

# The Registration of the Ownership of the Illegal Objects in Albania

Enkeleida Shyle Petanaj, PhD Candidate  
University of Tirana, Albania

## Abstract

The right of ownership in Albania is one of the fundamental human rights sanctioned on the Constitution. The right of ownership changes with the changes of economic social relations. Together with the tremendous political and economical changes in Albania, there was a great development in illegally obtaining the state property and private property also.

After the year 1990, a considerable number of people used the force to keep and protect the property acquired illegally. In these conditions, the legalization was a pragmatic answer against the difficult consequences that came from the occupation of the land and massive population movement onto these lands. The legalization aimed to give ownership of state and private land to people who had illegally constructed buildings and to make them part of the process of urbanization. Legislative initiatives were undertaken and institutions were created in relation to this process.

This study aims to present the legal steps and the documentation needed to obtain the title of ownership of the illegal objects and the closure of the procedures of its registration up to the final step of acquiring the certificate of property. This study presents a series of legal and judicial norms and their analysis in the view of respecting the right of ownership, and by giving suggestions that help the finalization of the process, in order to harmonize it with guaranteeing of the property right to the legitimate owners.

**Keywords:** ownership of the illegal object; legalization permission; registration.

## Introduction

One of the methods to obtain the right of ownership in Albania is through the law on legalization, urbanization and integration of the illegal objects. This law came as a necessity of finding the legal solutions of the phenomenon of the illegal construction. This phenomenon was introduced in the first steps of democratic developments where the importance of the protection of the right of private or public ownership, was not considered a priority of the government that came from the democratic movements. Even though existed and were created institutional mechanisms to develop and register these rights, the government did not ensure giving in a reasonable time limit the property titles and proper identification of the property borders. Regardless the

fact that the legal improvements came late in time, in relation to the development and social needs they did not result effective, and so was developed the informal market of urban building construction<sup>1</sup>. According to a World Bank report<sup>2</sup>, illegal construction made up to one third of the residential inventory and cost around ten milliard Euros to be built. For this reason, through the process of legalization is aimed to turn this “dead property” to a beneficial and functional property, which can be included in the formal system<sup>3</sup>. The absence of a clear legal ownership title prevents the owners who exploit these properties to use them in the formal market or to use these properties as collaterals for bank loans.

Initially, the process of legalization was considered a pragmatic counter answer to the difficult circumstances that came from the land acquisition and massive illegal movement on these lands<sup>4</sup>.

However, the legalization reform needed to be undertaken:

- To integrate in a society a large number of habitants that built their properties illegally in order to give them the chance to have a proper residence;
- To stop the illegal construction in the future;
- To stabilize the judicial regime on the property rights and to put the stability of the economic and social relations, by avoiding the social conflict between the private individuals;
- To protect, legalize and to put into civil circulation the invested capital in the area of construction.

There have been some main initiatives to put rules for the informal residences in Albania; the first was through the Law Nr. 9304, dated 23.10.2004, “For legalization and urbanization of the informal areas” and the Law Nr. 9209, dated 23.3.2004, “For legalization of the added areas to the buildings”. Because of the incomplete knowledge and resources of the local government, there were measures taken for new legal changes in 2006 with the law for legalization, urbanization and integration of the illegal constructions. The changed law of legalization created the Agency of Legalization, Urbanization and Integration of the informal areas/buildings (ALUIZNI) and determined the related functions mainly to the legalization, urbanization and registration of the legalized properties.

Even though it was one of the most contradicted laws and various opinions, this law has brought its legal effects by giving the titles of ownership to the illegally built

---

<sup>1</sup> Gabriel, B. Informal Settlement in SEE, A Regional Approach, f. 2, (2007).

<sup>2</sup> Referring an interview of Tony Lamb, consultant of World Bank with the General Director of ALUIZNI

<sup>3</sup> The term “dead capital” comes from Hernando de Soto, *The Mystery of Capital*, Basic Books, New York, 2000.

<sup>4</sup> “The government in protecting the rights on the immovable property in Albania, a continuous challenge” – an informative document of the World Bank, second edition, April 2012.

objects (the legalization permit) which are registered through the years in the Register of Immovable Properties.

### **Acquiring the ownership of the construction area**

In order to acquire the definite ownership of the construction area of the illegal objects, initially there were two steps needed to be taken:

1. Approval through the administrative act (The decision of the Minister Council) of passing the right of ownership on the construction parcel of the informal object.
2. Passing the right of ownership on the construction parcel (area) from the state to the self declare individual through the contract of property exchange.

### **Passing the property in the case when the construction site of a illegal object is non public state property**

In order to gain the right of property of the illegal objects the dependent directories of ALUIZNI prepare the technical legal documentation for the change of the right of property, of the construction parcels from the state to the owner of the informal construction. This documentation is prepared after the prior verification of the legalization practices that belong to a separate object or an area or informal block of buildings. In the prepared material are included *the official confirmation, a plan establishment, the legal accompanying documentation* etc. about the judicial condition of the building parcels of the informal objects; these documents are taken from the local office of immovable property registration, and the individual is not the owner proved with the legal documentation. The documentation for the approval of the Decision of the Minister's Council on the change of the right of property on the illegal construction parcel of the illegal object is sent to the Central Directory of ALUIZNI for approval, and later to the Minister's Council and it consists of:

- The vector map, which presents the informal objects and the parcels for which are proposed the approval of the property ownership change.
- The data table, the personal data of the self declared, the data of the property, the explaining relation on the proposal for changing the right of ownership (*the synthesis of the technical data and the legal information of the informal wealth*)
- The original documentation officially administered from the local offices of registration of immovable properties on the judicial condition of the construction parcels of the informal buildings in the cadastral area/block accompanied by the explained map of the wealth.

With the approval of the change of property right through the administrative act of the Minister's Council the self declarer has the right to acquire the property, which

used to be done by the change of property with the sale contract of the immovable property according to the dispositions of the Civil Code. After having finished the financial requirements according to the price of the construction area from the informal builders, the state realized the sale contract with the illegal builder, where the representative of the state was the director of the regional office of ALUIZNI. This was a right given to this office with the Law of 2008<sup>5</sup>. This law gives the legal right to the ALUIZNI office to perform the procedures of changing the ownership from the state to the individual who has illegally built the informal object.

The recent legal changes overpass the phase of changing the ownership through the sale contract from the office to the individual, and this procedure is now regulated by the administrative act of the Minister's Council, which is effective for the final registration of the construction parcel in the register of the immovable assets<sup>6</sup>. This happens because through the same administrative act, is done the approval of the value of the compensation for the areas which result to be under private ownership<sup>7</sup>.

The main change is giving the legalization permit for the informal object without relations to the parcel and without recognizing the right of the builder of the informal construction through the administrative act of the Minister's Council. The proposal for changing the right of ownership and the approval of the financial compensation value now is prepared from the directories of regional ALUIZNI offices after the approval of the legalization permit<sup>8</sup>. In this way the individual owner of the informal building after registration of the legalization permit for the object in the regional office becomes the only owner, meanwhile there is no time limit for the ALUIZNI office to develop project plans in order that the land where the informal building is constructed to have the same owner. This procedure questions the way these objects have become individual properties up to the moment of approval of this ownership through the administrative act of the Minister's Council.

### **The legal regime of changing the right of ownership on land from the legal owner to the informal builder**

Law number 9304, dated 28.10.2004, "On legalization and urbanization of the informal areas" foresaw the continuance of the legalization procedures even when they were under private ownership. In the cases when the legal state of the site confirmed by the ALUIZNI office is under private ownership the law foresees the obligated loss of

---

<sup>5</sup> Through the changes of the article 17 with the Law number 9895, dated 9.6.2008, "For some changes and additions to the law number 9482, dated 3.4.2006, "For legalization, urbanization and integration of the informal constructions", changed

<sup>6</sup> Law number 62/2015 "For some changes and additions to Law number 9482, dated 3.4.2006, "For legalization, urbanization and integration of the informal constructions", changed

<sup>7</sup> Article 3 of the verdict number 465, dated 22.6.2016, "for determination of the procedures and rules of changing the right of ownership of the construction site of the informal objects".

<sup>8</sup> Still there, article 4.

the land ownership from the private owner if there was no agreement between the private owner and the informal builder<sup>9</sup>. In cases when the parties do not reach an agreement with each other, then the law sanctions the removal of the land ownership from the legal owner by giving this owner the right of compensation, in accordance to the standards stated in the law for reconstitution and compensation of the property.

The expropriation, in the older law, as a proper means with obligatory character, is put to the legal owners *without clearly stating and ensuring how would happen the fulfillment of the right of compensation, whatever be the actual expropriation procedure, and whatever be the state office which would perform the compensation procedure*. The legal framework for this approach was replaced in 2006 with the Law "On Legalization, Urbanization, and Integration of the Illegal buildings, which with the additions and changes done"<sup>10</sup>, provisions a mechanism for changing the ownership to the individual who has illegally built on a site, and includes a compensation scheme for the previous owner and also a compensation formula<sup>11</sup>. The new law fairly regulated the change of ownership from the legal owners to the informal builders. With a change from the previous law, the new law apart from legalization, urbanization and integration of the informal buildings and areas, aimed to change the ownership with a compensation of the legal owner for the building site<sup>12</sup>. Article 15 of the law, for the change of property of the building site sanctioned the registration in the registers of immovable properties the properties that are legalized according to the legalization permits. This means that getting an administrative permit from the office of ALUIZNI makes legitimate owners the individuals who have illegally built on a property of a legal owner. While with the registration of the legalization permit in the regional office the private subject has the right of compensation. According to the law, the informal builder has become the legal owner of the building site with the approval of the property title and the legalization permit, and with the property registration in the office of immovable properties start the procedures of expropriation and compensation of the previous owner. We notice in the new law of legalization in 2006 that the lawmakers sanction the deprivation of the legitimate owners from their properties prior to the process of expropriation.<sup>13</sup>

---

<sup>9</sup> Article 10/2 "When the area of construction is a private property the legalization of the building is done after the change of property from the legitimate owner to the builder of the dwelling, in accordance to the dispositions of the Civil Code. In the cases when this change is not done, the legitimate owner of the site is compensated according to the law no. 9235, dated 29.7.2004, "For returning and compensation of the property".

<sup>10</sup> Law no. 9786, dated 19.7.2007, "Some additions and changes in Law no. 9482, dated 3.4.2006 On Legalization, Urbanization, and Integration of the Illegal buildings", makes some small changes in the financial and administrative dispositions of the Law no. 9482.

<sup>11</sup> World Bank, *Legal and Institutional Assessment, World Bank Integrated Coastal Zone Management and Clean-up Project* (Legal institutional evaluation related to the project of the World Bank for management and cleaning of the coastal area)

<sup>12</sup> Article 15, points 2, 3, 4 and 5, provision the change of the property in obligatory way to the informal builder with a compensation to the legitimate owner.

<sup>13</sup> The minority thoughts in the decision no. 35, dated 10.10.2007 of the Constitutional Court of the Republic of Albania

This illegal situation would be fixed through the law no. 9895, dated 09.06.2008, "On some additions and changes to the law no. 9482/2004" changed.<sup>14</sup>

In 2016, ALUIZNI reports that is performed the procedure of the property change for 8,606 building sites and are approved the rights for financial compensation for 2,980 subjects owners of the immovable properties, who have been included in the cycle of the illegal construction. The avenues from the process of legalization are estimated to be around 24 billion lek from which almost 1.7 billion lek are transferred to the financial fond of owners compensation. Meanwhile, it results that during the years are approved 37 decisions of the Ministers' Council and the total of the approved value of compensation is 18,9 billion lek<sup>15</sup>. According to ATP it is noticed that around 3,500 profiting subjects have not come to the office to apply for the profit given from the proper decisions of the Ministers' Council. These values are far from the expectation of the legitimate owners and even further the real situation of the owners who still do not have the right of compensation for their properties invaded from illegitimate builders.

### **The area of the building site for which is changed the right of ownership**

The parcel area, for which the transfer of the right of ownership is approved, in the case of illegal constructions with residential function, as a rule, should be up to three times the size of the construction base, but in any case not bigger than 500 m<sup>2</sup>. However, when due to the size or layout of the construction parcel, there are free spaces that cannot be used separately for construction; those are sold to the owner of the informal building according to the value of the property, approved by the decision of the Council of Ministers. The transfer of the ownership right of these areas is done only if the illegal building individual expresses the will through a written request. Determining the area of the construction parcel had many discussions during the drafting of legal changes. This was due to the fact that in the areas with real estate market development, citizens and businessmen tended to benefit from a larger area of land; due to the facilitating procedures that brought legal changes to the value in relation to the area. By limiting up to three times the base of the building, there is no abuse in the case of buildings with a modest construction area. From the practice it was noted that there were buildings with 17 m<sup>2</sup> construction area that benefited a land area up to 500 m<sup>2</sup>.

For the illegal buildings with social-economic function is applied only the criteria of the three times the construction base, by not limiting it, but through the determination of each individual case. This disposition leaves area for abuse as the function of the object

---

<sup>14</sup> Article 15/1.

<sup>15</sup> The sources are found on the official page of the Agency for the Property Treatment [www.atp.gov.al](http://www.atp.gov.al).

is determined through the assessment in the actual area from officials of the ALUIZNI office<sup>16</sup>.

### **The title of property of the informal objects**

The title of ownership of the informal objects is the permit of legalization. "The Permit of legalization" is the administrative act given by ALUIZNI at the end of the procedures of legalization and it serves to register the object in the office of registration of immovable properties. This ownership title is initially approved by the decision of the Minister's Council no.

871, dated 27.12.2006 "For the criteria, procedures and types of application for legalization permit"<sup>17</sup>. Just like any other administrative act, the legalization permit undergoes some criteria and procedures to be obtained which are as following:

- Voluntary declaration for the object or the informal addition in permitted constructions within the legal limits;
- The object/informal addition in constructions is not included in the excluded conditions from the legalization<sup>18</sup>;
- For the object/informal addition in legal constructions is completed the legal-technical documentation;
- The possessive subject has done all the provisioned payments according to the law.

### **The legal-technical documentation needed for the legalization of the informal object**

The documentation needed for the legalization of an informal object includes:

- The submitted documents from the self declaring subject at the moment of declaration
- The documentation prepared from the ALUIZNI institution

---

<sup>16</sup> When in terrain, ALUIZNI cannot determine the function of the informal construction, as it is not finished in volume, than the builder should declare the destination of the building use through a notary act. In contrary the function is supposed to be social-economic one.

<sup>17</sup> This decision has changes a few times with the no. 411 "For the criteria, procedures and the type of forms of legalization permit" changed with DMC no. 40, dated 11.1.2012; decision no.954, dated 25.11.2015 "To determine the criteria, procedures and forms of legalization permit" with DMC no. 164, dated 2.3.2016

<sup>18</sup> Based on the law no. 9482, dated 3.4.2006 "On Legalization, Urbanization and Integration of the informal constructions", changed; and the decision no. 280, dated 1.4.2015, changed with DMC no. 756, dated 26.10.2016, "To determine the criteria, procedures and applied documentation to qualify the illegal constructions, side additions and/or height additions, in legal constructions"

### *The submitted documents from the subject in the moment of self declaration*

The individual in order to be a subject for the law of legalization should have submitted:

1. "A" form- "Self declaration for the legalization of the object in the unit of urbanities of the local government or the request forms of the year 2013 "The declaration for being included in the process of legalization".
2. Pictures of four sides of the object.
3. Certificate of the family state, at the time of self declaration of the informal object.
4. Ownership title from the Office of Registration of the Immovable Properties if it is built on the private property of the individual himself.

### *Documentation prepared from the ALUIZNI institution*

After the self-declaration by the subject and obtaining the "self declarer status" ALUIZNI prepares a series of technical and legal documents until the issue of the legalization permit, which is the final title. These documents are:

1. General plane of the facility at the scale of 1:500, issued by the local government unit;
2. The plan and the surface in m<sup>2</sup> of each floor of the building that will be legalized, all on a scale of 1: 100;
3. The legal status of the land ownership where the informal object is built;
4. A receipt for liquidation of the taxes of the infrastructure impact for all cases where the subject is not excluded from the payment of the fee according to this law and the legislation in force (with legal changes, calculation and collection are made by the local government units);
5. A personal Statement, which assumes responsibility for any consequences that may arise from natural causes and /or the use of the building. According to this law, the state is not responsible for compensation in case of disasters due to the quality of the works of the facility;
6. A declaration where the implementation of the regulatory plan is accepted, including respect for public spaces, greenery, type of surroundings, lighting, parking etc.;
7. Decision on the qualification of the informal facility.

After the verification of the documentation and evaluation of fulfilling or not the above mentioned criteria, the directories of ALUIZNI of the districts decide to qualify the legalization or exclusion of the informal facility on the legitimate construction. The decision, accompanied with the proper argued act is administered as a part of the file of legalization. The final phase after the last payment of the bill for the building parcel,

the local director of ALUIZNI within 30 days has to develop a contract for the transfer of the title of the construction parcel from the state to the builder of the informal object/addition on a legitimate construction site.

However, during the work process is noted that even though the contract is created, the subject still does not have the legalization permit. On one side because of the abuse of the administration workers and on the other side from the irregularities of keeping the documentation of the informal facility file.

With the recent legal changes the contract of the transfer of the title is not valid anymore and the permit of legalization can be issued without the payment of the building parcel. However, in the case of nonpayment within the time limit of 45 days from the bill notice, ALUIZNI should issue the legalization permit and keep notes for the legal mortgage. The legal changes brought as consequences the increase of the number of legalization permits issued, because even in the cases of nonpayment of the bill, the law gives the right to issue a permit after the payment due date (figure no.1).

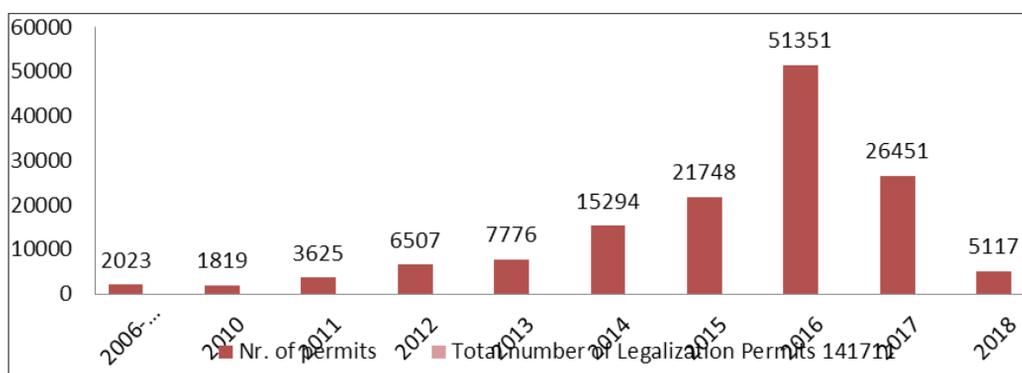


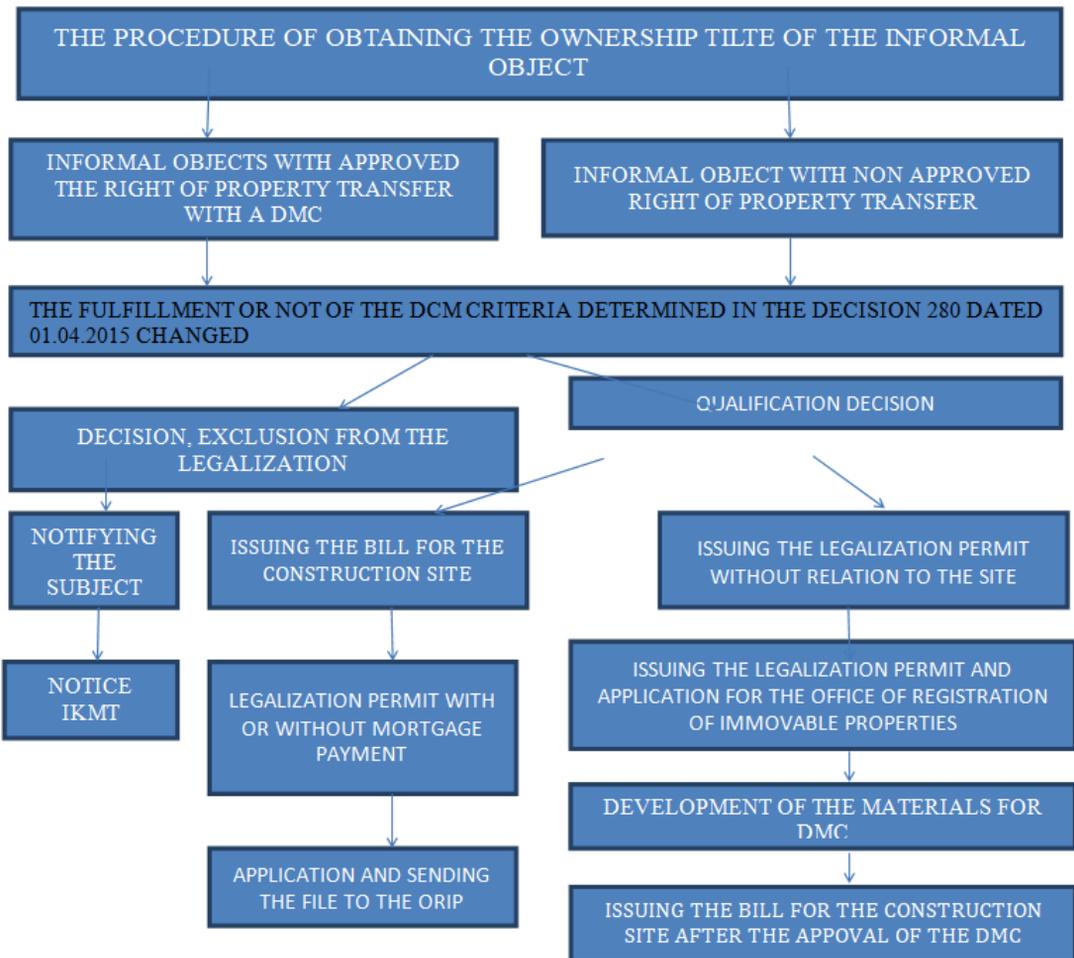
Figure 1. The legalization permits during the years

A very important process for the subjects of this law is the publication in the written media and on the on line official page the list of the beneficiaries of the informal objects/additions on the legitimate buildings, which are qualified for legalization and the ones which are excluded from the process. This is done to give the subjects a chance to complain in the administration for the whole procedure up to the qualification or exclusion of the object. The owners of the object or the interested subjects within a month from the date of the list publication may complain in the Central Directory of ALUIZNI about the decision/permit of the ALUIZNI Directory of the districts according to the determined procedure in law no. 8485, dated 12.5.1999, "The Code of the Administrative Procedures of the Republic of Albania".

With the legal changes the right of ownership is gained since the moment of approval of the Decision of the Ministers' Council of property title transfer of the building parcel

from the state or private individuals to the self declared of the informal building<sup>19</sup>. In this way was eliminated the contract of transferring the ownership with a notary official, but for the subjects of self declaration who did not have their right of property transfer, the legalization permit is approved before doing these procedures.

There are two types of procedures to obtain the ownership title of the informal objects (Scheme 1).



The office of ALUIZNI with the completed documentation issues the legalization permit in three original copies. An original copy together with the accompanying documentation is personally handed in to the subject (or by mail) within 10 days from the legalization permit.

<sup>19</sup> Point 1 of the decision no. 465, dated 22.6.2016, "To determine the procedures and rules for the right of property transfer on the construction site of the informal objects"

A copy stays in the archive of the ALUIZNI institution together with the legalization file, where according to the law for archives this file is classified as a historical importance document. Another copy of this document is sent to officially register the object in the local office of registration.

### **The registration of the legalization permit**

In order for the owner to exercise the right ownership title, the one of having the property, is mandatory that the obtained title of ownership is registered in the register of immovable properties. This obligation, even though is foreseen in the article 83 of the Civil Code<sup>20</sup> of the Republic of Albania in the court jurisprudence is simply considered an evidence to the third party<sup>21</sup>. However, in order to perform a transaction with the immovable property an individual should present in form of a notary the ownership title issued from the office of registration of the immovable property.

Albania has undertaken legal measures in order to improve and make faster the massive legalization of the immovable properties, and to ensure the rights of property, aiming to finalize this process. The legal reforms aimed to legalize as soon as possible the informal construction by simplifying the procedures and lowering its expenses<sup>22</sup>.

In the attention of the legislator has been the elimination of a series of bureaucratic procedures in order to help the citizens. These legal improvements are mostly seen in the procedures of registration of legalization permit. This registration is performed from the Registrar immediately after sending the permit of legalization and other accompanying documents to the Agency of Legalization, Urbanization and Integration of the Informal areas/buildings.

### **The steps for registration of legalization permit**

#### *Presenting a request for registration of the legalization permit*

It is the duty of the Agency of Legalization, Urbanization and Integration of the Informal areas/buildings (ALUIZNI) to start the implementation of the registration procedures of the immovable property (the construction site and the building on it) within 5 days from the approval date of the legalization permit<sup>23</sup>.

---

<sup>20</sup> "The legal action for the property transfer of the immovable items and the real rights on them should be done with a notary act and be registered, otherwise is not valid."

<sup>21</sup> Decision no. 1, dated 06.01. 2009 of the United Colleges of the Higher Court on the impact of registration or the transcripts stated "Transcription of a sale property contract aims to be valuable to a third party and not to the transfer of the property between the contractual parties, a transfer which is done only through the bases of the sales act, provided this act is effective."

<sup>22</sup> Chrysi Potsiou, "Study on Illegally Built Objects and Illegal Development in Montenegro", January, 75, 2012, f. 46; found on <http://www.kartverket.no/globalassets/om-kartverket/centre-for-property-rights/final-report-chryssy.pdf>.

<sup>23</sup> Point 10 of the decision no. 1095, dated 28.12.2015, "To determine the rules of working through ALUIZNI, and the Office of Registration for the procedures and limitation applied for the effect of registration of the legalized procedures."

The request for the service of registration of legalization and the issue of the ownership title for the legalized property is presented from ALUIZNI in the name of the permit beneficiary according to the request form approved from the office of registration. The request for registration is sent together with the information as follows:

1. Legalization permit;
2. Overall plan of the legalized property as a fragment of the vector map of the cadastral block;
3. The plan of the informal building (for each floor);
4. Copy of the certificate of the family of the possessor that ALUIZNI has since the moment of legalization application;
5. The contract of property transfer on the building parcel and in the cases of its development
6. Request for application (Av 0).

The application for registration is done by the ALUIZNI directories through the "Tip" form electronically, via the digital system (IPS), free of charge "zero application". To carry out this type of service, the office of registration has allowed access to ALUIZNI's directories in this system. The application, besides containing accurate data of the general specifications, as well as the factual orientation of the object's location, has determined as the date of application the date of its completion in the digital system (IPS).

The application is only filled once and it is valid for covering the deadline for the request so that the penalties do not apply under Article 38 of Law no. 33/2012, dated 21.3.2012, "On registration of immovable property".

At the same time, with the electronic application, the ALUIZNI Directory sends the aforementioned documentation.

### *Registration in the registers of immovable properties*

According to the law on immovable property registration:

*"Any individual, holder of title or a real right through an act where these rights are adhered to, shall submit a request for registration of the act within 30 days from its realization"<sup>24</sup>.*

Likewise, the law provides for sanctions in case of late submission for registration, if a request for registration is filed later than 30 days from the date of its realization. In addition to the registration fee, for each day of delay from this date, the applicant must pay an interest payment, equal to 10 percent of the registration fee but no more than 300,000 lek.

---

<sup>24</sup> Article 38 Law no. 33/2012, "On registration of the immovable properties".

By remembering that the total value of legalization of a informal non-residential building together with its construction site had an average cost of up to 400,000 lek in total, the penalty applied by the OR was in indirect proportion to the benefited right. Most of immigrants and those who were unaware of the legalization permit were not presented to carry out the procedures at the office of registration.

Therefore, after the abrogation of DCM no. 258, dated 04.05.2007 "On the registration of legalized immovable properties", and granting of access through the online IPS system of the office of registration, ALUIZNI had the right to carry out the procedure performing the application for registration for the legalization permits. In this way, the citizen not only is not penalized in case of non-disclosure in the office of registration, but also shortens the procedure of registering the property acquired with a legalization permit. This registration is performed by the Office of Registration of Immoveable Properties after the presentation of the documentation of ALUIZNI and the request of the subject for property registration. The Registrar within ten days from the request date is obligated to perform the registration after it has verified is the submitted documentation is complete.

### **Subjects for whom the registration is carried out in the Registers of Immoveable Properties**

For registration of the legalized property are applied the dispositions of Law no. 9062, dated 8.5.2003, "Code of family", chapter "The marital assets regime in community". When the informal building is on the ownership of more than one judicial or physical individual, the registration of the corresponding parts of the assets is done:

- In united parts, ideal according to the number of subjects;
- In individual parts separated according to a written agreement signed between the subjects freely and deposited before the issue of the legalization permit.

Apart from the corresponding part the subjects may appoint the responsible physical parts if between them exists the free will. So, the registration is done:

- In the name of the individual
- In the name of family representative
- Or in co-ownership

In order to determine if the type of property the office refers to the legalization permit and the certificate of the family at the moment of self declaration sent from ALUIZNI.

### **Registration of the legalization permit without relation to the construction land**

For objects for which the right of ownership has not been transferred through the administrative act of the Council of Ministers, the registration of the legalization permit is done by the registrant on another asset file. The registrar is obliged to issue

a certificate of ownership for the legalized object, while the final registration of the construction parcel is carried out within 5 days from the forwarding of the office of registration of the DCM, which approves the transfer of the property right and the compensation of the owners.

### **Registration of the legalization permit with legalized title of ownership**

Due to the reason of financial inability of the subjects of self declaration a high number of files prepared from ALUIZNI remained not resolved and the legalization permit could not be issued as the previous law obliged this institution to issue the permit only when the individuals had finished all the financial payments. With the changes of 2014, ALUIZNI had the right that in the cases when one of the subjects that have the informal building did not pay the financial obligations foreseen in the law for the construction plot value, it should issue the legalization permit<sup>25</sup>. In this case for the asset or the part the individual had is done "The registration of the legal mortgage" according to letter "a" of article 54 of Law no. 33/2012, "On registration of the immovable properties". But ALUIZNI has the legal obligation to notify with a written form the self declarer the value of the construction site, the possibilities of monthly payments and the due dates. If within 45 days from the written notice the individual has not paid the value of the construction area, ALUIZNI has the right to issue a permit with the note of registration of the legal mortgage. This note is performed by ALUIZNI even on the application for the registration of the legalization permit through on line IPS application. In the moment of registration of the property on the construction site for these legalization permits the office of registration is obliged to complete the notice of the legal mortgage for them. The removal of this limitation from the registrar is done after the official written notification from ALUIZNI of the complete payment of the financial obligation of the individual.

### **Conclusions and recommendations**

Legislation for acquiring the title of property for illegal objects in Albania has undergone constant changes over the years. The most important legal changes concern the initiation and completion of legalization procedures, setting legal deadlines for closing the process, and registering the title of ownership in the ORIP. In the last few years there has been an increase in the number of legalization of informal objects, due to the simplification of administrative procedures that made possible to legalize illegal objects without land relations. However, the number of illegal buildings is almost half of the requests for legalization.

---

<sup>25</sup> Article 30, point 2/1 of Law no. 9482, dated 3.4.2006, "On legalization, urbanization and integration of informal buildings", and changed with Law no. 50/2014.

The legal changes on one hand have influenced the progress of the legalization process, but on the other hand acquiring the legalization permit and registering it in the ORIP, without acquiring the right of ownership by the administrative act of the Council of Ministers, an act which also recognizes the right financial compensation to the owner when the object is owned by third parties, delays the procedure for their compensation and reduces the proceeds from the legalization process for the owners. In this regard, the legal changes have influenced the progress of the legalization process, but not the respect of the property rights for the legitimate owners. For this reason it is necessary to legally sanction the deadline within which the directorates of ALUIZNI have the obligation to prepare draft decisions for the transfer of the right of ownership and the approval of the financial value of compensation<sup>26</sup>.

It is also necessary to conclude the process for assessing and compiling the materials for all those legalization permits for which no DCM approval of compensation has been granted. On one hand this has left without the right of land ownership of the subject that has a legalization permit and on the other hand has delayed the process of compensation of the owner. Only in the city of Vlore there are about 300 pending files for the drafting of the DCM of compensation. This also violates the legitimate owner's right, which although de facto expropriated from his property, was not rewarded in time and amount for the property. Meanwhile, it is noted that steps have been taken in the registration of ownership title in ORIP, regarding the procedures and deadlines for its registration. But a positive step would be the application of the online system to obtain the information and to register this information by the ALUIZNI officials through the digitalization of the system of Registration of the Immovable Properties. In order for the process to finalize it is needed to consider some requests related to:

- Prevention of the new informal constructions in the future, the integration of the existing ones and the urban development of the territory.
- The definition of due dates for finalization of the legalization and approval of DCM for the transfer of properties and owners' compensation.
- Finalization of the legalization process by protecting the rights of prior owners and harmonizing the proportional benefits for the category of prior owners and the category that benefits from the legalization process.

---

<sup>26</sup> Regardless of such a determination with the decision no. 465, dated 22.6.2016, "To determine the procedures and rules of property transfer on the construction plot of informal facilities" that ALUIZNI, within 6 months from the approval date of this decision, prepares the proposals to approve the means and financial compensation value of the new owners, after the legalization is approved in favor of the owners of the informal buildings.

## Bibliography

1. Gabriel, B. Informal Settlement in SEE, A Regional Approach.
2. Hernando De Soto. 2000. *The Mystery of Capital*, Basic Books, New York.
3. "The government in the protection of the rights of property in Albania, a continuous challenge" informative document of the World Bank, second edition, April 2012.
4. Law no. 9482, dated 3.4.2006, "On Legalization, Urbanization and Integration of the informal constructions", changed
5. Decision no. 465, dated 22.6.2016, "To determine the procedures and rules for transferring the right of ownership on the construction site of the informal objects".
6. The Civil Code of the Republic of Albania
7. Law no. 9235, dated 29.7.2004, "On returning and compensation of the property"
8. World Bank, *Legal and Institutional Assessment, World Bank Integrated Coastal Zone Management and Clean-up Project* (Legal and institutional evaluation in the relation to the Project of World Bank for Management and Cleaning of the Coastal area).
9. Decision no. 411, "On the criteria of procedures and type of forms of the legalization permit" changed with the DMC no. 40, dated 11.1.2012.
10. Decision no. 954, dated 25.11.2015,, "On the criteria of procedures and type of forms of the legalization permit" changed with the DMC no.164, dated 2.3.2016
11. Decision no. 280, dated 1.4.2015, changed with DMC no. 756, dated 26.10.2016, "on determination of the criteria, procedures of the applied documentation to qualify the informal buildings, the side additions and/or heights on the legitimate buildings".
12. Decision no.1, dated 06.01.2009 of the United Colleges if the Higher Court.
13. Chrysi Potsiou, "Study on Illegally Built Objects and Illegal Development in Montenegro", January, 75, 2012, pg. 46; found in: [http://www.kartverket.no/globalassets/om-kartverket/centre-for-property-rights/final-report\\_chryssy.pdf](http://www.kartverket.no/globalassets/om-kartverket/centre-for-property-rights/final-report_chryssy.pdf).
14. Decision no.1095, dated 28.12.2015, "On determination of the work rules, between ALUIZNI and the Office of Registration, and the procedures or limitations applied for the effect of registration of the immovable properties"
15. Malaj, D. K. (2018). Civil rights between legal provisions and political reality in Albania. *Academicus International Scientific Journal*, (17), 82-93.

16. Musaraj, A., & Gerxhi, J. (2010). Communication and Ethical Behavior in the Public Service. *Academicus International Scientific Journal*, (1), 11-21.
17. Law no. 33/2012, "On registration of the immovable properties".
18. Law no. 9304, dated 23.10.2004, "On legalization and urbanization of the informal areas".
19. Law no. 9209, dated 23.3.2004, "On legalization of additions on the buildings".
20. Law no. 9062, dated 8.5.2003, "Code of Family".
21. [w/ww.atp.gov.al](http://www.atp.gov.al)
22. [w/ww.zrpp.gov.al](http://www.zrpp.gov.al)