

5. STATISTICAL DATA

5.1. Initiatives for starting procedures of inspection control

Between September 1, 2006 and February 28, 2007, MANS submitted 132 initiatives for starting procedures of inspection control¹ to the Republic Construction Inspection, as well as construction and public utilities inspections of the city of Podgorica and municipalities of Budva and Zabljak.

The procedure of submitting initiatives included several stages, as follows:

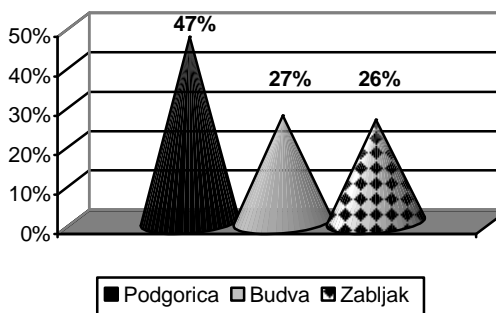
- Acceptance of information on violation of law from citizens by a hot-line or a direct observation in the field by MANS team;
- Establishing through a request for free access to information whether the investor had a construction permit and necessary approvals for works on the object or another construction activity, or whether the reported object had the operation permit;
- Collecting additional data on the object and investor through work in the field;
- Identification of jurisdiction for conducting inspection control;
- Submitting initiatives to the competent construction inspection;
- Submitting initiatives to the Administrative inspection.

After establishing jurisdictions and submitting initiatives, MANS monitored observing of deadlines for acting on the initiatives and in case the competent inspection did not comply with the submitted initiatives, MANS would send an initiative to the Administrative Inspection with the request for inspection control over the work of the institution and possibly ordering of action on our initiative. Just like in the previous case, the Administrative Inspection had to carry out control within 30 days and establish reasons why the competent construction inspection had not act on the submitted initiative².

5.1.1. Territorial representations

Out of the total number of submitted initiatives, 47% referred to the territory of the city of Podgorica, 26% to the Municipality of Zabljak, while 27% of initiatives were submitted for starting inspection control at the territory of Budva (Graph 1).

Illegal construction within the specially protected areas was the subject of 39% of initiatives out of the total number of initiatives submitted (34 initiatives referred to illegal construction within the National Park *Durmitor*, while 17 referred to the objects built within the National Park *Skadar Lake*.



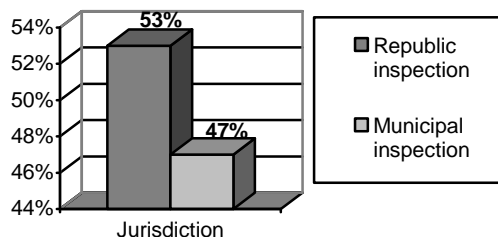
Grafik 1: Territorial representations

¹ Online data base of the initiatives submitted so far can be found on www.urbanizam.infro/baza.htm

² Description of jurisdictions of some institutions is given in the introductory part of this publication.

5.1.2. Jurisdiction

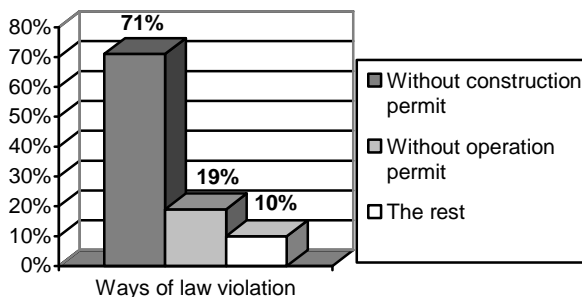
Od ukupnog broja inicijativa podnijetih nadležnim inspekcijskim organima, 53% se odnosilo na objekte i građevinske zahvate iz nadležnosti Republičke inspekcije za građevinarstvo, dok su predmet preostalih inicijativa bili objekti iz nadležnosti lokalnih inspekcija. (Grafik 2)



Graph 1: Jurisdiction

5.1.3. Ways of law violation

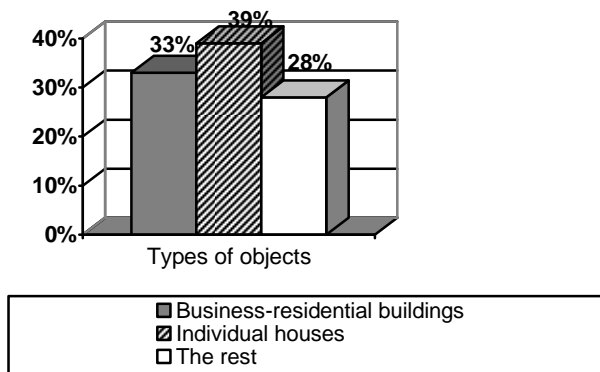
Building without construction permit was the subject of most initiatives that MANS submitted to competent inspections (71%). Starting operation without previously obtained operation permit was the subject of 19% of the total number of initiatives, while the remaining 10% initiatives were submitted due to other ways of law violation. (Graph 3)



Graph 3: Ways of law violation

5.1.4. Types of objects

Big business-residential buildings were the subject of 33% of the total number of initiatives for starting the procedure of inspection control, both regarding lack of construction permits and putting into operation of the buildings without previously obtained operation permit. Building of individual houses without construction permits, mostly in areas under special protection³, was the subject of 39% of initiatives, while the remaining number of initiatives referred to other types of objects and construction activities. (Graph 4)



Graph 4: Types of objects

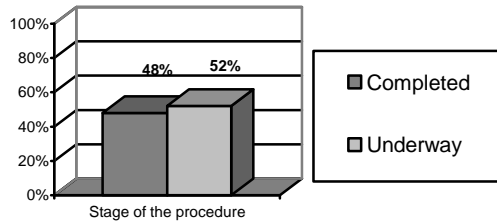
³ Control over these areas is under jurisdiction of the Republic Construction Inspection

5.1.5. Acting on initiatives

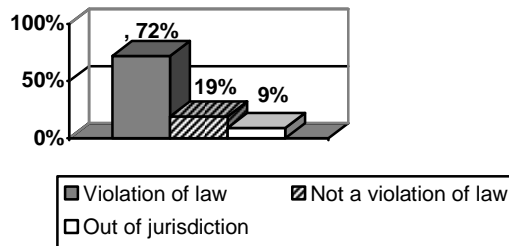
Out of 132 submitted initiatives, the procedure has been completed in almost 50% of cases, while the remaining initiatives are still in the procedure. (Graph 5)

More than half of the decisions of both the Republic and municipal inspections were passed after intervention of the Administrative Inspection.

Out of the total number of disposed initiatives, in 72% of cases competent inspections found violations of law. In 19% of cases they decided that the law was not violated, while in the remaining 9% of cases they declared they were out of jurisdiction for the submitted initiatives. (Graph 6)



Graph 5: Stage of the procedure



Graph 6: Outcome of the procedure

5.2. Efficiency of inspection control

In order to identify areas in spatial planning and development at the local level that are necessary to monitor specifically and develop accordingly indicators for monitoring work of competent republic and local institutions, MANS organised consultations with citizens from three pilot municipalities - Podgorica, Budva and Zabljak.

Citizens of these municipalities said that the process of spatial planning in their communities was very non-transparent and that it left room for abuse of office and corruption of local officials, which directly influenced devastation of space and its unsustainable use.

The problem of inadequate monitoring of the situation in space by local administration is especially evident, as well as the fact that it has significantly contributed to a huge expansion of illegal construction, especially in the areas under special protection, such as national parks. In addition, the citizens pointed out that the work of competent institutions in charge of inspection control is very non-transparent, which practically prevents public control of their work.

In addition to the institutions at the local level, citizens stressed the need for monitoring the work of republic inspection bodies due to their jurisdiction over areas such as national parks that are especially endangered by illegal construction. Citizens also mentioned that it was especially necessary to monitor the process of issuing construction permits and operation permits at the republic and local level in order to increase the transparency of work of state institutions in that field.

After consultations with citizens, MANS developed a monitoring matrix which contains indicators for monitoring work of competent institutions at the local and republic level, in the following fields:

- Issuing construction permits
- Issuing operation permits
- Inspection supervision
- Citizens' participation

The main sources of information identified are the Ministry of Spatial Planning and Development, later the Ministry for Economic Development⁴, The Republic Construction Inspection, secretariats for spatial planning and development of Podgorica, Budva and Zabljak, local construction inspections and communal police, media, citizens and non-governmental organizations.

Monitoring of work of competent institutions in the field of spatial planning and development was carried out through collection of information based on the Law of Free Access to Information. During six months, almost 500 requests for information were submitted, asking for information that contained the requested data on their work in the above-mentioned fields.

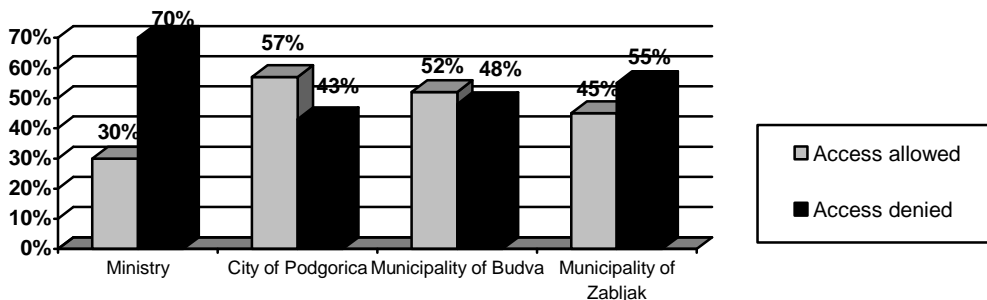
⁴ The new decision on the organization of work of the Government of Montenegro and the Ministry of Environment and Spatial Development was abolished, and the sector of planning and construction of objects became a constituent part of the Ministry for Economic Development.

Monitoring Matrix

AREA	INDICATORS
Issuing of construction permits	Total number of submitted requests for issuing construction permits
	Total number of issued construction permits
	# issued construction permits for housing objects
	# issued construction permits for business objects
	# appeals submitted on issued construction permits # cancelled construction permits
Issuing of operation permits	Total number of submitted requests for issuing operation permits
	# issued operation permits for housing objects
	# issued operation permits for business objects
	# appeals submitted on issued operation permits
Inspection control - illegal construction	Total number of carried out inspectio controls
	# inspection controls upon initiatives of citizens and third parties
	# issued decisions on prihibition of construction works
	# issued decisions on sealing ojbects
	# issued decisions on pulling down objects
	# executed decision on pulling down objects
	# issued decisions on removing objects
	# issued decisions on initiating infraction procedure against contractors
	# issued decisions on initiating infraction procedure against investors
	# inspection control upon initiatives of citizens and third parties # executed decision on removing objects
Citizens' participation	# organised public hearings in the field of town planning on a monthly basis
	# received citizens' initiatives
	# processed citizens' initiatives # accepted initiatives
	# accepted petitions
	# processed petitions # accepted petitions
	# accepted complaints
	# processed complaints # accepted complaints

Despite the obligation to submit the information on their work within the deadlines defined by law, many institutions did not observe the Law on Free Access to Information, which resulted in untimely submitting of information or their total denial. The institutions that provided the least amount of data on their work during the monitoring period were the Ministry of Environment and Spatial Planning, the City of Podgorica and the Construction Inspection of the Municipality of Zabljak.

Out of the total number of requests, 91 requests were submitted to the **Ministry of Environment and Spatial Planning**, which allowed access to requested information in only 30% of cases. 149 requests were submitted to the **City of Podgorica**, while the access to requested information was allowed in 57% of cases. We had a similar situation with the information requested form the Municipality **of Zabljak**, where access was approved in only 45% of cases. 132 requests were submitted to the **Municipality of Budva** which allowed access in 52% of cases.



According to the information that the line Ministry has provided so far, the number of illegal objects in Montenegro is even more than 80% of the total number of constructed objects, while the data of the Capital City show that at the territory of Podgorica, i.e. on the municipal land only, there are more than 20,000 illegally constructed objects of all categories.

Although the Law on Construction of Objects requires that every municipality is obliged to make a register of illegally constructed objects, the Municipality of Budva, which has been faced with this problem more than any other coastal municipality, does still not have precise data on the type and number of illegal objects on its territory.

A special problem is illegal construction in the areas of national parks, where in the last several years in the National Park *Durmitor* only, due to an almost complete absence of inspection control, dozens of illegal objects have been built, which are mainly individual houses for holidays (more details in Case Study 3).

The largest amount of information we have collected during the research refers to the work of local inspections. The data show that in the municipalities with a huge number of illegal objects, such as Podgorica and Budva, inspection control, both in its scope and quality, cannot respond to the challenge of prevention and remedial activities for the problems of illegal construction.

Competent institutions, especially at the Republic level, did not provide access to information on the number and type of issued construction and operation permits, as well as on the appeals on issued permits and approvals, which significantly complicated monitoring of their work. As for inspection control, the biggest problem is the fact that until the research was completed, the Republic Construction Inspection did not submit the requested information on their work for the three pilot municipalities.

Speaking about citizens' participation, data we obtained during the research show that the most frequent way for citizens to have communication with competent inspection bodies is through submitting initiatives for inspection control. The percentage of initiatives of citizens in the total number of inspection controls increased monthly, which was especially evident in Podgorica.

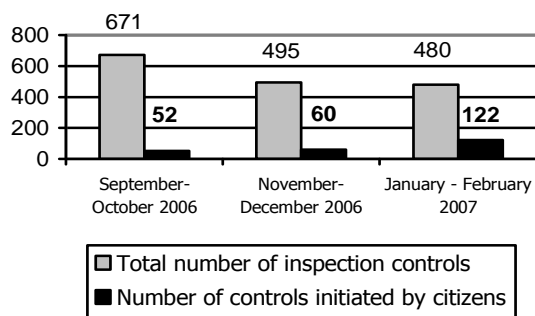
On the other hand, citizens' participation in the case of Zabljak, the smallest municipality monitored in this research, is almost non-existent. The proof for this is the information of the competent institutions of the Municipality of Zabljak that during the monitoring period only one public hearing had been held and that there were no objections, complaints or citizens' initiatives.

The next part contains a statistical review of the inspection bodies per months in the three monitored municipalities. The analysis does not include data of the Republic Construction Inspection which did not submit the requested information by the day of publishing this research.

5.2.1. Podgorica

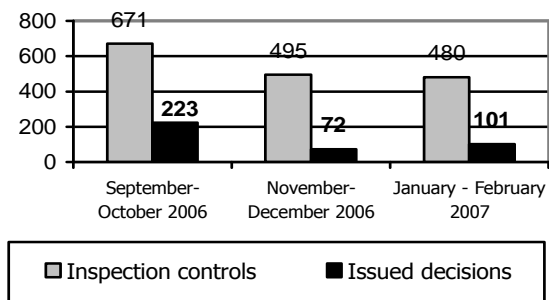
The attached graph represents a review of monthly trends for the territory of the City of Podgorica, and the data show ratio between the total number of initiated inspection control and those that were initiated upon requests of citizens.

In the first two months, the share of controls initiated by citizens was only 7%, while in the two next two-month periods it was 12% and 25% in the period January-February 2007.



Graph 7: Number of inspection controls

Although the total number of conducted inspection controls during the period dropped slightly, it was evident that in the monitored period the number of those inspection controls that were directly initiated upon citizens' requests grew.



Graph 8: Ratio of controls and issued decisions

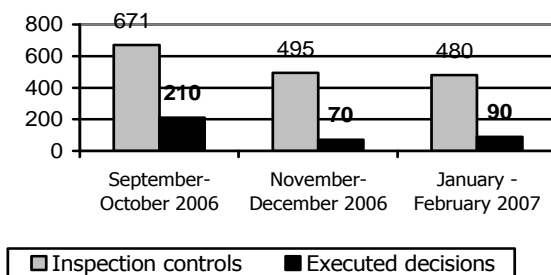
Graph 8 shows ratio between the number of inspection controls and the number of issued decisions that identified different violations of law.

In relation to the total number of controls, in the first two-month period inspection bodies found 33% of cases of law violation and issued decisions, while that percentage was 14% in the period November-December 2006 and 21% in the last two-month period.

The number of issued decision in relation to the number of conducted controls was surprisingly small having in mind an enormous number of illegal objects built in Podgorica and registered by the Municipality.

The percentage of execution of issued decisions of competent bodies was stable during the whole monitored period and was at the level of more than 90%.

However, the number of executed decisions is still very small in relation to the number of conducted inspection controls. In the period September-October, only 21% of controls ended with an execution of decision, while in the period October-December that percentage was 14%.

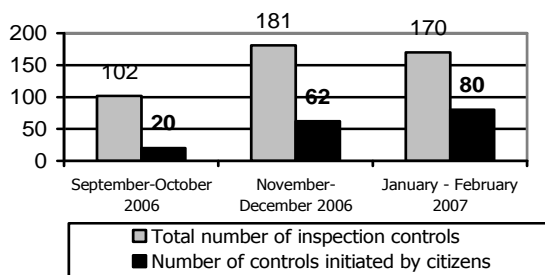


Graph 9: Ratio of controls and executed decisions

5.2.2. Budva

Just like in Podgorica, despite oscillations in the total number of conducted inspection controls per month, the share of those controls initiated upon a direct request of citizens constantly grew during the period of monitoring.

In the first two-month period, the share of such initiatives was 19%, in the second 34%, while in the period Jan-Feb that share was as much as 47% of the total number of conducted inspection controls.

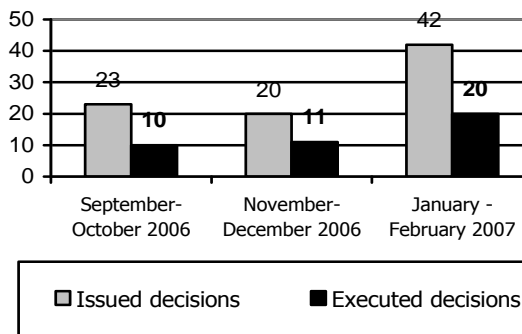


Graph 10: Number of inspection controls

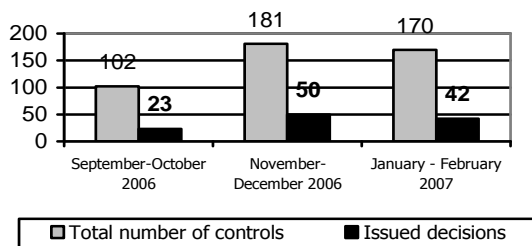
Compared to Podgorica, local inspections of the Municipality of Budva were less efficient in executing decisions they issued themselves. The percentage of executed decisions in the period September-October was 43%, in the period November-December 55% and in the last two-month period 47%.

When the total number of carried out inspection controls is compared to the number of executed decisions, we come up with the data that throughout the first two-month period only 9% of controls ended with executing of the issued decisions, 6% in the second period and 11% in the last one. (Graph 10)

The described result of competent inspections was especially worrying when taking into consideration that the prevailing illegal construction in Budva includes exactly those categories of objects that are in the jurisdiction of local inspections.



Graph 11: Ratio of controls and executed decisions

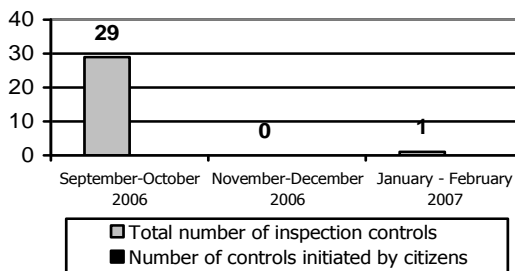


Graph 12: Ratio of controls and issued decisions

5.2.3. Žabljak

In the period September-October, competent local institutions conducted only 29 inspection controls, while no initiatives were submitted by citizens.

Data for the November-December were not available, while according to the construction inspection, in the period January-February only one inspection control was conducted, so that we can claim there is a total lack of inspection control in this municipality.



Graph 13: Number of inspection controls