project area of Pobrđe / Rutke, such as school, kindergarden, medical service, public traffic, shops, banks, post office, etc. Therefore the lack of social infrastructure is hardly criticized by the respondents in the project areas. The settlement of such facilities fails in many cases because of the deficient accessibility of the whole area.

Taken the close neighbourhood of the project area and central Sutomore and the need to link both areas, the overlap of the planning areas is important. The DUP of Central Sutomore covers a small stripe northeast of the magistral including parts of the railroad and a road link via a designated new tunnel (Figure 17). The new tunnel shall be located around 50m west of the existing tunnel, connecting Rutke diverging from the main crossroad magistral / Sava Kovačevića. But the proposed location of the new tunnel has major deficiencies. Only on the plan it seems that the tunnel is directly connected to an existing main road of Rutke. In reality there is a brook next to the exit of the tunnel, followed by a step in topography of some 5 m. As seen in Figure 17 this can only be resolved by a sharp U-turn. The option would be very expensive not at last because of compensation of an existing house and the

necessary relocation of the creek. As seen in chapter 4.4.2 (p. 56), an alternative location of the tunnel is recommended.

Altogether, the link between the DUP for Central Sutomore and the project area should be considered more thoroughly, mainly by extending the DUP area of Central Sutomore with a bigger overlap to the area of Pobjedje and Rutke.

Figure 17: Draft DUP of Sutomore Centar, parcelling

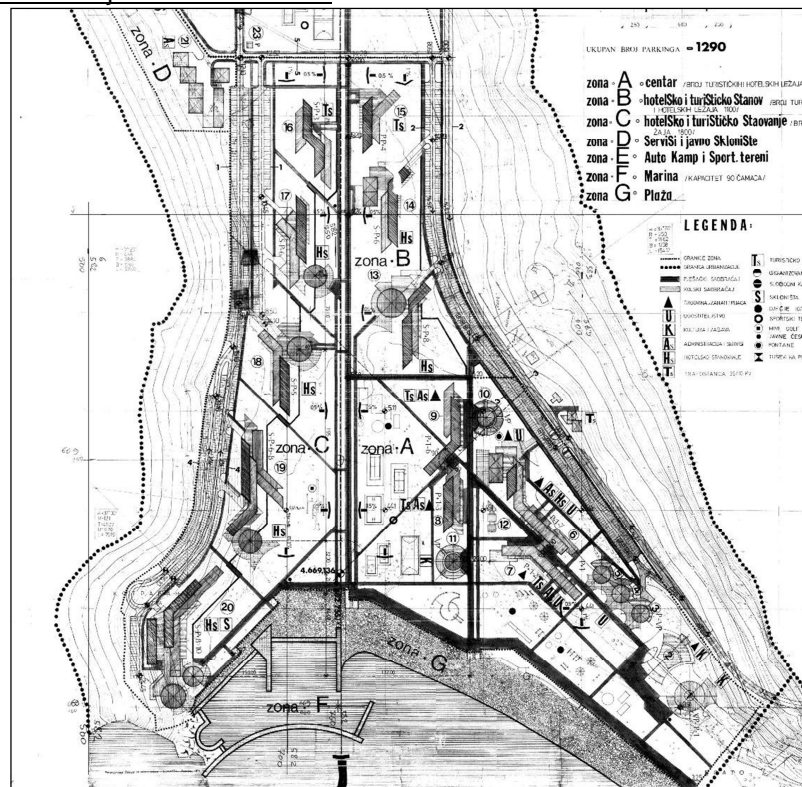


Source: Municipality of Bar, Montenegro Project

3.2.4 DETAILED URBAN PLAN CANJ II

For the informal settlement Canj II, located directly at the high potential touristic area of the Pearl Beach, already in the 1960s a DUP was decided, which obviously never influenced the real development (Figure 18).

Figure 18: DUP for Canj II from the 1960s

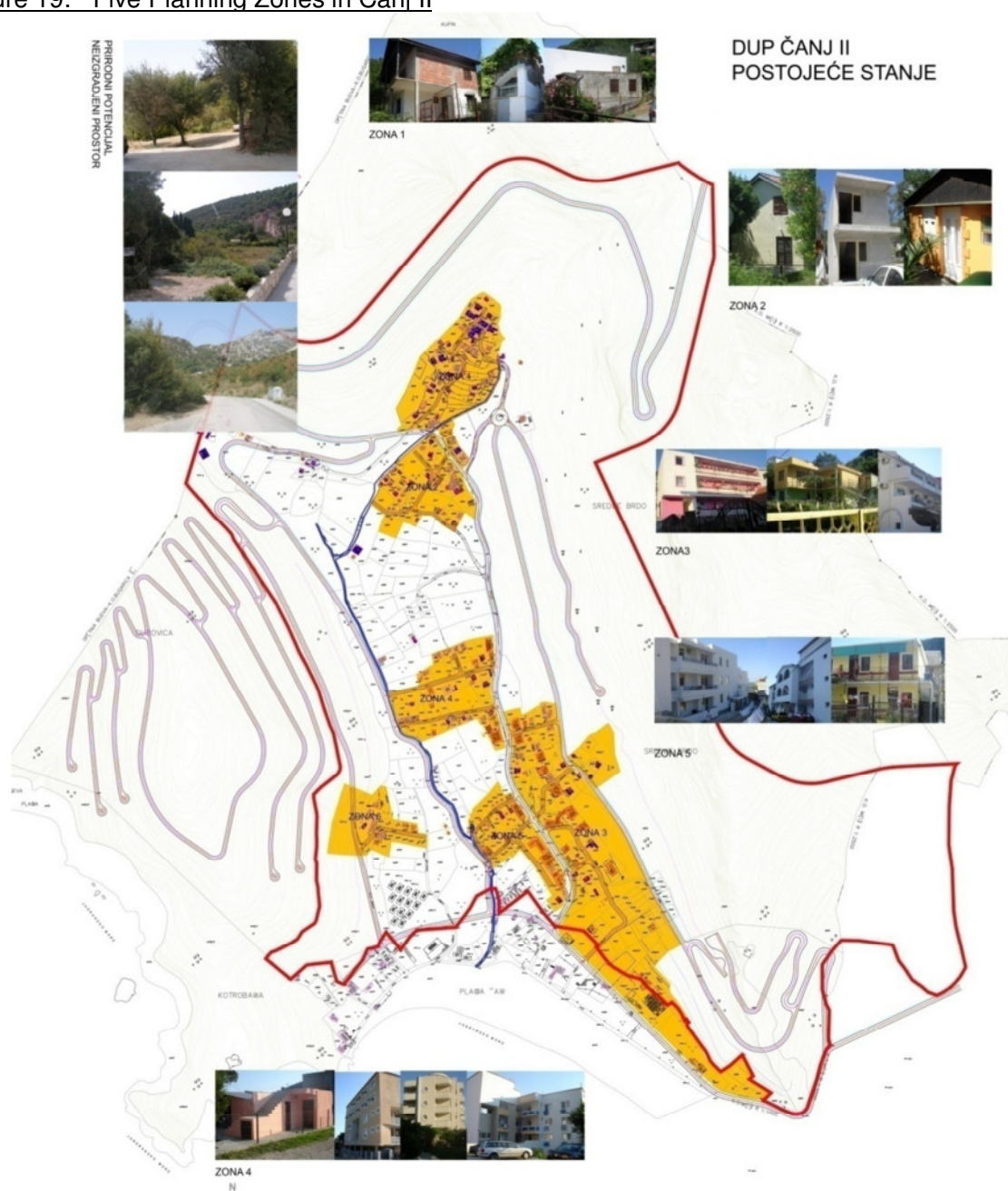


Source: Municipality of Bar

The Detailed Urban Plan (DUP) of 2010 introduces three planning regimes for intensification of the area, emphasizing its predominant tourism profile. It envisions the total number of inhabitants increasing to 5,600, with over 70% of these being tourist inhabiting the area during the peak season. Over 45% of the territory (over 660,000m²) designated as urban parcels is currently undeveloped. It is unclear if the DUP accounts for the traffic and capacity issues generated by the flow of tourists on the weekend from Podgorica and other cities in Montenegro. A typology of tourism accommodations is introduced applicable to five planning zones (see Figure 19) with fairly prescriptive details regarding lot coverage, intensity of construction, maxim floor space, number of storeys, parking areas, set backs, even materials and desirable style. The rules for implementation refer to connectivity, measures to preserve the existing vegetation, improve road infrastructure and treat seismic risk with construction reinforcement.

The DUP provides broad guidelines on design and realization, including rehabilitation of existing hotels. There is no reference to public transit services or other amenities related to social infrastructure, opportunities for sustainable ecological tourism and alternatives to accessibility by car through the new tourism settlement. There is no information regarding types of informality, ownership of land, and registration in the cadastre. In summary, the DUP does not treat the question of informal development, which given its scale and concentration in the area is really difficult to ignore. The contents of the DUPs need to be improved to make sure that informalities are documented, surveyed and accommodated in the future plan in a pragmatic and realistic way to allow effective regularisation. The DUP itself is an important element to proceed with regularisation, but some major revision is required (see 4.5.3, p. 62).

Figure 19: Five Planning Zones in Čanj II



Source: GUP Čanj II, 2010

Figure 20: DUP Canj II, proposed settlement structure



Source: DUP Canj II, 2010

3.3 RAPID ASSESSMENT OF BUILDING TYPES AND USES

3.3.1 TYPES OF BUILDINGS

Buildings in Rutke, Partizanski Put and Pobrdze range from 2-6 storey high, mixed methods of construction using brick and in-situ concrete. These are mainly single family homes, villas and holiday houses of quite different size. Most of the houses have been built in phases, supplementing the original building with rooms and apartments for tourism using personal savings, sweat equity and remittances. A fair number of vacant lots and half completed buildings exist, with owners who do not live permanently in the area and have deferred investment. Most of the homes, over 60%, are single family with another 20% cottage type summer accommodation. There are limited examples of low quality homes, completely unfit for habitation (see Figure 21), just as there are limited examples of finished multi-family buildings, apparently functioning as hotels (Figure 22). On average, most of the residential buildings will fall in the category of less than 250 m² of gross floor area, but certainly well above the average for Bar municipality in the GUP of 80m².

Figure 21: Small self-built homes with substandard quality



Source: Authors

Figure 22: Multi-family housing, vilas and B&B tourist accommodation in Rutke & Pobrdze



Source: Authors

Figure 23: Multi-family housing, vilas and hotels in Canj II



Source: Authors

The type of construction and occupancy groups established allow classification in four types:

- a) single family residential;
- b) residential with B&B and incidental retail/service uses;
- c) multifamily residential transient type – second residence / apartments/tourism; and
- d) motel / hotel.

Such occupancy groups and intensity of use will drive access, floor area, building height, and other requirements affecting public safety and seismic standards reinforcement. Types c) & d) should have the most stringent requirements for full compliance with present standards at the time of regularisation and building / occupancy permit registration (Figure 22), while in the other cases some accommodation of incremental upgrading needs to be made.

3.3.2 CLASSIFICATION OF BUILDINGS BY DEGREE OF INFORMALITY

The matrix presented in Table 24 reviews the types of informality, connected to legal status of land and building as well as present and future function and intensity of use, which places different expectations with respect to public safety, security and liability. These distinctions are particularly important in legal and financial terms. The other factors relate to essential steps in the regularisation process associated with the planning/building permit and the final stage of asserting compliance – the occupancy permit. While it is obvious that the possibilities are numerous, the matrix nevertheless provides a basis for differentiated treatment in the process of planning and regularisation that so far has not been considered in Montenegro.

Table 24: Matrix for classification by degree of informality and possibilities for regularisation

LEGAL STATUS	FUNCTION	CONFORMITY WITH PLAN (building permit)	CONFORMITY WITH PLAN AND BUILDING CODE REQUIREMENTS (occupancy permit)	DESIGNATED PAYMENT OF COMMUNAL FEES
1. Title of land and building registered in the cadastre	1. Primary residential	1. Have building permit & have built according to rules	1. No occupancy permit but it is possible to issue in accordance with plan	1. Payment in lump sum with up to 30% discount
2. Title of land registered in the cadastre	2. Secondary and holiday home	2. Have building permit but have built more	2. No occupancy permit but it can be issued after prescribed improvements / rehabilitation to existing structure	2. Installment payment (e.g. down-payment 30% + 10 years)
3. Ownership of land (private) but no registration in cadastre	3. Residential + B&B + incidental commercial	3. No building permit but in line with plan provisions	3. Occupancy permit cannot be issued: demolition	3. Payment with soft loan (e.g. over 20 years, 5% interest rate)
4. Building on public land (informal right of use or squatting)	4. Multi-family housing apartments / tourism	4. No building permit but cannot be issued due to road widening or other critical infrastructure requirement, demolition required		4. Reduced payment (means tested)
5. Building on private land (informal right of use or squatting)	5. Motels / hotels			
	6. Supermarkets / other business uses with high intensity occupancy			

3.4 AVAILABILITY OF TECHNICAL INFRASTRUCTURE

This section will focus mostly on Rutke, Partizanski Put and Pobrdje due to complete lack of analysis on these issues in the area, while some of these are expected to be covered in Cani II DUP.

3.4.1 ROADS

Since the early days the residents of the settlement self-financed or negotiated provision of basic infrastructure. Road access was also essential to ensure that building materials could be brought to the site. In Rudke and Partizanski Put the road network is better following a grid pattern, it has concrete foundation, some parking spaces and possibilities to make a turn. Despite such initiatives, and due to topography as well as recent expansion, the deficit in road provision is significant with many homes without vehicular access. Existing roads, even in the area with high traffic, are less than 5 m wide, connectivity and permeability is limited and dead end roads are common. This would be one of the most significant challenges that a future DUP needs to resolve providing a reasonable compromise related to the protection of existing structures and ensuring access for public safety purposes (fire, medical emergencies, natural disasters). The system of existing roads that has evolved organically is in fact rather logical and takes into account frequency of use and the limited vehicular traffic in the area (see Figure 25). DUPs in such cases should not provide roads that are 7-10 m wide (which is the case in some DUPs reviewed), but rather maintain access with 2.5 m lane as stated in the *Rulebook* (2010) and negotiated right of ways with private owners registered on title. The settlement has effectively a one way traffic system in many sections, which with on street parking lots and careful traffic control and management can be maintained in the future to avoid massive demolition to clear land for roads.

Figure 25: Access roads, pathways and connecting staircases provided by residents



Source: Authors

Access to the area is particularly problematic and is ensured with one substandard tunnel 3 m wide with height less than 3m (Figure 11, p. 29). This has to be shared between pedestrians, individual traffic, business logistics and waste management vehicles. Discussions with residents indicated that the tunnel is flooded during rains, as the main drainage line for the whole area north of the railroad is situated below this road, thus effectively leaving the residents and tourists completely cut off or simply crisscrossing the railway lines. The municipality has designated some funding to address this problem in its capital budget for 2011 and there are different alternatives under consideration to be resolved in the *Sutomore Centre Plan* (see 3.2.3, p. 35). The issue is critical as this is obviously a major infrastructure project that cannot be financed from communal fees. Leaving the settlement with one access point is also problematic given the potential number of people that live there on a permanent basis (at least 4,000) and the fact that it accommodates over 15,000 tourists during the peak season. It is to be considered that improvements of accessibility would strongly increase the demand for parking within the settlements. As there is no planning for public transit to service the area internally, and tourists will increasingly use private vehicles in the future, the DUP will need to provide opportunities for street parking and lots designated for such purposes to ensure that vehicle traffic in the settlements remains limited and under control.

3.4.2 ELECTRICITY

The level of infrastructure provision in Rutke, Poburdze and Partizanski Put is close to the average for Bar municipality with more significant deficiencies with respect to piped sewer, waste management and waste water treatment. Levels of infrastructure provision in pilot project areas are presented in Table 26. There is additional, albeit limited, capacity of current systems to increase levels of services. Investment in the electrical grid dates back to 1972 with more substantial expansion in 1984 and 2009. Electricity consumption increases from 2 MW/per household to 12 MW during the peak period in the summer. The network, although relatively new, is considered in need of improvement, particularly the low voltage network; land is needed for additional power stations to extend the power grid. Two power stations built in 2009, the rest date back to the socialist period. Payment discipline is reported by the electricity company to be good, the provider reports 30% losses on average due to lack of systematic investment to maintain the quality of the network.

In Canj, the electrical grid was developed in 1980 to service the hotels along the beach with some major expansion in 2004.

Table 26: Infrastructure provision in pilot project areas (no. of connected plots)

SETTLEMENT	ELECTRICITY	WATER	SEWER	WASTE MANAGEMENT
Pobrdje		327	40	
Rutke		324	5	
Partizanski put		244	29	
Total	2023 (incl. 24 hotels)	895	74	500
Canj	315	424	250	

Source: Interview data, infrastructure companies, 2010

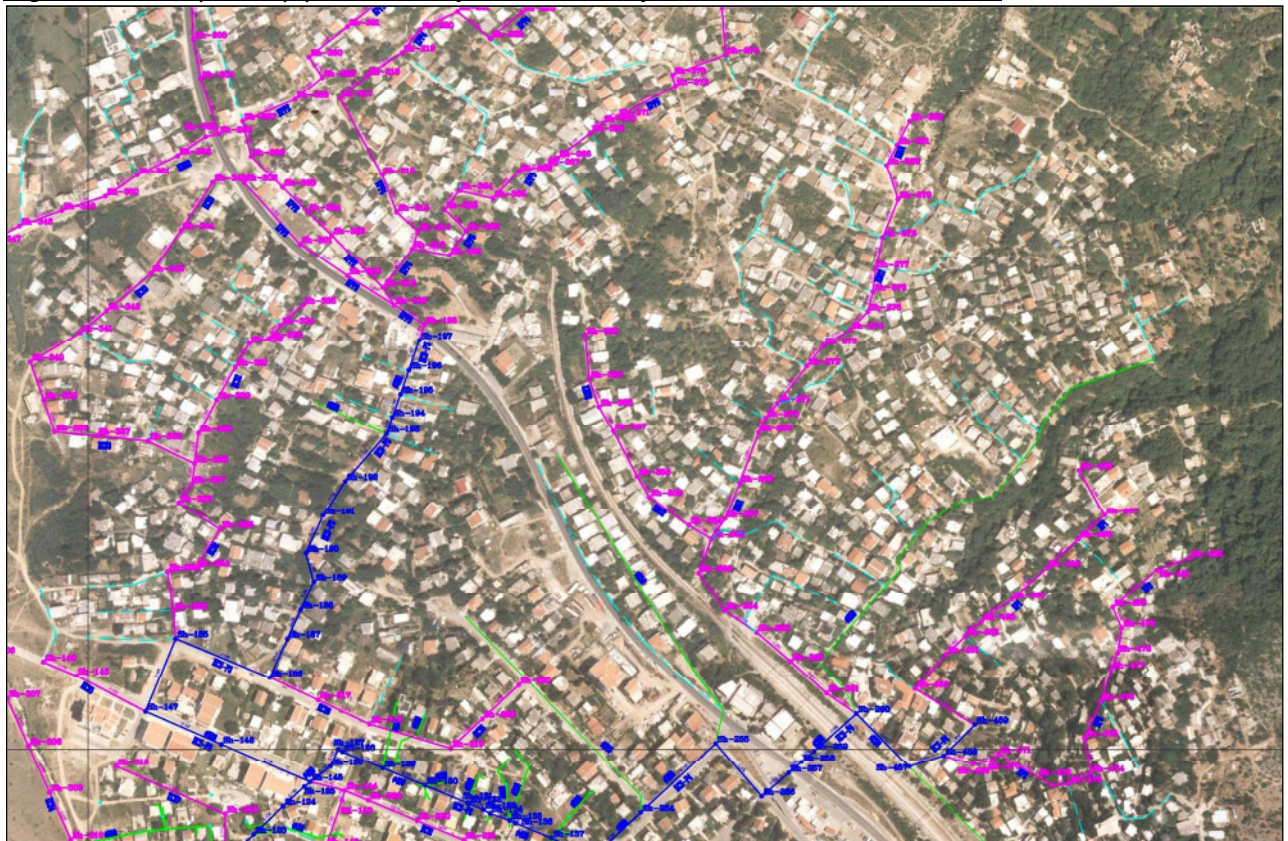
3.4.3 WATER

The water system in Pobrdje and Partizanski Put includes:

- Reservoir Sutomore1 $V=500\text{m}^3$
- Pump Station Sutomore (cumulative yield 190 l/s) for Sutomore, Bar, and Canj.
- Pump station with a tank Sutomore 1 with the purpose of pumping water in the second altitude zone of these settlements.

The water and sewer companies are owned by the municipality. Utility payments do not ensure cost recovery of services and capital investment to improve the existing distribution network. Communal fees are a critical part of the capital budget to address the absolute deficit and extend services to all houses in the area as well as to address the cumulative deficit generated by previous ad hoc investments. *The Regional Water Supply 2030* project aims to stabilize the supply of water in the area, which frequently experiences water shortages during the summer months when peak consumption is 5 times the average. Nearly half of the homes have a water cistern, the quality of the water is compromised, losses are significant with 60% of these due to illegal connections. The problems are critical for homes in the upper segment of the area where the difference in height is over 120 meters. The water company needs sites for future expansion of water reservoirs.

Figure 27: Proposed piped sewer system in Pobrdje, Rutke and Partizanski Put



Source: Municipality of Bar

The Water Supply Project II for Pobrde, Rutke and Gorelac envisages construction of the following facilities:

- Reservoir II Sutomore2 $V=1,000\text{m}^3$, $K_d=116\text{mm}$, $K_p=120\text{mm}$;
- Supply and discharge piping;
- Reconstruction and extension of distribution network;
- Reconstruction of pumping stations with reservoir Sutomore 1.

In terms of water supply Canj has a separate sub-system with the following elements:

- Pressure pipeline Sutomore 1 – tank Canj, DN 200mm, which serves as a reserve for possible regulation of water capacity;
- Reservoir Canj $V=700\text{m}^3$, $K_d=81\text{mm}$, $K_p=85\text{mm}$;
- Supply pipeline DN150mm with spring Vrelo and spring wells B1 & B2;
- Primary distribution line DN200mm and associated distribution network;
- Hidrofor plant for settlement Canj II;
- Spring „Vrelo“ with associated pumping station;
- Spring wells B1 & B2 with associated pumping station.

Some of the problems in water supply are associated with deterioration of the distribution network, and as a consequence of unplanned construction and insufficient capacity of pipelines. The planned expansion in the DUP should consider such constraints in the network servicing capacity.

3.4.4 SEWERAGE

Most of the buildings in Pobje-Rutke-Partizanski put do not have access to piped sewer. The issue is resolved through the provision of septic tanks. The sewer system is extended to some of the central areas on a private basis, with voluntary access. Reportedly accession costs are in the range of € 1000 per single family house. The municipal plan is to extend the sewer system to a larger number of buildings (see Figure 27) as well as to improve the quality of septic tanks by removing improperly manufactured coatings that pollute the open flow. Full coverage with piped sewer system for the whole area may not be feasible in the short-term and needs to be addressed in the capital investment plans and calculation of communal fees. The relationships to categories of buildings, intensity of use and number of users are particularly important in this respect. While piped sewer connection options may vary, a solution to the drainage of the waste water from urban run-off needs to be resolved.

The number of registered sewerage system connections in Canj is 250. This drainage system covers an area within Canj I & II. The development of sewerage system in the zone Canj I followed the construction of tourist facilities and it is fully built, as opposed to Canj II where it has partial coverage. Basic facilities of the sewage system are main collector sewer of Canj I & II, central pumping station and outfall Ø 315 mm, L = 1500 m with diffuser. In order to remedy the problems of wastewater disposal and piped sewer connection in Canj II, the secondary sewerage network needs to be expanded.

Five facilities for waste water treatment are proposed in the GUP for the municipal territory. Over the years, all coastal settlement shall be connected to such utilities. But at present, waste water is pumped offshore insignificant purification.

1.1 LEGAL STATUS OF LAND AND BUILDING OWNERSHIP

The MSDT provided cadastre data for the territorial entity „Zankovici“, which includes main parts of the project area, but goes beyond the areas Pobrdje and Rutke. Despite of thorough efforts of the project team it was not possible to clearly define the boundaries of the project area and to collect data for only the defined area. Nevertheless, the following statistical analysis provides some insight to the ownership structure of our informal settlements.

Zankovici consists of 1,415 parcels with altogether 2,375 cadastral entities, and total land of 9.56 mill.m² (956 ha). There are 31 parcels which represent 89% of total land, mainly non-agricultural land (mountains) and grassland in the property of the Municipality of Bar and the Republic of Montenegro. But there is more than one dozen private persons owning land of more than 10,000m² each. But generally, private parcels are very small, with one third of all cadastral units with 100-300m² and one third with even below 100m².

Only 8% of the land is privately owned (approx. 800,000m²). Altogether the ownership structure is quite dispersed with around 750 individual owners. Four out of five owners have only one or two cadastral units. But some of them own impressive bunches of plots. There is e.g. one private owner with total property of more than 24,000m², divided in 72 plots. Only 7 of them are of commercial use (5,000m²). He is co-owner of 2 very small plots of single family houses. The rest is forest, grassland, meadows and orchards, mostly in very small parcels; half of all his parcels have less than 300m². For almost all parcels he is only co-owner. Almost one fourth of private land in Zankovici is in the property of only 8 such multi estate owners (with more than 40 plots). There are another 50 individuals owning more than 10 cadastral units, which represents one third of all private land.

Only 15% of all cadastral units (only 0.2% of total land!) are used for single family houses, weekend houses or mixed use, with an average land size of not more than 60m². Roughly 5% of cadastral units (0.7% of total land) are commercial use, with an average land size of 550m². This is a clear indication about the big volume of non-registered residential buildings in the project areas.

4 UPGRADING AND REGULARISATION STRATEGY

It is important to make a strong business case for regularisation with well identified benefits for governments, investors and residents/small business owners. The pilot project for regularisation of informal settlements with 5,000 homes in Bar municipality sets the stage for concerted actions in this direction. The integration of informal areas into the local economy and urban structure has distinctive economic benefits of providing a boost to local tourism, increasing its competitiveness, raising fiscal revenues for local and central governments and potentially contributing to job creation associated with future area-based investment in infrastructure. Ensuring the sustainable and orderly development of these areas is of strategic importance for Montenegro and protects significant environmental assets. In the informal areas major benefits of the regularisation strategy would be:

- a) improved living conditions for residents, minimised risks regarding safety and security of their property;
- b) increased supply of housing and small commercial premises with better quality;
- c) higher market value of developed land with infrastructure;
- d) secured housing/property assets with property title and ability to leverage funds for business and incremental upgrading;
- e) regularisation is a precondition for touristic development of the coastal area.

The pilot project on regularisation has important institutional aspects. It would assist both central and local authorities in strengthening land management skills and in prioritizing policy actions in informal settlement integration while reducing infrastructure deficiencies. The municipality of Bar is expected to become an active facilitator between the central Government and local communities in informal areas formulating investment priorities, managing project implementation, keeping the community involved throughout the project and collaborating with the local businesses. The pilot project is expected to contribute significantly to cost recovery of public investments and to leverage significant private investment in area improvements and public benefits.

4.1 SWOT ANALYSIS

The strategic planning process draws on Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis in the natural, built, organizational and social environment and clear definition of ways to influence the implementation process. The SWOT analysis focuses on informal development in the two pilot project areas, with a particular emphasis on challenges and opportunities in economic, social, environmental and institutional terms.

4.1.1 ECONOMIC ASPECTS

While research indicates that there is a growing acceptance of the informal areas in Montenegro, and indeed in most countries in South East Europe, its economic and social challenges have largely been underestimated (Gabriel, 2007; Tsenkova, 2010b). The scale and growth of such informal settlements in Montenegro is a manifestation of the largest economic challenge that local governments and cities need to face.

In economic terms, informal settlements mobilize significant public and private investments, which remain outside of the formal economy and investment cycles (De Soto, 2003). Informal housing is prevalent in both areas, with incidental tourism and retail services, and is a vital element of the

informal economy and real estate market. Housing and land in these locations is often traded without the involvement of real estate agencies, registration in the cadastre and required payments of state taxes and dues. While this makes housing more affordable and reduces transaction costs, it cannot be mortgaged or used as collateral for other business purposes (Tsenkova, 2010a). The informal nature of tourism services, although more affordable, lacks the quality and standards provided in licensed accommodations and may be associated with significant health and safety risks for tourists themselves. The Bar Riviera is indeed a strategic asset for Montenegro with significant economic potential due to tourism. It is in the best interests of the State and residents and small business owners to ensure that its future development capitalizes on these competitive advantages and is done in an orderly and sustainable manner. Often housing and small B&B is the single largest asset of the residents and source of income boosted by sweat equity and remittances from family members. Since there is limited tenure security in the regularisation process, this investment is constantly under threat of being lost and becoming „dead capital“, particularly due to environmental hazards – floods, landslides, earthquakes – or demolition. The lack of security prevents people from incremental upgrading and investment to improve the quality of premises and inadvertently perpetuated informality in the built and economic environment.

Notwithstanding the economic challenges for the individual residents and small business owners, informal settlements pose a high political and economic cost for governments, especially in cases of evictions, legalisation and resettlement. Efforts to document the extent of informal development as well as to allocate the extra institutional capacity to integrate the settlements into the planned area of the city are extremely costly (Tsenkova, 2010c). Furthermore, local governments and public institutions need to deal with land and real estate registration, dispute resolution and in some cases compensation of private landowners. Bar municipality compensates with fair market value and these costs could be as high as € 500,000 per house. Often the inability to absorb these costs perpetuates the tolerance to the informal areas. In addition, settlements may take over public land or may leave no space for essential public infrastructure such as sites for parking, green spaces, road widening, power stations, thus shifting the cost burden to local governments and public institutions. The land, often developed in a sporadic way, with single family housing in Rutke and Partzanski Put is underused due to its low density sprawling pattern.

Informal settlements also impact on the government's ability to manage and plan for more productive commercial uses as well as restrict development on lands with high seismic risk or outside the urban growth boundary. The squatting creates long-term problems for the orderly development and growth of the municipality, its servicing requirements and overall real estate potential. Owners do not pay property taxes, communal fees or user fees; often connect illegally to infrastructure, thus reducing the revenue available to government to provide essential services.

4.1.2 SOCIAL ASPECTS

The variety of spatial manifestations of informal settlements in Montenegro is associated with many different social dimensions to the problem. Notwithstanding these differences, several issues are important. First, residents of informal settlements in Rutke, Partizanski Put, Poberdze, and to a small extent in Canj, are often associated with the area for a considerable period of time. Our rapid assessment through interviews and focus group discussions (Figure 28) indicates that over a third of the residents have lived here either permanently or in the second homes for more than 20 years and feel attached to this place. A lot of these residents have retired and are running B&B or rent beds to tourists

during the high season to supplement small pensions. Second, evidence suggests that there are vulnerable households that have resolved their housing problem in the area with some substandard solutions and there might be cases of internally displaced people who have made this their new home. Third, hundreds of people have moved to the area in the last fifteen years – migrants from other parts of former Yugoslavia, small investors, as well entrepreneurial business owners looking for investment opportunities and exploiting informality. The new arrivals have settled in the peri-urban areas where they have built houses and hotels on unserviced lots, squatting on private or public land. In most cases they have purchased the land from a previous landowner but have proceeded with investment without any planning permit as it was not possible to get without an approved DUP.

Figure 28: Focus groups with residents in pilot project areas on priorities for regularisation



Source: Autors

There is a strong spirit of individualism, but also communities of self-interest, bringing groups of owners together to negotiate access to water, electricity and roads with utility companies. People know each other and have made considerable efforts to improve their immediate environment as well as to self-police violations and environmental pollution in the area. These are important elements of social capital that can be mobilised in the process of regularisation. The municipal leadership needs to recognise that both in-kind and cash contributions have been made by residents in particular areas of the informal settlement in the estimation of communal fees. It is also important to have a nuanced approach to different groups of people in the settlement, depending on their social status, commitment to neighbourhood improvement as well as the function/intensity of use of the buildings they occupy.

4.1.3 ENVIRONMENTAL ASPECTS

In most of the cases the environmental challenges in the informal settlements are associated with the lack of basic infrastructure. Even residents of the older and upgraded parts of Rutke and Partzanski Put that are relatively well off lack access to clean water, adequate roads, piped sewer and reliable electricity. The situation has immediate consequences for the residents themselves, but also adversely affects the quality of life in the formal areas of the municipality where urban run-off, downstream pollution from garbage and sewer discharged directly in rivers creates serious environmental threats. This is a major threat for touristic development and counters the self-imposed image of Montenegro as an environmentally sound country.

The infrastructure deficit is significant. The illegal connections lower the efficiency of public utility companies and expose the regular users to frequent power and water cut-offs. Since most residents in informal settlements do not pay the full price for infrastructure usage, the revenue is unable to support the growing demand for infrastructure improvement and extension. In addition to the infrastructure deficit, some settlements are directly exposed to environmental hazards associated with flooding, poor drainage and environmental pollution (Tsenkova, 2010b). The growth of informal settlements contributes to environmental degradation at many levels: erosion occurs from unpaved and undrained roadways; residents without sewer systems increase pollution of local water sources through prohibited discharge; and garbage is dumped along the road, in the local river/creek (see Figure 29). In a number of cases informal developments might create environmental hazards through construction in areas with high seismic risk.

Figure 29: Environmental degradation and residents' attempts to address the problem



Source: Autors

4.1.4 INSTITUTIONAL ASPECTS

Montenegro is grappling with the same set of systemic problems related to lack of access to affordable housing, inefficient planning and land management systems, as well as the lack of institutional capacity to effectively address informal settlement problems. A common element of this process is the combined effect of economic transformation, decentralization in governance and war-related conflicts, which have provoked a sudden acceleration of urban migration and proliferation of informal settlements across the region (see Tsenkova, 2009). Twenty years later, informal settlements cover large tracts of peri-urban land being the home of both socially vulnerable groups and relatively well off migrants to the cities (Gabriel, 2007).

There is a widespread acknowledgement that resolving the 'urban problem' of informal settlements is related to the nexus of improved access to affordable land, housing as well as transparent and efficient planning regime (World Bank, 2007). In addition to significant constraints imposed by inefficient planning regimes, land registration and management systems, the municipality of Bar deals with significant budget constraints. Within the framework of decentralised urban management, the task of integrating informal settlements into formal city structure is vested with local governments. Legalisation through urbanisation, however, is particularly difficult to initiate without the institutional

capacity at the local government level to lead the process of planning, legalisation, infrastructure provision and effective resident involvement.

Recent urban planning initiatives in Bar municipality have focused on the development and approval of DUPs for areas with higher development pressure and concentration of informal construction. The municipal administration has adopted by-laws allowing reduced payment of communal fees and even interest free loans for such purposes. Yet, less than 10 owners have come forward with requests to receive an ex-post occupancy permit – that is a building permit on the basis of compliance with DUP requirements and occupancy permit on the basis of building inspection. There are several systemic barriers to effective implementation that are beyond the capacity of the municipality. These have been addressed in the review of the policy framework section of this study (see 2.3, p. 21). Needless to say, both central and local government officials dealing the planning reform are well aware of the constraints created by the lack of real estate registration systems, complete planning documentation and cumbersome permitting process. Such issues have been discussed in 2009 and 2010 at roundtables and may gradually lead to much needed reforms in the legal, fiscal and financial framework.

However, in large informal historic settlements with complicated and fragmented patterns of land and property ownership, mixed standards of construction as well as diverse social profile of the residents, the regularisation goes beyond the ability of planning itself, or rather requires a different type of planning that is non-existent in Montenegro. First, the content of the DUP is inadequate to proceed with legalization as in many cases it does not work with real parcel boundaries and imposes prescriptive requirements for the types of buildings that can be legalised without taking into account the status quo and the fact that such buildings exist for a long period of time. Second, the DUP is focused on physical aspects of planning and does not include any assessment of land ownership, social and economic profile of residents, and/or the fiscal capacity of the municipality to invest in the planned infrastructure. Third, the planning department has little flexibility in interpreting the prescriptive nature of the DUP for each parcel while issuing a building permit retroactively (see 4.6.3, p. 65).

4.2 OBJECTIVES OF REGULARISATION

Most of the residents and business owners in Rutke, Pobrdze, Partizanski Put, and to some extent in Canj II, have built houses illegally, and although they are of a reasonable quality, they are located in areas with limited road access and infrastructure services. In some cases, this sizable investment in informal housing construction is threatened by seismic risks, landslides, flooding or lack of property title. Future regulatory plans in these areas will need to allocate land for roads, right-of-way for public infrastructure and parking, which may require the demolition of some homes and relocation. The market value of this informal housing production and non-residential investment is high, yet the future of this sizable investment by private households and small businesses is uncertain, or may be lost due to substandard infrastructure and health/safety risks.

Residents of informal areas tap into existing water mains, illegally connect to electricity networks, discharge wastewater into the neighbourhood, and dump domestic refuse into nearby streams or irrigation canals, thus eroding the quality of water and electricity services for residents and tourists alike. Because of the seriousness of infrastructure deficiencies, the Government puts a high priority on (a) the development of primary and secondary infrastructure, and (b) the compliance with safety, health and seismic standards and requirements to minimise the risk for homeowners and the

community at large. Other objectives, such as maintaining tight control over the quality and shape of urban development, should be pursued simultaneously but with a lower priority and without the commitment of extensive government resources (see Box 30).

The regularisation process in areas with complex and fragmented land and property ownership arrangements needs to proceed with the development of detailed urban strategy with substantially improved content regarding level of informality as well as the social characteristics of the affected residents. The strategy needs to be developed in a participatory manner taking into account community input as well as the complexities of an existing physical, economic, social and environmental structure that has evolved historically over a long period of time. It needs to apply alternative planning standards to ensure minimum demolition and displacement of existing residents. It also needs to take into account the fiscal ability of the municipality to provide infrastructure and to implement the plan. It is imperative that the approach is realistic and pragmatic. There is no point in investing and developing strategies that are not going to be implemented and are fundamentally opposed by the local residents and the small businesses.

Box 30: Regularisation strategy: Objectives

In summary, a regularisation strategy is based on the following eight objectives:

1. Provide a detailed urban plan for regularisation that is realistic and pragmatic with measurable and well defined objectives;
2. Ensure that minimum requirements for public access, safety and security are met;
3. Improve the living conditions of residents in the area by ensuring security of tenure and access to essential urban services;
4. Regularise with minimum displacement and demolition;
5. Provide technical infrastructure to enhance the economic, social and environmental qualities of the area;
6. Provide opportunities for incremental upgrading;
7. Development of civil society by participatory procedures;
8. Communal fees have to be reinvested to the project area for the very biggest part;
9. Raising communal fees has to be fair; a procedure has to be defined to enforce payment from all settlers in a transparent and legally sound manner;
10. Institute effective framework for strategy implementation;
11. Regularisation shall be completed within a defined and manageable period of time.

While the development of such action-based, regulatory strategy is essential for regularisation, the institutional aspects relate to important coordinated actions that need to be undertaken by central, municipal governments, institutions involved in regularisation as well as affected residents, small business owners and developers/investors.

Addressing the multiple challenges of informal settlement legalisation and integration requires more effective and coordinated approaches that provide an operational framework for action at the municipal level. Such reforms in the institutional framework need to focus on: improvement of the legal framework, introducing consistent fiscal & financial measures for legalisation and enforcement, adopting participatory planning approaches complementing the DUPs for integration of informal settlements, feasibility studies for infrastructure provision, fiscal and environmental impact assessments, and results monitoring and evaluation. An important cluster of activities related to such reforms is the emphasis on

capacity building programmes targeting the following groups: municipal managers, urban planners, central government officials, elected municipal officials and community leaders.¹

A strategy for regularisation needs to be developed in a participatory manner effectively engaging residents, business owners and municipal officials in defining priorities as well as in implementing them. It needs to incorporate the following seven elements:

- e) Analysis and evidence-based documentation of the existing status quo;
- f) Land use plan, zoning, building and lot coverage, infrastructure servicing;
- g) Improve the living conditions of residents in the area by ensuring security of tenure and access to essential urban services;
- h) Investment plan for implementation;
- i) Action plan for implementation with timelines and responsibilities;
- j) Financial, fiscal and regulatory measures and guidelines for plan implementation;
- k) Monitoring and evaluation of results.

4.3 STREAMLINED PLANNING APPROACH

Regularisation has to start with Spatial Urbanistic Plans (SUP) for the project areas, and a Detailed Urban Plan (DUP) based on alternative planning standards. The following steps have been developed with Pobrdje / Rutke in mind, but are applicable for informal settlements in general.

4.3.1 UPDATED NEIGHBOURHOOD PLAN AS BASIS FOR A DUP

The cadastre map is in many cases imprecise with inaccurate plot boundaries and many unregistered buildings. This is one major barrier for regularisation and for designing and implementing of DUPs. This issue may be solved with an updated neighbourhood plan. Such a plan shall be used as a bridge for regularisation. The new DUP shall be based on such an updated neighbourhood plan. It shall include estimates of gross floor space of every residential building in the area. On the legal basis of the DUP, it shall become possible for municipalities to levy communal fees, even before registration of the buildings (see 4.5.1, p. 60, and 4.6.1f), p. 64).

The cadastre office cannot be the initiator of such an updated neighbourhood plan, as this is not in its authority. Hence, the public authority responsible for the DUP (Municipality of Bar) should commission the local branch of the State Cadastral Office with such a plan on the basis of the cadastral map and an additional land survey and finance it.

The Cadastral Office may commission a land surveyor with such an updated neighbourhood plan or do it with own staff. It shall include:

- all updated cadastre information (e.g. precise boundaries of parcels);
- all buildings, particularly the big number of residential buildings without registration (see 1.1, p. 46);
- main use of buildings;
- outside dimension and number of storeys etc. to estimate their gross floor space.

¹ Tsenkova 2010a

This plan does not mean that detected buildings are registered at once. Registration requires the initiative of the owner. Incentives to do so are described below. Hence, this plan is not an update of the cadastre map.

The plan shall also document all informal roads and footpaths on privately owned parcels for registration of a right of way in cadastre. For this issues registration on initiative of public authorities is essential.

Costs for such a survey are at about 600 €/ha. This is about € 40,000 for Pobrdje / Rutke. It may be funded within the new UNDP/World Bank Project.

4.3.2 REQUIREMENT OF ADDITIONAL INFORMATION

Regularisation of informal settlements requires better data and information sources, particularly the following:

- a) The rich data of the cadastre office should be used for further analysis (compare 1.1, p. 46).
- b) Geophysical analysis (danger of landslides) in addition to the existing seismic microzonation as well as hydrotechnical analysis of the area is required. For Pobrdje / Rutke a hydrotechnical upgrade plan is required, including amongst others flood protection measures for the area close to the existing tunnel.

4.3.3 DUP WITH ALTERNATIVE PLANNING STANDARDS

Informal settlements shall be treated somehow similar to historic city centres. Both have grown organically over time, both are non-compliant with planning standards for today's greenfield developments, which are specified in the *Rulebook* (2010). The *Rulebook* shall be complemented with regulations on planning standards for existing settlements. Preliminary contents of such alternative planning standards are described in 4.6.1 (p. 63), including urbanistic minimum standards, minimum access to building parcels with footpaths with a right of way etc.

4.3.4 TRAFFIC PLAN

Main contents of a traffic plan have been worked out on the example of Pobrdje / Rutke (4.4, p. 55), including particularly an appropriate road access to the area, infrastructure corridors, a small scale grid of small roads and footpaths, a system for car parking, public space and technical infrastructure. The traffic plan shall be part of the DUP.

4.3.5 INFRASTRUCTURE CORRIDORS AS BACKBONES TO OPEN UP THE AREAS

Definition of infrastructure corridors may solve the impossibility to apply usual planning standards to informal settlements. A road grid as defined for greenfield developments is impossible to implement in the small scale building structure of informal settlements and would exceed the financial means by far. With fewest possible changes in the existing road structure the informal settlements shall be fully developed, see chapter 4.4.2 (p. 56).

4.3.6 LOCATIONS FOR SOCIAL AND COMMERCIAL INFRASTRUCTURE, PUBLIC SPACE

The DUP shall define locations for social and commercial infrastructure, including plots for multi-apartment social housing (see 4.10, p. 76). The development of high value public space is an important measure to create identity and commitment of the inhabitants for their settlement (see 4.4.5, p. 58).

4.3.7 DEFINITION OF BUILDINGS TO BE REMOVED

Referring to the defined infrastructure corridors (see Figure 31, p. 57) and the defined boundaries of the built area it has to be decided, which existing buildings have to be removed on the basis of an overriding public interest. Due to the principles of design, only a small share of buildings (<3% of the stock) shall be demolished for urbanistic reasons (there may be more demolitions necessary because of constructive instability, see 4.5.1, 60). Removal of existing buildings seem necessary for realizing new infrastructure corridors, or where informal houses were built in forest areas, too close to the railroad or on places in danger for landslides. For those buildings, a procedure of land swaps, expropriation and compensation shall be initiated right after approval of the DUP. The owners or tenants shall be offered compensation not primarily in cash, but with land swaps or affordable dwellings in multi-apartment buildings (see 4.6.5, p. 66 and 4.9, p. 75).

4.4 TRAFFIC PLAN AND TECHNICAL INFRASTRUCTURE

4.4.1 IMPROVED ACCESS TO THE PROJECT AREAS

Access to the project areas has to be improved for urban development of the settlements, but even more for security reasons. Both for residents and for the big number of tourists in peak season (up to 15,000 in Pobrdje / Rutke) it is compulsory to warrant evacuation in the case of natural disaster. We remember that both Pobrdje / Rutke and Canj are in seismic vulnerable zones.

For Pobrdje / Rutke several improvements are recommended (Figure 31):

- The existing tunnel has to be supplemented with an additional new one with at least two lines. Retrofitting the existing tunnel is not recommended. The north exit of this tunnel has no straight connection to any main road opening up the settlement. Extension of the diameter and height of the existing tunnel (from 1 to 2 lines plus sidewalk) plus enlargement of the channel below would probably have similar costs compared to a new tunnel. During construction works, access to the area would be strongly affected. The alternative positioning of a new tunnel, as proposed in the DUP for Centre Sutomore in direct projection of Sava Kovačevića is neither recommended (see 3.2.3 and Figure 17, p. 35).
- The appropriate position seems to be around 50m southeast of the existing tunnel opposite of the bus terminal. With this solution the tunnel could directly connect to an infrastructure corridor opening up Pobrdje. The new tunnel must have a diameter to allow passage of evacuation vehicles and garbage trucks. Costs would probably be lower than retrofitting the existing tunnel, as it may be realised only for cars, but not for pedestrians, as
- the existing tunnel should be recast to a pedestrian tunnel.
- Another access to the project area shall be established by better connecting Pobrdje / Rutke with Sankovici (northwest of Partisanski Put), which is connected to the magistral, with a new infrastructure corridor (above the entrance to the train tunnel).

- Access to the train station across the railroad shall be improved as well, either with a railway crossing gate for pedestrians, or an overhead crossing from the higher areas of Pobrdje to the platforms, or an additional road access by level-crossing the railroad at the train station (with barrier, e.g. for temporary or emergency use).

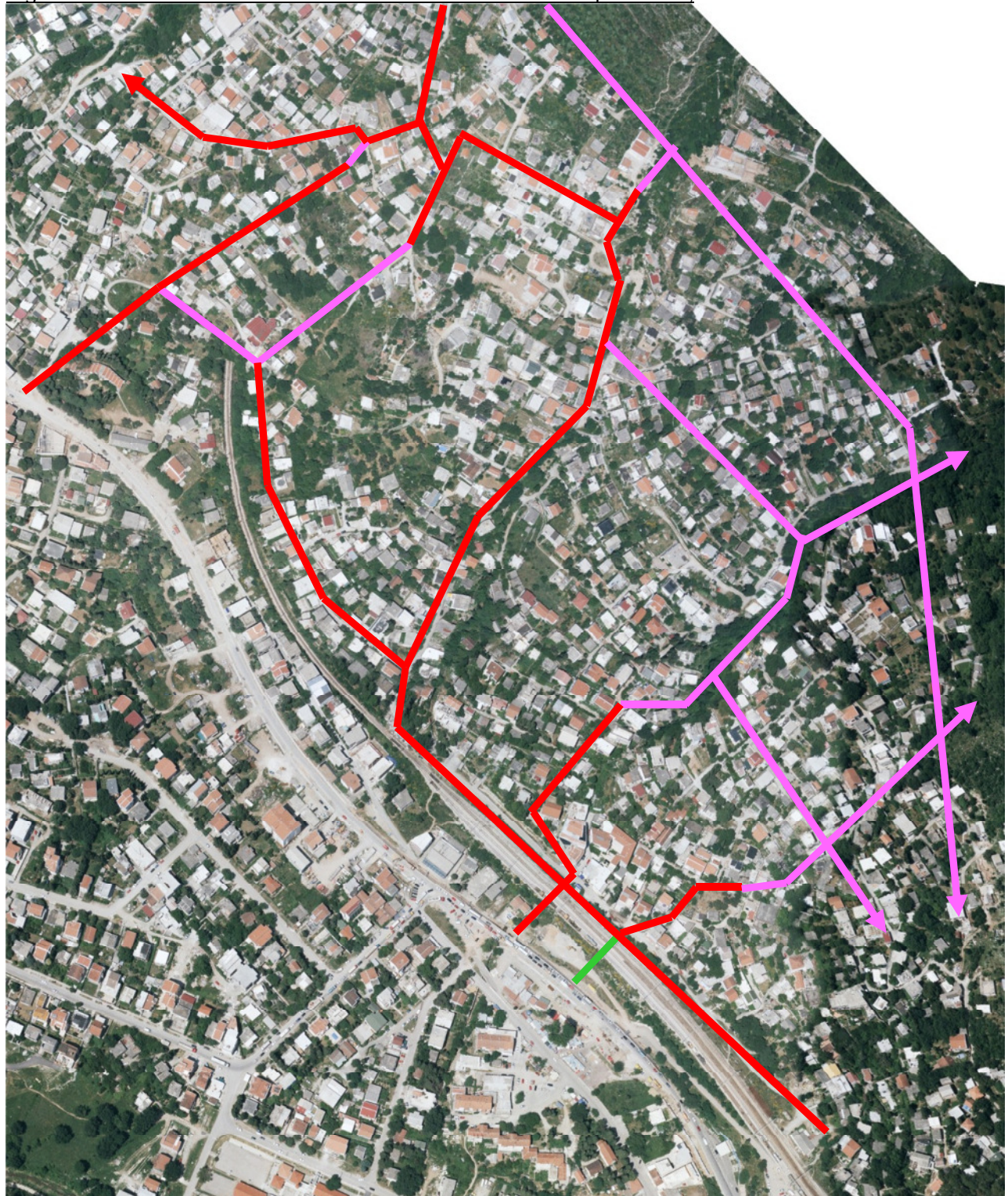
For Canj II, a new second access road to the magistral northwest of the settlement seems feasible.

4.4.2 INFRASTRUCTURE CORRIDORS IN POBRDJE / RUTKE

Following the new approach of alternative planning standards for DUPs (4.6.1, p. 63) it is recommended to define a wide-meshed grid of infrastructure corridors, following some basic principles:

- Starting point should be the existing road network, consisting of roads in public and private property. private roads should be imposed an unlimited right of way.
- Least possible additions in the layout of roads to avoid expropriation and compensation as far as possible.
- Addition of roads in the least possible volume, particularly to connect existing roads and to close one-way traffic circuits. with a one-way system of roads all over the area it would be possible to improve traffic flow with only small new investments.
- Positioning of new roads in a way that fewest possible houses have to be removed. e.g. by construction on public land, in some of the small creeks (in connection with hydrotechnical upgrade), outside the boundaries of the built area of the settlement, alongside the boundaries of private plots (that only land, but no buildings have to be compensated) etc..
- Infrastructure corridors shall carry all necessary technical infrastructure and access points. hence, before any paving it must be clear, which equipment has to be installed underground. critical is the decision to install sewerage, as it is more difficult and costly compared to other technical infrastructure (see 4.4.6, p. 59).
- The development of infrastructure corridors goes in line with a business upgrade along these roads and on public places (see 4.4.5, p. 58). Zoning shall provide the necessary legal framework.
- „Backbone“ of the traffic grid in Pobrdje / Rutke is the infrastructure corridor alongside the railroad, connecting all informal settlement north of the railroad from Pobrdje to Partisanski Put and to the western areas of Sankovici. It shall contain some major infrastructure facilities, including public parking (see below, 4.4.4).

Figure 31: Recommended infrastructure corridors for Pobrdje / Rutke.



- Proposed Infrastructure corridors on existing roads (symbolic view)
 - New infrastructure corridors (partly demolition of existing buildings required, symbolic view)
 - Proposed location of new tunnel
- Source: Orthofoto, authors

4.4.3 GRID OF SMALL ROADS AND FOOTPATHS

Opening up of every plot of land shall be attained with a small scale grid of public and private roads as well as footpaths. An on-site survey showed that the grid of footpaths works quite efficient to connect the residents with all central facilities. Many houses are connected only by footpaths or staircases.

This small scale grid shall be realized with only minimum acquisition of land through the municipality, but mostly with existing public roads, new roads on public land and cadastral registration of rights of way on private land. As some of these private paths are the only access to houses, they have to carry technical infrastructure. Collectors for water supply, electricity, streetlight and even sewerage etc. have to be realized, to assure adequate infrastructure for every parcel. Obviously this is difficult to define legally. The main issues are described in chapter 4.6.2 (p. 65).

4.4.4 CAR PARKING IN POBRDJE / RUTKE

Limitation of public parking is one of the few effective measures to reduce traffic altogether, as shown in many Western cities. The presently low significance of individual car traffic is an important strength of Pobrdje / Rutke. The improvement of access to the project area (4.4.1) will produce heavy pressure on car traffic. It seems important to channel this pressure in a way that living conditions in Pobrdje / Rutke will not suffer.

Taking the very limited public space on infrastructure corridors, strict traffic control with no parking at all on public space has to be implemented. The only exception shall be payable parking lots close to the access points to the project area, e.g. alongside the railroad. Such payable parking lots may develop to important revenues for the public to invest in road maintenance.

The limitation of public parking seems enforceable, taking the high significance of parking lots on private land in the course of regularisation (see 4.6.6, p. 67).

Keeping up the character of Pobrdje / Rutke as a low traffic settlement could be chosen as a factor of success for settlement upgrade.

4.4.5 PUBLIC SPACE

Public space is more than roads and infrastructure corridors. There should be public green space, places to linger, some urban furniture to rest by climbing up the steep slopes, playgrounds etc.

Public space is important for the sitting tenants to create a feeling of identity and commitment with the settlement. It is the space where civil society evolves and hence is a sound application for participatory procedures. Well developed public areas will improve the handling of semi-public areas, such as footpaths, green space or entrances to private property.

Public space is furthermore of major importance for touristic development of the area, as it is the sphere where tourists feel well and spend their money in cafés, bars and other nice places.

The size of the settlement would justify even the erection of a church.

4.4.6 TECHNICAL INFRASTRUCTURE

A big part of technical infrastructure is already in place in most parts of the project areas with access from almost all plots. Some installation requires renewal (see 4.8.7, p. 75). But two measures require new definition:

a) Sewerage:

Montenegro as a self-imposed “ecological country” requires a sound treatment of wastewater, particularly in touristic areas. Today only very few houses are connected to sewerage, mostly on own initiative (see 3.4.4, p. 45). Connection of all houses to sewerage is a political target, but will be enforceable only in medium term. In any case it seems essential to install main sewers in all infrastructure corridors and access points for connections to individual houses in sufficient number. Construction works on infrastructure corridors should only start if all technical infrastructure to be built in is defined, including sewer.

Access of individual houses to the sewerage system may be enforced in different ways:

- enforcement in the course of regularisation would cause difficult financial barriers for the owners and a strong disincentive for regularisation;
- the better option seems obligatory access in cases of later construction activities that require permits (major repair, enlargement, new construction);
- residents should be prepared for an obligation to connect in the long run; a reasonable period seem to be 10 years.

b) Public transport

With a better road access to the project areas the question of public transport comes up, if it only would be for a transfer of tourists from their B&B facilities to the beach. In any case, this question should be raised in coordination with the municipality and the public bus company.

c) Evacuation plan

An evacuation plan to anticipate possible disasters has technical and communicative implications. Such a plan should test the existing and planned infrastructure on its efficiency and allow for changes if required. At the same time, an evacuation plan is an important communication tool to make the owners understand that an informal settlement upgrade has implications beyond provision of infrastructure.

4.5 REGULARISATION PROCEDURES

Regularisation of informal settlements seems to be a vicious circle. Solving the situation requires new approaches and a strong commitment of all stakeholders. The described procedure follows the objectives and priorities for action in chapter 4.2 (p. 51). It particularly considers the degree of informality of the individual buildings (matrix in Table 24, p. 41). As such it covers the regularisation and constructive upgrade of buildings as well as the urbanistic development of the settlements.

Box 32: Basic elements of regularisation

- a) Regularisation in two separate steps, with
 - i) regularisation on a settlement level, including definition of a DUP, raising communal fees without necessary retroactive occupancy permit and a communal investment programme to establish a sound infrastructure and abate threats of disaster;
 - ii) regularisation on a building level, including cadastral registration with retroactive occupancy permit on the basis of alternative planning standards.
- b) Legal basis for raising communal fees is the real use of buildings and an approved DUP (following alternative planning standards), instead of building or occupancy permits.
- c) Basis for the DUP is an updated neighbourhood plan, deriving from the existing cadastral map and a comprehensive land survey, documenting accurate plot boundaries, all existing buildings and estimates of gross residential floor space. This new neighbourhood plan is not automatically incorporated to the cadastre map, but only on request of the individual owner.
- d) Raising communal fees on the basis of registration of land (instead of buildings), promotion for further registration. Raising communal fees for accepted buildings on public land on the basis of heritable building rights.
- e) Non-registered building land will be changed to agricultural land within a period of two years.
- f) Communal fees are calculated on the basis of estimated gross floor space (neighbourhood plan). Adoption of calculation (net floor space) may be possible with the issuance of a retroactive occupancy permit.
- g) Retroactive occupancy permit on the basis of urbanistic and constructive minimum standards.
- h) Financial and fiscal incentives for regularisation.
- i) Adaptation of existing legal regulations.

4.5.1 RAISING COMMUNAL FEES ON THE BASIS OF REAL USE

It is essential to include all plot owners in informal settlements to communal fee levy. This is not only a question of efficient administration and of sufficient public funds to realize all necessary public investments. Even more importantly it is about counteracting the free-rider problem. If it is easy to avoid payment of communal fees and if free-riders face no or inadequate sanctions, then it will be even more difficult to explain the others the necessity of payment. This vicious circle was mainly responsible for prolongation of the informal settlement problem for so many years.

Following formal procedures of urban development, communal fees are to be paid connected to the procedure of building permit and occupancy permit. Hence, for informal buildings with no permits at all, the legal basis for levy of communal fees is missing.

Some regularisation practice in other SEE countries try to first issue retroactive occupancy permits and then to levy communal fees. But this practice includes a strong disincentive for regularisation, as it results in immediate payment obligations.

This dilemma may be overcome with an alternative procedure as described in this section:

a) Change of legal basis to levy communal fees

As explained in 4.6.3 (p. 65) the municipality shall get the legal right to levy communal fees on the basis of an approved DUP and cadastral registration of a plot of land (or right of use). The amount of

communal fees shall be calculated based on estimated gross useable floor space of all residential buildings on this plot, these data provided by an updated neighbourhood plan (see 4.3.1, p. 53).

With the real housing stock as basis for levy of the communal fees it is clear that non-registration of a building does not beware from taxation. At the same time, those owners are invited to register their buildings and update the cadastre map (according to the updated neighbourhood plan).

Communal fees will be charged to the owner of the land or the tenant of the house with a right of use as registered in cadastre. If there are unclear ownership relations, communal fees have to be covered by the land owner. This will be a strong incentive to clear such situation.

Non-payment of communal fees will result in a registered lien with the municipality as beneficiary and a legal right of foreclosure (4.6.7 and 4.6.8, p. 68).

Buildings which have to be removed due to overriding public interest (e.g. on infrastructure corridors) are of course excluded from this procedure.

b) Tenants with no land registry

There are different types of tenants with no cadastral registration of their building land:

- a) Tenants with buildings on public land: If the DUP allows for residential use (e.g. not in forests, not on future infrastructure corridors), these tenants shall be offered purchase or an affordable heritable building right (e.g. for 80 years, 1-2% of market value per year) to be registered in cadastre.
- b) Owners of land with no registration shall be threatened with re-zoning of their plot to agricultural use within a short period of time (e.g. two years), with the consequence of forced removal of any building on it.

c) Proposed amount of communal fees

As further described in chapter 4.7.1 (p. 69), a feasible amount of communal fees seems to be 50 to 60 €/m² useable floor space for the project areas, which sums up to € 5,000 to 10,000 for an average single family house. This amount will be much lower in municipalities in the North of Montenegro.

4.5.2 RETROACTIVE OCCUPANCY PERMITS

Full regularisation of informal buildings will be achieved by issuing retroactive occupancy permits, as defined in chapter 4.6.6 (p. 67).

The following incentives shall motivate owners to go for retroactive occupancy permits:

- In this first step of regularisation, the communal fees shall be calculated based on estimated gross floor space, as documented in the updated neighbourhood plan. By getting a retroactive occupancy permit the calculation may be changed to net floor space. This is a significant financial incentive for regularisation.
- Major repair works, extension of existing buildings and new construction in the project areas shall require formal building permits. As a matter of fact for the existing part of such a building a valid occupancy permit should be obligatory.
- Future programs of international donors are to focus on energy efficiency measures. Any utilisation of such funds will require valid occupancy permits for the concerned buildings.

- There should be some coordination with authorities in charge for approval of touristic facilities. With regard to security concerns it would be very reasonable to link issuance or extension of such approvals to a valid occupancy permit. This would be a very strong economic incentive for those, who make money with their informal buildings.
- Tax incentives may be considered, particularly a higher property tax for buildings without permit (4.7.3, p. 70). This seems particularly appropriate for informal hotels and touristic facilities. A property tax far above the one for single family homes without permit is recommended.

4.5.3 REGULARISATION AND SETTLEMENT UPGRADE FOR CANJ

The existing DUP of Canj (3.2.4, p. 36) seems to have some major weaknesses. It is hardly accepted by the sitting owners. A redesign with implementation of findings of this study and a more innovative approach to seaside spa development should be considered.

The following issues of the DUP should be revised:

- Access to the settlement is insufficient, as the only access road goes through the beach. This may have catastrophic implications in the case of a natural disaster, as seen in a recent forest fire close to the settlement. An additional road Kufin – Canj should be realized.
- As most DUPs, it relates to the existing structure of parcels and roads only in general terms. This makes it virtually impossible for many existing informal buildings to regularise.
- Implementation of the DUP would require extensive compensation for roads and reparcelling.
- The new structure of plots requires large scale reparcelling, which is opposed by many owners (Figure 20, p. 39).
- The DUP allots some large scale touristic facilities. The present owners reportedly would prefer smaller parcels to realize family hotels.
- The beach has to be protected from parking cars (up to more than 1,000 cars at the same time during the summer season). The tremendous pressure from motorised tourism is mainly driven by the big number of hotels in Canj II. None of them has a building permit. A feasible solution would be strictly limited access to the beach for cars with the only exception of sitting inhabitants and hotels in the number of proven parking lots on their own property (according to 4.6.6, p. 67). For all other tourists, large scale car parking should be realised offside the beach (for remuneration). During the season a shuttle service to the beach and the hotels should be organised.
- Following the existing DUP, the edge of the settlement to the beach shall remain to be a high capacity road. It would allow for a better touristic development of this outstanding location (Pearl Beach) to have a row of hotels and apartment buildings facing the beach with a promenade for pedestrian as the only traffic line on the beach. Such a structure is successfully realized in many Italian seaside towns (e.g. Jesolo).

Collection of communal fees is hardly more successful than in Pobrdje / Rutke. Hence, a similar approach of regularisation may be considered. Sufficient funding is a precondition to implement the ambitious targets of the DUP.

For the big number of hotels without building permit, adequate constructive and urbanistic standards must be applied, according to chapter 4.6.6. (p. 67). In Canj this aspect is even more important than in Pobrdje/Rutke.

4.6 PROPOSED LEGAL REFORM

In addition to a well designed plan for regularisation, the process implies important financial, fiscal and regulatory conditions that need to be in place to facilitate implementation, as described in this and the following chapters.

4.6.1 ALTERNATIVE PLANNING STANDARDS FOR EXISTING SETTLEMENTS

The existing legal framework for urban and regional planning mainly refers to greenfield developments. Regularisation of informal settlements requires a different approach. Regulatory change is needed to define the content and the approach of detailed urban plans for regularisation. As it stands the present DUPs do not serve this purpose, particularly in areas with large scale informal development. It is standard practice to treat historic areas and existing parts of cities differently from greenfield developments (Tsenkova, 2010c). This concerns mainly the *Law on Spatial Development and Construction of Buildings* and *The Rulebook on Detailed Contents and Format of Planning Documents, as well as on Criteria for Land Use, Elements of Urban Regulation and the Standardized Graphical Symbols* (2.4.3 and 2.4.4, p. 23), but also other legal bodies. The Spatial Plan of Montenegro should provide guidelines on upgrading informal settlements and alternative planning standards following this Feasibility Study.

An adequate planning tool has to be defined and provided with a comprehensive set of (alternative) standards. This may be a DUP or a special purpose spatial plan (Art. 19 of the *Rulebook*).

a) Utilisation of Spatial Urban Plans (SUP)

It is scheduled that all municipalities of Montenegro shall approve new SUPs until 2013. It is recommended to integrate basic requirements of informal settlement upgrade to those plans, particularly guidelines for alternative planning standards, as well as rules of development and of construction specified for informal settlements. Particularly the rules of construction, as listed in Art. 23 of the *Rulebook*, have to be different (and more simple) for informal settlements, following the provisions of this Feasibility Study.

b) Legal definition of the updated neighbourhood plan

An updated neighbourhood plan (see 4.3.1, p. 53) should be defined as part of the planning procedure. The “presentation of buildings constructed contrary to the law and plan” is already considered in the *Rulebok* (Art. 11, para. 5.). Following Art. 22, a SUP shall comprise a “rehabilitation and reconstruction review and plan of informal buildings, parts of settlements and settlements constructed without building permit”. These requirements may be provided systematically with such a neighbourhood plan.

c) Planning documents based on updated neighbourhood plans

It is legally defined that planning documents have to be drawn up on cadastral maps. But cadastral maps cannot include non-registered buildings. A change of this regulation with an updated neighbourhood plan as precondition for planning documents such as a DUP is critical.

d) DUP (on alternative planning standards) as basis for regularisation

DUPs for informal settlements often failed, not only because of planning standards that do not fit the requirements of existing settlements, but also because of the obligatory link to cadastre maps.

But cadastre maps very often have major deficiencies in accuracy of boundaries and only consider registered buildings. Resulting plans often enough did not meet the real situation and therefore could hardly be implemented. This vicious circle may be solved by changes of planning standards described in this chapter, and with an updated neighbourhood plan as basis for a DUP.

e) Specification of land use categories

A specification of informal settlements in the course of regularisation as “areas for multiple purpose” may be considered (Art. 51 of the *Rulebook*). This would give sufficient flexibility in planning.

f) Recognition of private roads and footpaths as regular part of the road infrastructure

The grid of roads and footpaths in informal settlements has developed over time in an organic way. From a practical point of view such systems often are basically quite efficient. Furthermore they come close to models of sustainable settlements with predominant pedestrian traffic and low significance of cars.

Informal settlements only can be regularized with adequate effort, if the existing grid of public and private roads and footpaths will be utilized and recognised legally. Documentation of the complete road infrastructure in this sense may be defined under Art. 11 or 112 of the *Rulebook*. To effectuate private roads and footpaths as regular parts of infrastructure, a legal right of way has to be imposed (see below 4.6.2). This requires consideration in the *Rulebook* and probably also in Civil Law.

g) Requirements for roads

Several regulations related to minimum standards of roads, such as in Art. 112 of the *Rulebook*, have to be exempt for existing settlements.

The road infrastructure should be close to the status quo, as large scale expropriation and compensation is unfeasible both in terms of public finance and acceptance of the community of owners.

As a result, single-lane roads should be allowed, even for main access roads. A dedication of existing single lane roads without sidewalks as infrastructure corridors seems feasible (see 4.4, p. 55), if

- they are useable for trucks,
- a consistent one way system is implemented (including new corridors to close road circuits),
- significance of car traffic remains low (regularisation of the existing grid of footpaths, limitation of traffic access and public parking etc.), and
- public parking is prohibited consequently.

h) Requirements for footpaths

Considering the increased significance of footpaths as regular part of the road infrastructure, according requirements should be defined. The minimum width of 1,50m, as defined in Art. 113 of the *Rulebook*, seems undue, taking existing staircases and footpaths in the pilot areas.

i) Parking on public space

The requirements of Art. 114 of the *Rulebook* are not applicable. By contrast to these minimum requirements, there should be no parking on public space at all, despite of dedicated areas for payable parking.

j) Minimum access to a plot of land

Some parcels in informal settlements do not comply with requirements as defined in the *Rulebook* (Art. 92 and 106), e.g. regarding size or access. This has to be resolved.

Many houses in informal settlements have no access to a public road. An adoption to present planning standards would require large scale demolition and excessive public costs for compensation. As alternative it is proposed to define a minimum access to a plot of land qualified for small scale residential use with the following two conditions:

- Connection to the road infrastructure with at least a footpath, which is in public property or with a registered right of way.
- Maximum distance to evacuation roads (accessible to emergency vehicles, e.g. fire engines etc.), defined by requirements of disaster operations (e.g. 30 m).

A regulation of this kind is a precondition for regularisation of the pilot areas, particularly in the steep slopes of Pobrdje.

4.6.2 RULES OF RIGHT OF WAY

To effectuate private roads and footpaths as efficient part of road infrastructure, an efficient procedure of imposition of a right of way has to be implemented. The following items seem important:

- Obvious appearance of a track to be frequently used as footpath must suffice for legal registration of a right of way without compensation. Guidelines are access to every plot of land and efficient connections through the settlement.
- The entire grid of footpaths and small private roads has to be determined at an early stage of regularisation, to prevent single owners from counteracting. Determination should be executed by experts in the course of overall assessments of the informal settlements, together with documenting an updated neighbourhood plan (see above para. 4.6.1a) and 4.3.1, p. 53).
- Imposition of such right of way should be in the sole authority of the municipality.
- The registration of such a right of way must have comprehensive legal consequences. The responsibility for setting up save paving, street lightening, maintenance and cleaning is transferred to the public. It is connected with the right to build in technical infrastructure to connect all plots of land (water, electricity, sewer etc.).
- Offers to land owners to transfer private roads and footpaths to the public (instead of right of way, which has been implemented in advance).

Implementation of such a tool probably requires amendments in the *Rulebook* and in Civil Law.

4.6.3 DIVISION OF REGULARISATION: SETTLEMENT LEVEL / BUILDING LEVEL

In present legal practice, concordance of a building with the DUP is precondition for a building permit and a occupancy permit and hence registration in cadastre and payment of communal fees. This practice must change, if regularisation of informal settlements shall become operative. A division of regularisation of informal settlements and legalisation of informal buildings is proposed:

- a) Regularisation on a settlement level requires the enforcement of communal fee payment. Only with sufficient funding the municipalities will be able to provide sufficient communal services and to abolish the most burdensome deficiencies. A procedure shall be introduced that makes all building owners pay communal fees (see next chapter 4.6.4).

b) Legalisation of informal buildings shall follow as a next step on a voluntary basis (4.6.6).

With such a new approach it will be possible to regularise all informal settlements in Montenegro within an overseeable period of time to meet the targets of the Vienna Declaration (see 2.1, p. 16). Regularisation means that preconditions for legalisation of individual buildings are provided and major security issues are solved. Under such circumstances it is of minor importance if not all individual buildings will be legalised (which hardly ever may be achieved).

4.6.4 COLLECTION OF COMMUNAL FEES ON THE BASIS OF REAL USE

The legal basis for the collection of communal fees shall change. Today, communal fees are directly linked to the issuance of building permits and occupancy permits. This is one of the main reasons for deficient regularisation of informal settlements in the past. Without such permits the legal basis for levy of communal fees was missing. But without such incomes the municipalities are not able to afford settlement upgrade.

A legal change is recommended to allow municipalities for levy of communal fees at an early stage and in a way that all owners of residential buildings in informal settlements are included (see chapter 4.5.1, p. 60). The legal basis for collecting communal fees shall be an approved DUP, based on alternative planning standards (4.6.1d)). This DUP shall be realised on the basis of an updated neighbourhood plan (4.3.1) and cadastral data, including accurate plot boundaries and estimations of the gross floor area of residential buildings. Communal fees shall be calculated based on these estimations and legally bound to the cadastral title of the corresponding plot of land. This procedure may also be applied to private buildings on public or squatted land (if a right of use is in place). The taxation basis may be reduced in the course of legalisation of the building and application for a retroactive occupancy permits. Hence, early payment of communal fees may become a strong incentive for regularisation.

Earmarking of municipal incomes from communal fees from such settlements shall be legally defined. A share of e.g. 90% of communal fees shall be reinvested in the respective settlements.

This reform requires an amendment to the Law on Spatial Development and Construction of Buildings (Art. 66, 120 and 129, see 2.4.3, p. 23) and possibly rules and guidelines in the respective SUPs.

4.6.5 RULES FOR EXPROPRIATION, LAND SWAPS AND COMPENSATION

As further explained in chapter 4.9 (p. 75), regularisation of informal settlements requires new approaches to acquire private land for public use. The value of compensation should depend not only on the value of the old house, but also on the level of informality (see Table 24, p. 41). Valuation of land for expropriation and swaps of land must be particularly liable to the rule of law. The present practice of valuation by public surveyors seems adequate. But transparency should be attained by legal definition of rules. This may be implemented with an amendment to the Law on Spatial Development and Construction of Buildings, or with guidelines in the Spatial Plan of Montenegro and rules within Spatial Urban Plans respectively.

4.6.6 ISSUANCE OF RETROACTIVE OCCUPANCY PERMITS

The *Law on Spatial Planning* does not ensure a streamlined process for registration and a consolidated 'three in one' occupancy permits for existing informal buildings. *The Rulebook* (2010) indicates that informal areas can be regularised on the basis of a DUP with guidelines for regularisation. However, such examples do not exist yet. The National Strategy on Informal Housing indicates conditions for retroactive occupancy permits (2.3.1, p. 21).

Retroactive occupancy permits will be broadly implemented only if they have reduced technical requirements compared to formal new construction. The following minimum standards seem feasible:

a) Concordance with a DUP

on the basis of alternative planning standards (see above 4.6.1d).

b) Access to the parcel

with a road or a footpath in public property or with a right of way.

c) Structural safety and seismic stability:

The requirements shall vary depending from risks of natural hazard (seismic risks, land slide, flooding, etc.) and utilisation (single family houses, small touristic facilities, hotels, business facilities) with stricter regulations for touristic facilities. It shall be proved by a technical expertise.

d) Access to technical infrastructure:

Access to piped water and electricity should be obligatory. Obligatory access to sewer would exclude a big number of buildings from regularisation for quite some time. Alternatives are discussed in chapter 4.4.6 a) (p. 59).

e) Finishing of construction works

e.g. roofs, unplastered walls etc.

f) Number of parking lots on private property:

Every plot with road access shall have at least the same number of parking lots on private property as dwellings (1:1). This seems necessary as there is almost no parking on public space available. The formula for buildings with touristic use is to be defined (e.g. 2 parking lots per three guest rooms). This obligation may be fulfilled with according contractual rights on private or public car parking utilities in a distance of not more than 300m.

g) Maximum density

as defined in the DUP, expressed in indicators such as maximum number of storeys, percentage of built area, land use ratio or the like (Art. 110 of the *Rulebook*).

Hotels and facilities for touristic use must fulfil much stricter regulations than single family houses, particularly in terms of structural safety and seismic stability.

The introduction of housing insurances covering all kinds of damages up to full reconstruction may be considered. But it will be difficult to find insurance companies willing to insure informally erected buildings.

Efficient incentives for legalisation shall be introduced, such as the following:

- Tax incentives (see 4.7.2, p. 69).
- Major changes or annexes to the existing buildings only shall get building permits, if the existing stock has retroactive occupancy permits.
- Subsidies of any kind, e.g. for thermal refurbishment, only shall be awarded to legalised buildings (see 4.8.6, p. 75).

The terms of issuance of retroactive occupancy permits shall be implemented in the Law on Spatial Development and Construction of Buildings.

4.6.7 REGISTRATION OF LIENS FOR DEBTS TO THE PUBLIC

Regularisation of informal housing establishes comprehensive financial relations between individual owners and the public (see 4.8, p. 70). To improve payment behaviour of owners it is strongly recommended to further develop registration of debts to the public in the cadastre. Sale or inheritance of property shall be possible only after payment of such debts. Registered liens for debts to the public may concern the following:

- Debts from non-payment of property tax;
- Debts from non-payment of communal fees;
- A registered lien for means-tested housing assistance (4.8.5, p. 74).

4.6.8 FORECLOSURE AND EXPROPRIATION IN CASES OF CUMULATIVE DEBTS TO THE PUBLIC

Regulations on foreclosure and expropriation have to be defined and enforced.

For settlers on public land with heritable building rights, non-payment of communal fees may cause foreclosure. Late payment shall entail severe interests for delay (e.g. 2% per month). Social cases may be solved with moving the tenants to multi-apartment affordable housing (see 4.10, p. 76).

4.6.9 LEGAL LIMITATIONS TO SELL INFORMAL HOUSING

It seems to be difficult to prohibit sale of informal buildings. Nevertheless, a change of ownership from the “founder generation” to newcomers at market prices accrues difficulties of regularisation. For this reason, at least some effective disincentives should be introduced, such as strict information obligations or simple procedures of rescission of such a sale contract in favour of the new owner.

4.7 FISCAL ISSUES

With respect to fiscal aspects, the central government needs to ensure a mix of subsidies, grants from international organizations and preferential loans to provide access to a pool of funds for compensation and resettlement. Residents of informal housing, which according to the regulatory strategy need to be removed due to infrastructure requirements, landslides, safety risks, etc., will require a social and economic assessment for the provision of compensation or reallocation. For owners of such houses, according substitute with affordable rental or owner occupied dwellings in multi-apartment buildings should be provided, using locally appropriate schemes (see 4.10, p. 76). Such commitments could be kept at a minimal level with the implementation of alternative development standards and contextually appropriate solutions for road and infrastructure

improvements and right of way (see 4.3, p. 53). It will be hardly possible to download the cost of resettlement and compensation of affected residents in informal settlements to municipalities. The practice of other countries in Europe and Latin America suggests that this is neither feasible, nor equitable (see Tsenkova et al, 2009).

4.7.1 PAYMENT SCHEMES OF COMMUNAL FEES

Communal fees are determined at the municipal level, but the methodology is set in the legislation. In the participatory planning process the municipal administration should make a commitment to reducing such fees under specific conditions and apply this consistently in the strategy implementation process. This is also the intention of the local government of Bar. The value of this foregone municipal revenue needs to be publicly announced as an incentive for regularisation.

The communal fee for informal settlements shall not exceed 75% of communal fees for new construction of the same category. This is currently 75 to 90 €/m² useable floor space for the project areas (full charge). This is € 7,500 to 15,000 for an average single family house, but considerably more for buildings used for touristic purpose. There should be notable rebates for early payment. Financial implications are further described in chapter 4.8.2 (p. 72).

Currently all taxes and communal fees are determined on the basis of floor spaces without progressive scales accounting for larger developments and business type violations. There seems to be no rational for a change of this practice. It is recommended to charge similar communal fees, calculated per m² useable floor space, for all buildings (permanent residence, holiday residence, touristic facilities, business facilities), with no progressive rates for particular uses, size or levels of informality.

Different schemes of early bird rebates for payment of communal fees shall be offered. Social hardship shall be avoided by a housing assistance scheme (4.8.2 to 4.8.5).

4.7.2 TAX INCENTIVES

Tax incentives may be introduced time limited to promote regularisation, e.g. the following:

a) Waiving property taxes for 3-5 years:

The government could introduce a tax free period where property owners could be exempt from property taxes, if they register their properties within a certain period for voluntary regularisation. Property taxes are currently rather low (around €100 per year per house in Bar), most owners do not pay property taxes anyway and the information system does not integrate payments on utilities, property taxes and waste management.¹ It is highly recommended to invest in such information systems in the future to mobilize municipal revenue. Although the waver of property taxes for 3-5 years might have a symbolical value, it nevertheless can serve as an important economic incentive to residents.

b) Reduced communal fees (see 4.8.2, p. 72).

¹ Refer to Annex 1 for the detailed methodology on property and tourism tax assessment. The municipality cannot provide disaggregated data on property & tourism taxes in both project areas.

c) Differentiated charges of communal fees according to function/informality (see [Table 24](#), p. 41).

The regularisation scheme offers several other incentives, as listed in chapter 4.5.2 (p. 61).

4.7.3 TAX PENALTIES

The *Strategy on informal settlements*¹ recommends the introduction of heavy tax penalties of up to five times the usual level (3% instead of 0.8%) for those who are not willing to regularise. The idea behind is that those who refuse to regularise basically have the same yearly payments as those who regularise and pay the communal fees with some rebate or soft loan scheme. This is a striking idea which surely will serve the purpose. But it should be considered if such bolt penalties are necessary, taken the bunch of incentives (4.7.2 and 4.5.2, p. 61), and even more the proposition to disconnect payment obligation for communal fees from legalisation (4.5, p. 59), combined with the proposed regulation of foreclosure and expropriation for cumulative debts to the public (4.6.8, p. 68).

If tax penalties are introduced, they should distinguish according to the degree of informality and type of use according to Table 24 (p. 41).

Particular strong incentives must be introduced to motivate owners of informal hotels and touristic facilities to go for retroactive occupancy permits. A property tax far above the one for single family homes without permit is recommended.

Enforcement measures such as a combination of collection of communal fees or property tax with payment for service provision, such as water or electricity, was dismissed by the Constitutional Court of Montenegro.

4.7.4 FISCAL SUPPORT TO MUNICIPALITIES

Municipalities need support from the central government in solving the challenge of informal settlements. A payment scheme for communal fees with some rebates (4.8.2), or affordable multi-apartment housing for those owners who have to be resettled, may be implemented easier, provided some additional earmarked contributions from the State budget.

4.8 FINANCIAL ISSUES

4.8.1 INVESTMENT PLAN FOR SETTLEMENT UPGRADING

The municipality shall develop a reliable investment plan and introduce a transparent scheme of documentation for the collection of communal fees and spending in the framework of the investment plan.

The municipality of Bar needs to commit communal fee contributions to investment in the area, as well as ensure other capital investments from the municipal budget for infrastructure provision (roads and main access to the area). It is of crucial importance that residents of informal settlements get immediate evidence of good investment of their communal fees. Only in the case of immediate action from the side of the municipality and utility companies, an optimistic atmosphere for the implementation of the strategy

¹ MSPE (2010).

may be achieved. The fundamental difference from previous investment programs is the shift from a supply to a demand driven system of infrastructure planning and execution. Participating communities will be chosen on the basis of meeting established eligibility criteria. The commitment to regularisation of two thirds of community residents would be essential for the realisation of area based benefits.

The following public investments have to be considered:

- a) Costs for improved access to the project areas (new tunnel in Pobrdje / Rutke, second access road in Canj);
- b) Compensation for expropriation of private land (overriding public interest) for new infrastructure corridors, extension of existing roads and small access roads and footpaths (if no right of way is possible);
- c) Construction costs for infrastructure corridors, small access roads and footpaths, including collectors for technical infrastructure and access points;
- d) Construction costs for public space (e.g. playgrounds);
- e) Construction costs for public parking lots (for remuneration);
- f) Social infrastructure, e.g. a kindergarden;
- g) Updated neighbourhood plan incl. a land survey (4.3.1, p. 53);
- h) Administrative costs.

a), b) and c) will cause the greatest expenses. Some major investments (e.g. the new tunnel in Pobrdje / Rutke) need not to be covered from the earnings of communal fees, but are budgeted otherwise.

The total communal fees for the area Pobrdje / Rutke are estimated with € 7-10 mill. This should suffice for major upgrade activities in the settlement, as proposed in this report, but should be supplemented with other financing sources.

Earnings from payments of communal fees, property tax and other public incomes will be generated gradually. This requires realisation in phases. For Pobrdje / Rutke, this could be resolved as follows:

Phase 1 (first 2 years):

- New tunnel to improve access to the area; improvement of pedestrian access to the train station;
- Execution of an updated neighbourhood plan;
- Design of a SUP: definition of construction phases, definition of houses to be removed, definition of private roads and footpaths to impose rights of way, hydrotechnical plan;
- Coordination with service providers (water, electricity) for coordinated renewal of systems;
- The first infrastructure corridor to be realised shall be the one along the railroad, which functions as a “backbone” of the area. This includes the connection with the new tunnel and hydrotechnical measures (closing parts of the existing creek); once infrastructure corridors are realised (retrofitted or newly built), all necessary infrastructure shall be executed in one (underground collectors, access points); for this infrastructure corridor public parking lots (to be rented to tenants and hotels) have a specific significance;
- Coordinated retrofit of the hydrotechnical system, and existing systems of water supply, electricity, telephone, sewerage, street light etc.;
- Realisation of first measures to define public space;
- Definition of building land for multi-apartment housing, building start;
- Promotion of the regularisation process.

Phase 2 (following 3 years):

- Complete upgrade of one strip of the project area, including at least one full loop of infrastructure corridors (one-way system) with the full set of measures as described before (hydrotechnical upgrade, renewal and new construction of all technical infrastructure, public space);
- Full upgrade of the grid of small roads and footpaths within this strip;
- Expropriation and demolition of buildings may start after availability of multi-apartment housing for compensation; the first buildings to be removed shall concern the infrastructure corridor connecting Pobrdje and Rutke with Partisanski Put and the western areas of Sankovici, as well as some buildings close to the train station and buildings in the first strip of reconstruction works;
- Realisation of social infrastructure;
- Completion of the regularisation process.

Phase 3 (following 3 years):

- Completion of settlement upgrade in two or three further phases;
- Completion of access to sewerage of all plots;
- Evaluation of results.

The process of settlement upgrade includes comprehensive coordination tasks with large scale financial and administrative implications. For this reason the investment plan for settlement upgrade should be elaborated professionally, using common tools of project management, such as critical path method or business plan method (see 4.12.2, p. 78).

4.8.2 INSTALMENT PAYMENT FOR COMMUNAL FEES

As explained in 4.7.1 (p. 69), the communal fees for informal settlements are estimated with 75 to 90 €/m² useable floor space or € 7,500 to 15,000 (full charge) for an average single family house respectively. To achieve high payment discipline, notable rebates shall be conceded, according e.g. to the following scheme:

- Model 1: Regularisation and full payment within 2 years: 30% rebate; With this rebate the fee equates to around 50% of communal fees for formal new construction;
- Model 2: Regularisation within 2 years, payment in instalments: 10% rebate;
The municipality accepts a payment scheme with 30% down-payment and the remaining 70% in 10 regular annual payments, with a maximum interest rate of 6%;
- Model 3: Regularisation within 4 years: no rebate, payment in instalments with 50% down-payment and only 5 years regular instalments, with a maximum interest rate of 6%;
- Model 4: Later regularisation: extra charges to communal fees.

All payment debts shall be collateralised with a mortgage or lien in cadastre (4.6.7 and 4.6.8, p. 68).

Table 33 shows the consequences of this payment schemes, considering a single family house with a full charge communal fee of € 10,000.

Table 33: Financing scheme with instalment payment to the municipality

	Model 1	Model 2		Model 3	
		yearly instalments	monthly instalments	yearly instalments	monthly instalments
Basic fee	€ 7.000	€ 9.000	€ 9.000	€ 10.000	€ 10.000
Year 1	€ 7.000	€ 2.700 + € 808	€ 2.700 + 12 x € 70		
Year 2		€ 808	€ 70		
Year 3		€ 808	€ 70	€ 5.000 + € 1.120	€ 5.000 + 12 x € 96
Year 4		€ 808	€ 70	€ 1.120	€ 96
Year 5		€ 808	€ 70	€ 1.120	€ 96
Year 6		€ 808	€ 70	€ 1.120	€ 96
Year 7		€ 808	€ 70	€ 1.120	€ 96
Year 8		€ 808	€ 70		
Year 9		€ 808	€ 70		
Year 10		€ 808	€ 70		

Source: Authors

Strengths of these models are:

- Simple design;
- Strong incentives for early payment;
- No government involvement in financing;
- Simple administration;
- Cost efficient solution for households (low interest rate).

Weaknesses:

- Stepwise availability of communal funds for settlement upgrade;
- Difficulties to combine mortgages for communal debts with other mortgages, e.g. for thermal rehabilitation of buildings; This could be solved if the municipality accepts collateralisation of its mortgages on the second rank.

4.8.3 SOFT LOANS FOR PAYMENT OF COMMUNAL FEES

Retail instruments in financing communal fees and incremental upgrade are essential. Cooperation with local banks has major advantages, e.g. strengthening of financial literacy of people, motivation to make additional investments in (thermal) rehabilitation, strengthening the financing sector. But cooperation with commercial banks only makes sense if financing sources with moderate interest rates are available, e.g. by availment of funds of International Financing Institutions, such as CEB or World Bank. Usually such soft loans require State guarantees. Taken regularisation of 10,000 houses, of which 50% would take such a loan, a State guarantee of € 35 mill. would have to be provided. Cooperation with commercial banks within the CEB project "1000+ Housing" (FIP 16901) turned out to be quite complicated.

Table 34 shows this financing scheme with the following assumptions:

- Again, the scheme refers to a single family house with a full charge communal fee of € 10,000.
- The municipality would accept a rebate to communal fees of 30%, as revenues are effectuated immediately.
- State guarantee for the full amount.
- Loan duration of 20 years, 5.5% interest rate fixed, grace period of 5 years.

Table 34: Financing scheme with soft loans for payment of communal fees

	yearly annuities	monthly payments
Basic fee	€ 7.000	€ 7.000
Year 1	€ 385	€ 32
Year 2	€ 385	€ 32
Year 3	€ 385	€ 32
Year 4	€ 385	€ 32
Year 5	€ 385	€ 32
Year 6	€ 661	€ 57
Year 10	€ 661	€ 57
Year 15	€ 661	€ 57
Year 20	€ 661	€ 57

Source: Authors

Strengths:

- Assessments of creditworthiness by local banks;
- Very affordable for beneficiaries;
- Immediate effectuation of communal fees for the municipality.

Weaknesses:

- Loans not for all tenants, but only for the “bankable” ones;
- State guarantee is required.

4.8.4 SOFT LOANS TO MUNICIPALITIES

Funding for informal settlement upgrade (grants and earmarked soft loans) is required also for the municipalities, to cover costs of resettlement, compensation, major infrastructure works and bridging financing until full payment of communal fees.

The favourable terms of payment, as seen in Table 34, could also be attained by taking the municipalities as financing intermediaries, instead of commercial banks.

4.8.5 HOUSING ASSISTANCE SCHEME

It is indispensable to implement measures to counter social hardship, allowing vulnerable households to defray infrastructure improvement costs. But social assistance schemes differ, if payment of communal fees is organised via the municipalities (4.8.2) or with soft loans via commercial banks

(4.8.3). In the former case the appropriate tool is respite of payment of communal fees, in the latter a housing allowance scheme should be implemented by the municipalities.

In both cases the following cornerstones may be implemented:

- Means-tested allowance for only most needy households (principal residents with no other property in Montenegro);
- A maximum of 40% of disposable household income for regular payment of communal fees seems socially feasible;
- Respite of payment does not reduce the overall obligations; similarly, allowances should be repayable, and the debt be registered in cadastre, with the obligation of repayment in the case of sale, change in income or inheritance; But for such social cases, reduced interest rates have to be applied, e.g. 2-3% to compensate inflation.

4.8.6 SOFT LOANS FOR INCREMENTAL UPGRADING OF BUILDINGS TO MEET ENERGY EFFICIENCY & SEISMIC RISK REQUIREMENTS

Preferential loans can be also considered in cases of regularisation where substantial investment is required to bring the building up to standards with respect to energy efficiency and seismic risk. Practices of regularisation from other countries indicate that such approaches allow subsequent investment of savings and sweat equity into incremental upgrading, however, some financial incentives under broadly defined terms could be extremely helpful in kick starting the processes on a larger scale. It is important to avoid excessive regulation, and to provide reasonable timeframe to address deficiency in the construction to meet present requirements. This should be done recognising the intensity of use in different buildings, public safety considerations and liabilities and the fact that a large number of the stock is constructed more than 30 years ago.

4.8.7 COST SHARING FOR TECHNICAL INFRASTRUCTURE WITH UTILITY PROVIDERS

Informal settlement upgrade will burden municipal budgets strongly. An important counter strategy is the involvement of utility providers to the investment costs. As a matter of fact, the electricity, water and telecommunication companies have to cover costs for renewal of their distribution networks by themselves, with refinancing through tariff arrangements. But investments have to be coordinated. The biggest part of wires and cables shall be installed underground in collectors below the infrastructure corridors. Cost sharing for road construction is therefore a real challenge.

Also the train company shall be involved for joint ventures, as the municipality may help them in releasing squatted land and turn this land to productive use, e.g. for parking lots for remuneration. In return, the train company should contribute to investment costs to resolve security deficits, e.g. regarding a new tunnel or access to the train station (4.4.1, p. 55).

4.9 COMPENSATION ISSUES

It is legal practice in Montenegro to compensate private landowners with fair value of their land in the case of expropriation in public interest. This practice is one of the main barriers to regularisation and urban upgrade, as it absorbs a major part of public funds, which leaves hardly any room for manoeuvre for other investments.

This impasse may be overcome with urban planning, administrative and regulatory measures:

- a) Efficient planning in urban upgrade, with least possible interventions in the existing structure of roads and public space. This requires alternative planning standards (see 4.6.1, p. 63).
- b) The public should extensively use the cadastral instrument of rights of way to secure access on private land without the need of compensation. This seems particularly legitimate in the case of footpaths (4.6.1h), p. 64).
- c) The public may provide multi-apartment housing for compensation of landowners, which have to give up their houses (see 4.10, p. 76). In this case the fair value of the land may be equalized with the fair value of a new apartment. But still this is a costly strategy.
- d) Private land (with or without housing use) may be compensated by swaps with public land. Differences of value may be equalized with multipliers, based on official valuations (4.6.5, p. 66).
- e) Montenegro should consider a change in legal regulations and legal practice on compensation. In several European countries (e.g. Austria) landowners have to give away parts of land for road infrastructure (e.g. widening of roads or erection of sidewalks) without compensation, if this does not affect usability of their property incommensurately.
- f) Valuation of fair value for land to be expropriated for public use may be revised. Taken building land in a nice location with view to the sea with good infrastructure, the value may be above any limit. Taken on the other hand land not qualified for construction, with a disproportional layout and a right of way, the fair value may be quite moderate. Valuation of land for expropriation must be particularly liable to the rule of law. The present practice of valuation by public surveyors seems adequate. But transparency should be attained by legal definition of rules (4.6.5, p. 66).

In any case, the degree of informality of the private land should be considered (Table 24, p. 41).

4.10 NEW MULTI-APARTMENT BUILDING CONSTRUCTION

Affordable multi-apartment buildings should be realised to provide a mixed tenure structure in the project area, and of course to compensate owners of informal buildings, which have to be expropriated because of public interest (infrastructure corridors), constructive instability or non-compliance with the GUP (outside the settlement boundaries).

The volume of such construction requires sound proof of demand. Following a very draft estimation with total around 2,000 residential buildings in Pobrdje / Rutke, of which 3% have to be removed and two third of the owners taking such an apartment as compensation, some 40 dwellings are needed. Taking average floor space per dwelling of 65m², commercial space in parts of the ground floor and a density of 1.5, building land of some 2.000m² is required. It makes sense to reserve two plots of land of this size to anticipate future developments.

Such a building may be utilized for strategic purpose of settlement development, e.g. to host social infrastructure or define public space in terms of urban planning. It therefore should be located in central position, adjoining an infrastructure corridor or public space.

Affordable multi-apartment housing requires financial support. CFSSI, the Montenegrin Fund for Solidarity Housing Construction (Crne Gore Fond za Solidarnu Stambenu Izgradnju) has proved ability to realise affordable housing on cost-coverage principle. It utilizes different financial sources to provide housing which is affordable for everybody with regular incomes: Building land shall be provided free of charge. The building shall be exempt from communal fees. Dwellings shall be offered with different

financing models (ownership, rent to buy, leasing, rent). Rent and leasing models require soft loans. CFSSI has acquired substantial means from International Financing Institutions to realise such tenure.

For the cases of compensation of private land it seems adequate to charge the fair value of such dwellings (market price) against the fair value of private land (see 4.9, p. 75). Compensation legitimizes co-financing of such affordable housing from sources acquired from communal fees.

4.11 ECOLOGICAL ASPECTS

Informal settlement upgrade in present times must consider ecological aspects. The following issues seem important:

a) Limitation of car access:

Because of burdensome limitations of access, the informal settlement Pobrdje / Rutke is today hardly opened up for car traffic. Any upgrade strategy must start with an improvement of access roads to reduce risks in the case of natural disasters. But this may open a lock for car traffic inside the settlement. It is essential to halt such a development. Efficient measures seem to be strict limitations of public parking, limited upgrading of infrastructure corridors (partly with only one lane, one-way system), and a focus on pedestrian traffic.

b) Promotion of pedestrian traffic:

The existing informal grid of footpaths shall be regularised and upgrading to become a main element of opening up the settlement. It even shall be allowed to have footpath (or staircase) as only access to a plot of land for residential use. This issue shows the close similarities of informal settlements with historic city centers.

c) Sewerage:

Today only a small share of houses is connected to a sewerage system. This must change, at least at medium term. For this reason, erection and upgrade of infrastructure corridors in any case should include collectors for sewerage and access points. Connection with individual plots is difficult to enforce in short term, but is scheduled for medium term.

d) Thermal upgrade of buildings:

Regularisation of buildings shall go hand in hand with support and promotion for thermal upgrade, e.g. the installation of solar collectors (warm water) or shading. For this initiative, additional financing sources shall be acquired.

e) Safeguarding natural landscape:

Informal settlements have a strong tendency to expand. Current legal reform (civil code) have changed new informal construction to an element of crime according to criminal law, linked with severe sanctions. Enforcement of this new legal action is a serious challenge to be faced in informal settlement upgrade.

f) Social issues:

All actions proposed in this feasibility study seem to be socially balanced, or supported with measures to counter social hardship.

4.12 IMPLEMENTATION ISSUES

4.12.1 PROJECT IMPLEMENTATION UNIT

The implementation of the described strategy to regularisation of informal settlements requires substantial human resources with high negotiating capacities. The establishment of a project implementation unit (PIU)

should be considered. It should consist of experts from the urban planning and building regulation department of the Municipality of Bar (in charge for retroactive occupancy permits), representatives of the utility providers, experts from the Building Inspection Department of the Ministry of Sustainable Development and Tourism and other experts. The PIU should be accompanied with a supervisory body. The PIU should take office within the project area. But it seems sufficient, if such an office is occupied e.g. two half-days per week. Funding of such a PIU may be covered within support of an international donor.

4.12.2 BUSINESS PLAN FOR IMPLEMENTATION

The chances for successful implementation of the informal upgrade strategy may be improved by applying common tools of project management, such as critical path method or business plan method. The PIU may prove professionalism by efficiently structuring and coordinating the necessary works.

4.12.3 PARTICIPATORY STRATEGY

Informal settlement upgrade cannot be achieved against the interest of the settlers. Identification of the sitting owners with the upgrade strategy and commitment with the measures is critical for success. A participatory strategy should be explicitly defined and implemented. It may include the following aspects:

- Representation of the sitting owners in a supervisory body to the PIU;
- Representation of local civil society in democratic institutions of the municipality;
- Participatory development of parts of the upgrade strategy, such as design of public space, definition of public services (with corresponding costs);
- Activities to increase identification with the settlement, e.g. competition for renaming the roads etc.;
- Measures to promote communitarian activities of settlers, such as forming associations etc.

4.12.4 COMMUNICATION STRATEGY

Communication to the sitting owners and the Montenegrin public is a task of skilled professional requirements. For the pilot projects it is strongly recommended to commission design and implementation of a communication strategy to a qualified agency.

Some aspects should be particularly considered:

- Significance of seismic risk and the necessity to counteract;
- Awareness raising of security issues;
- Significance of informal settlement upgrade for touristic (economic) development of the coast;
- Benefits of the single owner from upgrade measures;
- Abating negative effects of the free-rider problem; necessary punishment of free-riders;
- Necessity to remove buildings; concern for fair solutions of compensation and social issues;
- Awareness building regarding semi-public space;
- Documentation of daily life and celebration of small and bigger victories.

4.12.5 QUICK ACTION

For reasons of creating an atmosphere of reliability and optimism, early action is imperative. Immediate action, quick and visible results are imperative for acceptance of the strategy.

Quick action may include the following measures:

- The municipality shall start settlement improvement with measures, which are not bound to funding with communal fees, in Pobjrdje / Rutke particularly the new tunnel.
- Implementation of a provisional one-way system of existing roads to improve traffic flows and try prospective more comprehensive traffic systems.
- Development and approval of a SUP may be achieved within a short period of time.
- Some legal recommendations (4.6, p. 63) may be incorporated short term, e.g. the legal basis for a right of way on footpaths and using them for full access to parcels.
- Installation of several high-quality billboards with the road and footpath grid.
- Most roads in Pobjrdje / Rutke have no name, many parcels no clear address. Naming of roads could become an initiative of great symbolic and political value. Road naming is a strong measure for identification. Possible themes could be local trees, Montenegrin poets etc.

4.12.6 MONITORING AND EVALUATION FRAMEWORK

Evaluation and monitoring of the informal upgrade strategy should be defined right at the beginning of works. This concerns particularly:

- Achievement of quantitative targets;
- Monitoring of financial issues (investment strategy);
- Monitoring of the time frame;
- Definition and monitoring of milestones (e.g. realisation of the new tunnel, legal reform etc.);
- Monitoring of project management (PIU).

Informal settlement upgrade is very much a task of public authorities, particularly the municipalities. Therefore the municipal councils should be in charge to approve investment plans and supervise execution and financial conduct.

5 INFORMAL SETTLEMENT REGULARISATION ACTION PLAN

The following schedule aims at completing regularisation of all informal settlements in Montenegro within a manageable period of time. Provided quick action both from national policy, national and municipal administration and international donors, major achievements seem possible within the time frame indicated in the Vienna Declaration on Informal Settlements in South Eastern Europe (2015). But full regularisation of all informal settlements will take more time than this.

Regularisation may be implemented in the framework of the following matrix:

Table 35: Matrix for classification by degree of informality and possibilities for regularisation

LEGAL STATUS	FUNCTION	CONFORMITY WITH PLAN (building permit)	CONFORMITY WITH PLAN AND BUILDING CODE REQUIREMENTS (occupancy permit)	DESIGNATED PAYMENT OF COMMUNAL FEES
1. Title of land and building registered in the cadastre	1. Primary residential	1. Have building permit & have built according to rules	1. No occupancy permit but it is possible to issue in accordance with plan	1. Payment in lump sum with up to 30% discount
2. Title of land registered in the cadastre	2. Secondary and holiday home	2. Have building permit but have built more	2. No occupancy permit but it can be issued after prescribed improvements / rehabilitation to existing structure	2. Installment payment (e.g. down-payment 30% + 10 years)
3. Ownership of land (private) but no registration in cadastre	3. Residential + B&B + incidental commercial	3. No building permit but in line with plan provisions	3. Occupancy permit cannot be issued: demolition	3. Payment with soft loan (e.g. over 20 years, 5% interest rate)
4. Building on public land (informal right of use or squatting)	4. Multi-family housing apartments / tourism	4. No building permit but cannot be issued due to road widening or other critical infrastructure requirement, demolition required		4. Reduced payment (means tested)
5. Building on private land (informal right of use or squatting)	5. Motels / hotels			
	6. Supermarkets / other business uses with high intensity occupancy			

5.1 REGULATORY LEVEL

The implementation of the described roadmap to regularisation of informal settlements requires the following legal reform. Short term implementation is recommended and possible:

a) Division of regularisation: first settlement upgrade, followed by building legalisation:

Informal settlement upgrade shall be structured in a new way. Regularisation on a settlement level shall be divided from legalisation of individual buildings. The former is based on a new way of communal fee levy, which is not linked to a building permit or an occupancy permit, but to real use of the building for everyone. On this basis the municipality will be able to settle regular communal services. Independent from communal fee payment the owners will be motivated to legalize their buildings with a retroactive occupancy permit.

b) Definition of alternative planning standards (4.6.1):

Existing planning standards (e.g. regarding technical infrastructure or profile of roads) refer to new greenfield developments. They are inapplicable both for informal settlements and for historic city centres. Informal settlement upgrade requires alternative planning standards as precondition for regularisation. DUPs based on alternative planning standards shall refer to updated neighbourhood plans instead of cadastre maps. Cadastre maps do not comply to the needs of regularisation, as plot boundaries often are imprecise and only registered buildings are considered. By contrast, updated neighbourhood plans shall document precise plot boundaries and the complete buildings stock with its real use. Regarding minimum access to a single family house it might be enough to be connected to a public road with at least a footpath, which is in public property or with a registered right of way, with the second precondition that emergency operations in the case of natural disaster are viable (e.g. access for fire brigades). The existing footpaths in informal settlements are expected to play an important role in opening up all plots of land. For this reason the legal instrument of right of way has to be improved to be broadly applied in this respect. In informal settlements even main roads will remain to have only one lane, combined with a one-way system. Standard road profiles are neither in the interest of the owners nor affordable for the public (need for compensation).

c) New scheme of collection of communal fees (4.6.3):

Informal settlement upgrade requires funding. As owners of informal settlements never have paid communal fees, this has to be made up. A procedure has to be introduced to include all owners of informal buildings to this payment obligation. For this reason, payment obligation in informal settlements shall not be linked to a building permit or registration of the building in cadastre, but to the real use of the building, as documented in an updated neighbourhood plan. The payment obligation shall be collateralised with the registered land in cadastre.

d) Rules for expropriation, land swaps and compensation (4.6.5):

Regularisation of informal settlements requires new approaches to acquire private land for public use. The value of compensation should depend not only on the value of the old house, but also on the level of informality (Table 35). Valuation of land for expropriation and swaps of land must be particularly liable to the rule of law. Transparency and legal definition of rules is essential.

e) Issuance of retroactive occupancy permits (4.6.6):

Full regularisation of informal buildings is attained if a retroactive occupancy permits (which also cover legal binding of building permits) has been applied and is approved. This requires reduced technical requirements compared to formal new construction. Minimum standards for retroactive occupancy permits have to be defined, e.g. concordance with an approved DUP, access to the parcel with a road or a footpath in public property or with a right of way, structural safety and seismic stability to be proved by a technical expertise, access to technical infrastructure, finishing of construction works (roofs, unplastered walls), minimum number of parking lots on private property, maximum density according to the DUP.

f) Other important legal reform concerns registration of liens for debts to the public (4.6.7) and foreclosure and expropriation in cases of cumulative debts to the public (4.6.8).

5.2 FISCAL LEVEL

The following fiscal measures shall be implemented to enforce informal settlement upgrade:

a) Payment schemes of communal fees (4.7.1):

Communal fees are determined at the municipal level, but the methodology is set in the legislation. The communal fees for regularisation of informal settlements shall be set in relation to communal fees for new construction: a maximum of 75% according to the same category is recommended. This is € 7,500 to 15,000 for an average single family house in the project areas. This leaves some space for rebates. Immediate payment of the full amount could benefit with a rebate of up to 30%. In this case the communal fees for informal housing are close to 50% of formal new construction. Following current practice, it is recommended to charge similar communal fees, calculated per m² useable floor space, for all buildings (permanent residence, holiday residence, touristic facilities, business facilities), with no progressive rates for particular uses, size or levels of informality.

b) Tax incentives (4.7.2):

Waiving property taxes for a limited period of time or rebates on communal fees shall be applied to motivate owners for regularisation. Communal fees shall initially be levied based on estimations of gross floor space (SUP), which may be changed to net floor space in the course of regularisation. But non-fiscal incentives seem similar effective, i.e. the compulsory existence of occupancy permits e.g. for the informal old stock in the case of major repair works or extension of the existing building, or qualification for future subsidy programs on energy efficiency measures, or better coordination of approvals for touristic facilities

c) Tax penalties (4.7.3):

Tax penalties may become powerful incentives for regularisation. Currently, fivefold multipliers for non-registered property have been discussed.¹ But this model seems inconsistent with the proposed model to disconnect payment obligation for communal fees from regularisation, combined with the proposed regulation of foreclosure and expropriation for cumulative debts to the public. Contrary to single family homes, tax penalties seem appropriate to motivate owners of informal touristic facilities to go for regularisation.

d) Fiscal support to municipalities (4.7.4):

Those municipalities mostly affected by the challenge of informal settlement upgrade suffer from urgent budget restrictions. Fiscal support from the central government is recommended, particularly for major infrastructure projects. For the pilot areas this is e.g. a new tunnel to improve access to the settlement.

5.3 FINANCING / SUBSIDIES

Obviously informal settlement upgrade is a major financial challenge. But it would be a misinterpretation to think that financing is the most or even only important factor of success. A comprehensive set of measures including financing, legal and fiscal issues, capacity building, communication and participation is required.

¹ MSPE (2010).

A promising informal settlement upgrade strategy should include the following financing issues:

a) Investment plan for settlement upgrading (4.8.1):

Each informal settlement upgrade should be defined as one single project with a comprehensive investment plan, to be approved and supervised by the municipal council. The process of settlement upgrade includes comprehensive coordination tasks with large scale financial and administrative implications. For this reason the investment plan for settlement upgrade should be elaborated professionally, using common tools of project management. All collection of communal fees and other incomes as well as all spending must be documented transparently and communicated. Earnings from payments of communal fees, property tax and other public incomes will be generated gradually. This requires realisation in phases. These phases have to be scheduled thoroughly, to keep earnings and spending in balance.

b) Payment schemes for communal fees (4.8.2 to 4.8.4):

It is crucial for social and economic reasons to offer affordable financing models to the owners of informal settlements. The most promising models are instalment payment to the municipalities, e.g. with a 30% down-payment, followed by regular payment of the remaining amount (incl. interest) over 10 years, or soft loans with support from the central government and possibly international financing institutions, administered by local commercial banks. Immediate payment of the whole amount shall be promoted with rebates of up to 30%. Taking average payment obligations for a single family house of € 10,000, calculations to these models resulted in monthly costs of fairly below € 100.

c) Housing assistance scheme (4.8.5):

Poor residents have to be supported effectively. At the same time misuse and misallocation are to be avoided. Social assistance schemes differ, if payment of communal fees is organised via the municipalities or with soft loans via commercial banks. In the former case the appropriate tool is respite of payment of communal fees, in the latter a housing allowance scheme should be implemented by the municipalities. Housing assistance should be granted only to most needy households. Payment obligations of up to 40% of disposable household income for regular payment of communal fees seem socially feasible. Social assistance is no free lunch. Respite of payment does not reduce the overall obligations, allowances should be designed repayable with a registry in cadastre.

d) Soft loans for incremental upgrading of buildings (4.8.6):

Residents of informal settlements should be motivated to invest in upgrading their buildings. This will be partly necessary to attain retroactive occupancy permits. Additional investments e.g. in thermal rehabilitation or improvement of the exterior look of their houses are appreciated and should be supported with a scheme of soft loans. Funding by international financing institutions may be acquired.

e) Cost sharing for technical infrastructure with utility providers (4.8.7):

As a matter of fact, substantial parts of renewal of the technical infrastructure are in the authority of utility providers (water, electricity), which should refinance such investments with tariff arrangements. Cost sharing is a challenge in the case of underground installation in combined collectors below the infrastructure corridors.

5.4 PILOT PROJECTS POBRDJE / RUTKE AND CANJ

Implementation of the two pilot projects in the Municipality of Bar require solutions of regulative, fiscal and financial issues, as explained before.

An action plan for the pilot areas may consist of the following steps:

1st year:

For both project areas:

- Implementation of the regulatory, fiscal and financial reform as explained above;
- Execution of updated neighbourhood plans;
- Development of SUPs: definition of construction phases, definition of houses to be removed, definition of private roads and footpaths to impose rights of way, hydrotechnical plans;
- Realisation of investment plans for both areas;
- Realisation of a communication strategy;
- Promotion of the regularisation process including the scheme of levy communal fees.

Pobrdje / Rutke:

- Planning and preparations for a new tunnel to improve access to the area, and for improvement of pedestrian access to the train station;
- Planning and preparation for the “backbone” infrastructure corridor along the railroad; cooperation with the railroad company for common use of their land; hydrotechnical plan; cooperation with service providers for common investment in technical infrastructure;
- Definition of a plot of (public) land for an affordable multi-apartment building;

Canj:

- Abrogation of the existing DUP;
- Commission of a new touristic concept (not including the residential areas of Canj II) to an international consultant;
- Planning and preparation for a second access road Kufin – Canj;
- Planning and preparation for large scale parking lots in the outback to protect the beach from car traffic;

2nd year:

For both project areas:

- Approval of SUPs;
- Area-wide levy of communal fees;
- Promotion and execution of the regularisation process;
- Expropriation of land for infrastructure corridors;
- Imposition of rights of way to the grid of private roads and footpaths;
- Realisation of a first construction phase with infrastructure corridors; full upgrade of the grid of small roads and footpaths within the construction phase; technical infrastructure etc.;
- Planning and preparation for a second construction phase;
- Realisation of first measures to define public space; preparation of social infrastructure;
- Implementation of a participatory strategy;

Pobrdje / Rutke:

- Realisation of a new tunnel and improved access to the train station;
- Realisation of the “backbone” infrastructure corridor along the railroad: parking lots (to be rented to tenants and hotels); technical infrastructure; hydrotechnical measures etc.;
- Realisation of an affordable multi-apartment building;

Canj:

- Realisation of a second access road Kufin – Canj;
- Execution of parking lots in the outback;
- Execution of a touristic development project following international best practice;
- Strict traffic limitation to the beach; installation of a shuttle service;

3rd to 5th year:

- Completion of first construction phases;
- Preparation and execution of following construction phases;
- Monitoring the projects, assessment of the investment plans;
- Completion of settlement upgrade;
- Completion of access to sewerage of all plots;
- Completion of the regularisation process.
- Evaluation of results.

5.5 NATIONWIDE IMPLEMENTATION

The pilot projects in Pobrdje / Rutke and Canj have to be monitored thoroughly to be able to transfer the findings to other informal settlements at an earliest possible stage in a dynamic process.

Independently from this, inventories of all existing informal settlements in Montenegro should be settled.

All following steps should be tackled soon after assessment of their effectivity in the pilot projects and/or according adoptions.

Informal settlement upgrade may be strongly promoted with a subsidy scheme for thermal refurbishment. Implementation with support of international donor organisations is considered.

6 APPENDIX

6.1 REFERENCES

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6.2 METHODOLOGY ON PROPERTY TAX CALCULATION

Property tax (PT) is calculated with the formula: $PT = AP \times FA \times LC \times QC \times RA \times TR \times RF$

- The average price per square meter of new building (AP): 1188 €
- Facility area (FA): nn m²
- Reduction related to the building age (RA): 1.3 % for each year, provided that the total reduction may not exceed 65%; $RA = (100 - 1.3 \times BA)/100 \geq 0.35 \%$
- Building age (number of years) (BA)
- Reduction related to the number of family members (RF): 10 % for each family member (reduction may not exceed 30 %); $RF = (100 - FM \times 10)/100 \geq 70 \%$
- Number of family members (FM)
- Coefficient related to the location of the property (LC): Pobrđe i Rutke: 0.95; Čanj: 1.2;
- Coefficient related to the quality of the building (QC): An average of 0.8
- Tax rate (TR): 0.22 % for the residential population of Bar; 0.50 % for leisure facilities;

In addition to Property tax, all owners of buildings that are non-residents of Bar municipality and residents of Bar municipality for each facility that is not an essential facility for housing pay additional Tourist tax.

Tourist tax (TT) is calculated with the formula: $TT = TF \times FA/AC \times NOD \times RC \times PO$

- Tourist fee (TF): 0.7 €
- Facility area (FA): nn m²
- Coefficient related to the facility area (AC): 15 m²
- Number of occupancy days (NOD): 45
- Reduction coefficient (RC): 0.5
- Percentage of ownership of facility (PO): n %

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