

Title:

EYES WIDE SHUT

or how the state does not punish illegal construction of objects
Podgorica, Budva & Žabljak

Author:

Dejan Milovac

The Network for Affirmation of NGO Sector– MANS

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Contacts:

The Network for Affirmation of NGO Sector– MANS

Dalmatinska 188, Podgorica, Crna Gora

Tel/fax +382.81.266.326, 266.327, 266.328

mans@cg.yu, www.mans.cg.yu

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Podgorica

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Žabljak

2007

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1. INTRODUCTION

In the last several years the construction industry has seen a considerable growth compared to other industries in Montenegro. In Podgorica, the administrative centre of the Republic, there is a dominant construction of residential-business buildings. Flats for the market and hotels are built in Budva, while the National Park "Durmitor" is endangered by illegal construction of settlements with weekend houses.

The lack of updated plans, inadequate conducting or in some cases absence of inspection control, complicated and long procedures for obtaining necessary permits, as well as a huge interest of investors to build - all this has resulted in a huge number of illegal objects and a serious devastation of space in most Montenegrin municipalities.

Data of competent state institutions show that in the last decade more than 80% of objects in Montenegro have been built illegally, while in Podgorica, on the municipal land only, more than 20,000 objects have been built. Illegal construction can be found in the areas under special legal protection, both at the coast and in national parks.

The inspection unit of the Ministry of Economy conducts inspection controls over the objects of importance for the state, such as big infrastructure and industrial objects, but also all the objects whose surface exceeds 1000 sq. meters and which have more than four floors and are found in the areas of national parks or along the coast. Six inspectors are employed in the Republic Construction Inspection.

Smaller objects are under jurisdiction of the municipal construction Inspections. Local construction inspections in Budva and Zabljak have just one construction inspector each, while Podgorica is the only municipality with a larger number of inspectors.

In the period September 2006 - February 2007, MANS monitored work of the Republic and municipal inspections in Podgorica, Budva and Zabljak. We collected data on their activities by using the Law on Free Access to Information and the submitted initiatives for inspection controls and criminal complaints and openly pointed to the characteristic cases of law violations.

In addition to statistical data on the work of competent institutions, this publication also contains case studies with supporting documents. Through concrete examples we have pointed out the most frequent problems in the implementation of laws and the lack of political will for resolving the problem of illegal construction.

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2. CONCLUSIONS

The results of monitoring the work of competent Republic and state inspections in Podgorica, Budva and Zabljak point to the fact that the procedure of inspection control is frequently followed by inadequate and incomplete implementation of laws, their selective application, missing the responsibility of control, negligent performance of inspection controls, disregard of issued decisions and even lack of knowledge about one's own authorities.

Selective approach in performing inspection control was recorded during monitoring of several cases, where it was found that inspectors treat illegal objects built on the same location differently from the legal point of view and that they use different authorities for the same instances of violations of law.

Incomplete application of authorities defined by law and incorrect establishing of facts during inspection control is also a problem that MANS identified when submitting initiatives to construction inspections. In most cases, inspectors applied their authorities defined by law only partly, which was mostly obvious in **avoiding to impose appropriate sanctions** for investors and contractors, as well as **avoiding to initiate appropriate delictual and criminal proceedings**.

Absence of permanent inspection supervision was obvious in the areas protected by special laws, such as the coast and national parks, which had an encouraging effect on investor who could build and devastate space without any obstacles. In addition, **lack of knowledge about one's own authorities**, as well as **transferring jurisdiction** to other inspections also influenced the obvious inefficiency of inspection control.

Statistical data collected during the monitoring of work of competent inspections show that the existing **efficiency and scope of the inspection control are inadequate** to cope with the pressure created by the interest of investors to build new objects and the existing number of illegally built objects.

Despite the fact that the law guarantees transparency of inspection control, the level and quality of information offered by competent institutions about their activities **do not still allow citizens to monitor and control their work**.

Despite the obviously inadequate technical and human resources for conducting a quality inspection control which is necessary for Montenegro whose space is seriously devastated by illegal construction, **the lack of political will among the top decision-makers** continues to be the crucial obstacle for quality and efficient resolving of the problem of illegal construction.