GUIDE

FOR ROMA CIVIL ORGANIZATIONS FOR LEGALIZATION AND WORK WITH VULNERABLE GROUPS

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Association ORM Bela Kula, Kichevo

PROJECT „SUPPORT FOR LEGALIZATION OF ROMA HOUSING“

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CONTENT

BRIEF INFORMATION ON NRC AND THE PARTNER ORGANIZATIONS

NATIONAL ROMA CENTRUM from Kumanovo since its inception in 2005 is developing as an advocate and supporter of the Roma community and all community groups living in social risk. Since 2011, NRC is an authorized association for providing free legal aid in the form of preliminary legal aid, registered in the Registry of the Ministry of Justice.

Through the mobilization and emancipation of people, using the human rights approach and evidence-based advocacy, NRC supports its constituents to foster the progressive realization of their rights and responsibilities. The Association works on a number of strategic priorities: dealing with justice and rule of law; access to high quality health institutions and services; decent standards of living; employment and lifelong learning. NRC is an inclusive organization and strives to meet the interests of their constituents through work and action at local and national level by advocacy for the rights and interests of those in need.

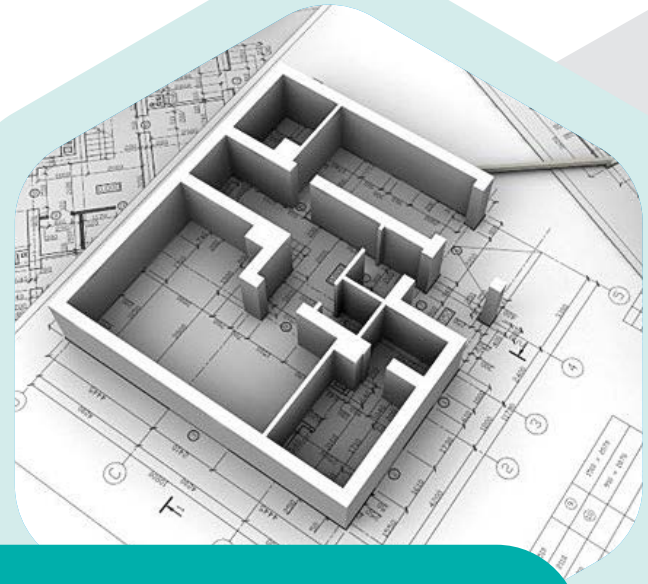
The Association **„SIMBIOZIS 12“** is a civil and professional association founded in 2012 that advocates for the promotion and protection of human rights, communication, and position of youth in society to be an engine of creative advanced views for the common benefit of all citizens, and special accent is put on the focus on young Roma. The vision of “Symbiosis 12” is the support to the development of a society in which Roma and others have the right to live with equal rights and opportunities. Mission of “Symbiosis 12” is to represent the rights of Roma and other citizens with all legal norms through strengthened and direct work with people using more analysis.

The Association **ORM BELA KULA** from Kichevo was founded in 1998, which aims to raise the awareness of Roma youth for their full engagement in the field of education. ORM Bela Kula has extensive experience in civil sector and rich experience in working with Roma community for Roma integration in the society. Besides education and work with young Roma, ORM Bela Kula works in other areas deriving from the Decade and the Strategy of Roma such as social and health care, housing, etc.

INTRODUCTION

The guide for Roma civil organizations on legalization and work with vulnerable groups of citizens is made within the project „Support for the legalization of Roma housing," which is implemented by the National Roma Centrum in partnership with Simbiozis 12 from Kumanovo and ORM Bela Kula with the financial assistance of the European Union. The project is implemented in six municipalities: Kumanovo, Kichevo, Veles, Kochani, Shtip and Prilep in the period from 01.02.2018 to 01.02.2020.

The project aims to improve Roma housing conditions by supporting Roma families in the process of legalization of their homes. The project aspires to provide multiple supports to Roma in the process of legalization of their homes through dissemination of information and counseling, providing legal assistance (consultations, initiation of legalization procedures, written legal actions (appeals, requests, lawsuits). This type of assistance is necessary for Roma families, because most of them have a lack of information, barriers to access to institutions and lack of funds for initiating and implementation of the legalization procedures.



WITHIN THE PROJECT THE FOLLOWING RESULTS ARE FORESEEN:

- *At least 300 Roma families provided with sustainable legal assistance in the process of legalization of their homes;*
- *Informing Roma communities in 6 municipalities (Kumanovo, Kichevo, Shtip, Prilep and Kochani , Veles) continuously for their rights and legal directions related to the legalization of their homes;*
- *Strengthened capacities of Roma civil society organizations to protect and promote Roma rights related to the housing and legalization of their homes by organizing three trainings, a guide to legalization and work with vulnerable groups and awarding 4-5 sub-grants to Roma civil society organizations;*
- *Representatives from 5 municipalities more closely involved in the problems of Roma housing through the organization of 3 trainings and preparation of 5 documents for local policies according to the priorities of the municipalities regarding the legalization and urbanization of Roma settlements.*

CHARACTERISTICS OF ROMA HOUSING

Roma mainly live in urban areas with built-up habitats in the city or on the periphery of urban areas, in substandard living conditions, with non-regulated property-legal relations for the land on which they have built their homes, which are largely illegally constructed buildings in whole or in part. Roma in the country do not live nomadic, which means that on the locations where they live, they live for a long time and that is in the urban areas of the cities.

According to the statistical data from the last Census of Population since 2002, most of the Roma population in the country (45%) live in 10 municipalities: Bitola, Gostivar, Debar, Vinica, Kumanovo, Kichevo, Kochani, Prilep, Tetovo and Shtip. Almost the same percentage (43.06%) live in the capital, Skopje, in the country's largest Roma municipality, Shuto Orizari, while the remaining 12% live in other municipalities across the country.

During 2012 NRC has implemented field research with a questionnaire aimed at gathering information and data for the applicant for legalization. Altogether 2589 questionnaires were filled in 6 municipalities. From the completed questionnaires were received data that 2485 structures are illegal buildings while the owners of 102 buildings have documentation and probably in that case they are legalizing extensions or superstructures; 1054 illegal buildings are in size up to 50m2, 1304 illegal buildings are in the size of 51-150m2, 145 illegal buildings cover an area of 150-200m2, and 78 illegal buildings are in the size of 201-250m2.

As for access to public infrastructure as an important condition for legalization, 2348 persons reported having an access, and 237 persons don't. Out of 2589 respondents, 427 applicants for legalization stated that they could financially cover all the costs in the legalization procedure themselves.

After processing the documents and data in the software designed for data processing and records of the legalization procedures and after the inspection of the documentation of the cases, it is perceived that certain data do not correspond to the legal regulations and conditions, for example, the individuals state that they have an access to the electricity and water supply, and they are actually illegally connected to the infrastructure.

Thus, and taking into account the causal links between housing and other areas, the approach to addressing the issue of adequate housing for the Roma community is essential.

LEGAL FRAMEWORK FOR „LEGALIZATION" PROCEDURES

DETERMINING THE LEGAL STATUS OF ILLEGAL BUILDINGS

LEGAL FRAMEWORK FOR LEGALIZATION

The legal framework for „legalization" is set by the adoption of the **Law on the Treatment of Illegally Constructed Buildings** which started to be applied on March 4, 2011. With the adoption of this Law, the substantive legal and procedural legal element of „legalization" was regulated, i.e. the process of determining the legal status of illegal objects. This implies that this law together regulates:

- ***which can be „legalized" in which procedure and in front of which competent authority***
- ***which actions by which organs should be taken***
- ***in which deadlines, as well***
- ***the consequences of failure to take action,***

[1] *Adopted on 22.02.2011, published in the Official Gazette No. 23 of 24.02.2011, and started to be applied on 04.03.2011. Official Gazette no. 23/2011; 54/2011; 155/2012; 53/2013; 72/2013; 44/2014; 115/2014; 199/2014; 124/2015; 129/2015; 217/2015; 31/2016; 190/2017.*

for the purpose of adopting a final act, a decision on determining the legal status of the illegal object or rejecting the request for establishing the legal status of an illegal object. All other issues related to the procedures for determining the legal status of illegal objects („legalization") are regulated by the Law on General Administrative Procedure.

In addition to the Law on the treatment of illegally built objects as a basic Law, the legal framework for the procedures for determining the legal status of illegal buildings is comprised of the Law on construction , the Law on the acquisition and exchange of evidence and data ex officio , Law on construction land , Law on spatial and urban planning , as well as several by-laws, named as Rulebooks, and these are provided for in the Law on the on the treatment of illegally built objects, that is, the Law directly or indirectly refers to them.

All these bylaws refer to a specific part of the procedure for determining legal status, that is, they regulate a specific act that is envisaged in accordance with the Law to be adopted in a certain situation.

Such a legal framework mainly covers the procedure for „legalization", that is, for determining the legal status of the illegal objects.

The deadline for submission of the Requests for determining the legal status of the illegal objects, in accordance with the Law on treatment of illegally built bbjects, was 6 (six) months from the day the Law entered into force, i.e. until 04.09.2011.

With subsequent amendments to the Law, the deadline for completing the submitted Requests, as well as final completing the requests, was extended in order to meet the needs of the citizens, primarily those who did not have the possibility for certain reasons to submit a request in the initially established deadline.

According to these amendments to the Law, several deadlines were envisaged, i.e. possibilities to submit requests for "legalization", as follows:

- ***from 04.03.2011 until 04.09.2011***
- ***from 19.12.2015 until 31.03.2016 and***
- ***from 01.01.2018 until 31.12.2018.***

Pursuant to the Law on treatment of illegally built objects, the subject of the law is the regulation of the conditions, the method and the procedure for recording, determining the legal status and sanctioning of the illegally built objects, as stated above. This is in accordance with the actual text of the Law.

[2] *Official Gazette no. 38/2005; 110/2008; 51/2011*

[3] *Official Gazette no. 130/2009; 124/2010; 18/2011; 36/2011; 49/2011; 54/2011; 59/2011; 13/2012; 39/2012; 144/2012; 25/2013; 70/2013; 79/2013; 137/2013; 163/2013; 27/2014; 28/2014; 42/2014; 115/2014; 149/2014; 187/2014; 44/2015; 129/2015; 217/2015; 226/2015; 30/2016; 31/2016; 39/2016; 71/2016; 103/2016; 132/2016; 35/2018; 64/2018; 168/2018*

[4] *Official Gazette no. 79 - 31.05.2013*

[5] *Official Gazette no. 15/2005*

[6] *Official Gazette no. 199/2014*

[7] *The Rulebook on standards and norms for urban planning, the Rulebook on standards for the incorporation of illegally built objects in urban planning documentation, the Rulebook on the form and content of the request for determining the legal status of an illegal building, the Rulebook on the form and content of the minutes for the site inspection with technical data on the illegal building, the Rulebook on the form and content of the register for submitted requests for determining the legal status of illegal objects, the Rulebook on the form and content of urban planning consent, the Rules on the form and content of the decision rejecting the application for determining the legal status of an illegal object, the Rules on the form and content of the decision to establish the legal status of an illegal object, the Rulebook on the form and content of the notification for non-submitting a decision after the appeal.*

CONDITIONS, METHOD AND PROCEDURE FOR LEGALIZATION

WHAT ARE THE ILLEGALLY BUILT OBJECTS?

THESE ARE BUILDINGS THAT ARE BUILT WITHOUT BUILDING APPROVAL OR CONTRARY TO THE BUILDING PERMIT AND WITHOUT THE NECESSARY APPROVAL.

Illegally built objects in terms of the Law, involve:

- *objects of importance for the Republic in accordance with the Law on construction and other law,*
- *objects of local significance in accordance with the Law on construction and,*
- *facilities of health institutions for primary, secondary and tertiary health care that are built without building permits or contrary to the building permit,*
- *as well as parts (extensions and superstructures) of facilities, within and outside the planning scope,*
- *supporting objects (garage, pantry) that are in function of the housing object or function of other type of facility,*
- *pools on the level of terrain for individual use (constructions for which according to the Law on construction the mayor of the municipality issues a decision for the construction),*
- *temporary objects intended for housing,*
- *facilities for primary processing of agricultural products (except for awnings and temporary storage facilities) in accordance with the Law on agricultural land that are built on construction land,*
- *as well as objects, that is, separate parts of objects converted without approval for conversion.*

THE CONDITION FOR „LEGALIZATION"

The condition that all these facilities must meet in order to be subject to the procedure for "legalization", that is, determining legal status, is

- ***until the date of entry into force of the Law (as of 03.03.2011), the construction and installation works were performed in their entirety and***
- ***they represent a construction and functional whole.***

If certain parts of the facilities, that is, the levels (floors) of the facilities do not represent a functional unit, those parts cannot be subject to these procedures for determining legal status, and for them can be conducted a procedure for obtaining a building permit in accordance with the Law for construction, if, after determining the legal status of the part of the building and its incorporation in the urban planning documentation , conditions for future construction are envisaged.

A procedure of "legalization" is fully completed with the enrollment of the facility into the Agency for real estate cadastre, when a Property List can be obtained for that object.

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WHAT INSTITUTIONS ARE CONDUCTING LEGALIZATION PROCEDURES?

The procedures for "legalization" are conducted in front of the appropriate competent bodies defined in the Law itself, as follows:

MINISTRY OF TRANSPORT AND COMMUNICATIONS

THE COMMUNES

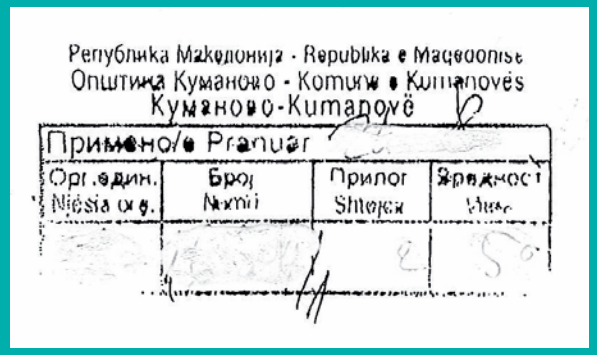
From the aspect of the "legalization" of housing facilities, especially Roma homes, these procedures are conducted in front of the appropriate unit of local self-government **(the commune)** in the area where the illegal object is located.

THE INITIATION OF A LEGALIZATION PROCEDURE

The initiation of a legalization procedure in front of the appropriate competent authority (in the case of housing – the commune where the illegal building is located) is done by submitting a:

REQUEST FOR DETERMINING THE LEGAL STATUS OF THE ILLEGAL BUILDING

It is compulsory to ensure that the request is filed in the communal archive, not before other state authorities! The reception stamp should clearly indicate "commune".



The request for determining the legal status of the illegal object shall be submitted by the holder of the illegal building, to the commune where the illegal object is located. If it is about objects important to the Republic, the Request shall be submitted to the Ministry of Transport and Communications. **But, in terms of Roma housing, it is important to note that this request is submitted to the the commune.**

When submitting the Request to the commune, it must be requested to obtain evidence that the Request has actually been submitted. That evidence is the number (on the stamp) under which the application was filed, which number is issued by the Communal Archive to the applicant by putting a reception stamp on a copy of the Request. Often the communes issue such reception numbers on small pieces of paper that are given to the applicants and in that case, that ticket with number is a proof that a Request has been officially submitted. It is certainly preferable that the reception number is placed on a copy of the Request application.

It is very important that such numbers are kept, because without such proof it cannot be proven that a person has actually submitted a Request. Also, the reception number may appear necessary during the procedure for taking other actions before other bodies, which require them as evidence that a person has actually initiated a procedure for "legalization".

For example, if the applicant for legalization and the holder of the illegal building dies, then with the number it's very easy to obtain data that will be used in the probate procedure in front of a competent notary public in order to inherit the "legalization" procedure.

WARNING! HAVE THE NUMBER SLIP ISSUED BY THE COMMUNE.

WHAT IF THE APPLICANT LOST THE NUMBER

- *the applicant may request verbally at the counter from the communal archive to be issued a transcript-stamp with a number under which the request was submitted together with the date when it was submitted;*
- *the applicant may, with a written request, ask to be issued a certificate containing data on the number and when the request was submitted.*

Otherwise, the Request itself contains a part for:

- *data on the holder, i.e. the applicant, such as given name and surname and address of the individual, i.e. name and head office of a legal entity, contact person with a telephone number,*
- *data on the illegal object, in terms of the type of illegal object (housing object, supporting object, business object etc.) and address or cadastre parcel with the name of the cadastre municipality where the illegal object is located.*

REQUEST SAMPLE 01

Прилог 1

До _____

(Барањето за утврдување на правен статус на бесправни објекти од значење за Републиката, бесправни објекти на здравствените установи за терцијална здравствена заштита и бесправни електронски комуникациски мрежи и средства, се доставува до Министерството за транспорт и врски.
Барањето за утврдување на правен статус на бесправни објекти од локално значење, бесправни објекти на здравствените установи за примарна и секундарна здравствена заштита, се доставува до единицата на локална самоуправа на чие подрачје е изграден објектот)

БАРАЊЕ

за утврдување на правен статус на бесправни објекти од значење за Републиката, бесправни објекти од локално значење и бесправни објекти на здравствени установи за примарна, секундарна и терцијална здравствена заштита

Од _____
(име и презиме на физичко лице / назив на правно лице)

_____
(адреса на физичко лице / правно лице)

Лице за
контакт:_____тел._____

Вид на бесправен објект_____

Адреса или број на катастарска парцела со назив на катастарска општина на која се наоѓа бесправниот објект _____

Кон барањето за утврдување на правен статус приложувам:

1. Уверение за државјанство или копија од лична карта за домашно физичко лице односно копија од патна исправа за странско физичко лице, а за домашно и странско правно лице, извод од Централен регистар на Република Македонија односно од соодветната институција во државата во која странското правно лице има седиште;

2. Доказ за приклучок на комунална инфраструктура и/или сметки за јавни услуги (струја, вода итн.) со датум пред 3 Март 2011 година а доколку бесправниот објект нема инфраструктурни приклучоци изјава заверена на нотар дадена под кривична и материјална одговорност со која барателот потврдува дека бесправниот објект е изграден пред 3 Март 2011 година;

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3. Геодетски елаборат за утврдување на фактичка состојба на бесправен објект со имотен лист за земјиштето на кое е изграден бесправниот објект;

4. Договор за долготраен закуп на земјиштето склучен со сопственикот, односно сосопственикот на земјиштето или изјава заверена на нотар со која сопственикот, односно сосопственикот на земјиштето изјавува дека е согласен да се утврди правен статус на бесправниот објект и истиот да се запише во јавните книги за запишување на правата на недвижности на име на барателот;
(овој доказ се доставува само доколку бесправниот објект е изграден на земјиште кое не е сопственост на барателот или на Република Македонија, односно земјиштето е сопственост на друго физичко или правно лице, односно земјиштето е сосопственост на барателот и друго физичко или правно лице)

или

Уверение за движење за земјиштето на кое е изграден бесправниот објект и изјава заверена на нотар, дадена под кривична и материјална одговорност од барателот, во која истиот потврдува која година е изграден бесправниот објект;
(овој доказ се доставува само доколку бесправниот објект е изграден на земјиште кое не е сопственост на барателот или на Република Македонија, односно земјиштето е сопственост на друго физичко или правно лице, односно земјиштето е сосопственост на барателот и друго физичко или правно лице, а сопственикот односно сосопственикот на земјиштето нема дадено изјава дека е согласен да се утврди правен статус на бесправниот објект и истиот да се запише во јавните книги за запишување на правата на недвижности на име на барателот или нема склучено договор за долготраен закуп на земјиштето со барателот)

5. Договор за купопродажба на земјиштето и изјава заверена на нотар, дадена под кривична и материјална одговорност, со која барателот потврдува дека барателот или лицето чиј наследник е барателот го имаат купено земјиштето од поранешниот сопственик и истото го користат повеќе од 20 години од денот на склучувањето на договорот;
(овој доказ се доставува само доколку бесправниот објект е изграден на земјиште пренесено од поранешен сопственик врз основа на договор за купопродажба, на кое како корисник во имотниот лист е евидентиран поранешниот сопственик, а барателот го користи земјиштето повеќе од 20 години од денот на склучувањето на договорот)

6. Уверение за идентификација на катастарската парцела издадено од Агенцијата за катастар на недвижности;
(овој доказ се доставува само доколку постои неусогласеност на броевите на катастарските парцели кои се наведени во договорот за купопродажба склучен со поранешен сопственик кој се доставува согласно точка 5 на ова барање, со броевите на катастарските парцели наведени во Имотниот лист за земјиштето.)

7. Известување од нотарот повереник на оставинскиот суд дека се води оставинска постапка за земјиштето на кое е изграден бесправниот објект;
(овој доказ се доставува само доколку е поднесено барање за утврдување на правен статус на бесправен објект кој е изграден на земјиште со нерасчистени имотни односи, поради тоа што не е спроведена оставинска постапка)

8. Список на станари, договори за купопродажба на становите во зградата, како и уверение за државјанство или копија од лична карта од сите иматели на стан во зградата, доколку барањето се однесува за станбена зграда за колективно домување;
(во овој случај потребно е барањето да е поднесено од заедницата на станари или да е потпишано од повеќе од половината иматели на стан во зградата, а доколку барањето се однесува за бесправен дел (доградба, надградба) на станбена зграда подносител на барањето е само имателот на делот кој е бесправно изграден)

9. Изјава заверена на нотар, дадена под материјална и кривична одговорност, со која барателот потврдува дека е согласен да се утврди правен статус на бесправниот објект на негова одговорност и нема да бара надомест на штета од надлежен орган при настанување на евентуална штета поради елементарна непогода како и дека ќе ја надомести секоја штета врз животната средина настаната од влијанието на предметниот објект;
(овој доказ се доставува само доколку е поднесено барање за утврдување на правен статус на бесправен објект кој е изграден во заштитен крајбрежен појас на вештачки езера и речни корита, како и бесправен објект со намена домување во станбени куќи согласно Правилникот за стандарди и нормативи за урбанистичко планирање кој е изграден во заштитен крајбрежен појас на природни езера)

10. Основен проект-фаза статика;
(овој доказ се доставува само доколку бесправниот објект се наоѓа во потенцијално нестабилна зона за која е донесена одлука од страна на Советот на општината)

Датум и место на поднесување _____

Барател _____

WHO CAN BE THE SUBMITTER OF THE „LEGALIZATION" APPLICATION?

The applicant for establishing the legal status of an illegal object can be:

- ***any natural person who is a citizen of the Republic,***
- ***any legal entity registered in the Central Registry,***
- ***institutions that are holders of illegal objects.***
- ***foreign natural and legal person, but only if the conditions for acquiring the property right determined by the Law on ownership and other real rights are fulfilled.***

It practically provides a broad framework of potential applicants for "legalization", covering almost all holders of illegal objects, in accordance with the requirements of the Law.

In the next presentation, emphasis will be put on the procedures for "legalization" of homes, especially Roma homes, as a key issue for a good part of the citizens of the Republic of Macedonia as holders of illegal objects.

WHAT DOCUMENTS ARE REQUIRED TO FILE A REQUEST FOR LEGALIZATION

Let us examine separately the enclosures that are submitted to the Request.

EVIDENCE 1

NATURAL PERSON

The first enclosure to be submitted with the application is a CERTIFICATE OF CITIZENSHIP or a COPY OF AN ID CARD for a domestic natural person, or a copy of a TRAVEL DOCUMENT for a foreign natural person.

In practice, more often submitted evidence for natural persons is a copy of the ID card, with regard to the certificate of citizenship, and the ID card also provides additional evidence of the address of the applicant and the personal identification number, which is required for the adoption of appropriate decision for "legalization". If the applicant does not possess a valid identity card (expired term, loss, damage, etc.), in that case a certificate for citizenship should be submitted in addition to the application. Once again we clarify a valid travel document is required only for foreign natural persons and it cannot be used as an enclosure when the applicant is a Macedonian citizen.

LEGAL ENTITY

If the submitter of the request is a legal entity, then the application must be accompanied with a document from the Central Registry, a Current status document for the legal entity, and for a foreign legal entity, a certificate from the appropriate institution from the state where the legal entity has been registered with its seat.

EVIDENCE 2

PROOF OF CONNECTION TO THE COMMUNAL INFRASTRUCTURE

The second enclosure to be submitted is evidence of connection to the communal infrastructure in terms of:

- ***public utility bills*** *(electricity, water, etc.)* ***dated before March 3, 2011,*** *or*
- *if the illegal object has no infrastructure connections, then* ***A STATEMENT CERTIFIED BY A NOTARY PUBLIC, GIVEN UNDER THE CRIMINAL, MORAL AND MATERIAL RESPONSIBILITY WITH WHICH THE APPLICANT CONFIRMS THAT THE ILLEGAL BUILDING WAS BUILT BEFORE 03.03.2011.***

This evidence is necessary in order to demonstrate that the requirement of the Law on treatment of illegally constructed objects has been fulfilled, that all construction and installation works have been completed on the illegal building, i.e. it is a construction and functional whole, **call before the date of entering into force of the Law!!!**

STATEMENT – SAMPLE

ИЗЈАВА

Јас, долупотпишаниот од ул. бр. ЕМБГ: И со л.к.бр. издадена од МВР во својство на подносител на барање за утврдување на правен статус на бесправно изградени објекти во Општина , под полна морална, материјална и кривична одговорност изјавувам дека објектот кој лежи на КП , адреса број на зграда намена на зграда А1-1, влез 1, кат Пр, стан 1, намена на посебен дел од зграда СТ со внатрешна површина м2, КП адреса , број на зграда 2, намена на зграда А1-1, влез 1, кат Пр, стан 1, намена на посебен дел од зграда ПП со внатрешна површина м2 И земјиште под зграда 2 со површина м2 уредени со Геодетски елаборат бр. од година изготвен од Агенција за катастар на недвижности на РМ, Одделение за катастар на недвижности е изграден пред да стапи на сила законот за легализација на бесправно изградени објекти .

Изјавата ја давам да ми послужи во постапката за легализација на објектот пред надлежните органи.

год.
Куманово

Изјава дал:

But, in practice if utility bills cannot be provided/ the statement given to the notary attesting that the illegal object was built before the entry into force of the Law on treatment of illegally constructed objects can be provided. The statement should be given for an object in accordance with the geodetic report. One such statement is credible evidence, because it was given under criminal, moral and material responsibility and certified by a notary public.

In practice very often statements were made containing a statement "... it was built personally by my own means...", **but the Law does not require such a statement**, but only a confirmation that the building was built before the law entered into force, and not by whom.

EVIDENCE 3

GEODETIC ELABORATE

The third proof, which must be attached together with the request for "legalization", is a **geodetic elaborate** for determining the actual situation of the illegal building, with a **Property list** for the land on which the illegal object was built.

As can be seen, here it is actually about two elements that must necessarily exist, that is, they must be submitted in the procedure, and the :

FIRST ONE - GEODETIC ELABORATE for determining the actual state of the illegal building and the

SECOND - PROPERTY LIST FOR THE LAND where the illegal object is located.

The geodetic elaborate is evidence that, as stated in the title itself, gives an overview of the factual situation of the illegal object. In the elaborate there are data on the **surface area** of the object, the inner surface, a **sketch** of the object itself with displayed parts of the object (interior premises), a **description** of the object in the sense of the **purpose** of the illegal object or the various parts of the object if different, **location** of the object - **cadastral parcel** on which the object lies, data for the holder of the illegal object with given name, surname, and address.

WHEN PREPARING A GEODETIC REPORT, ONE OF THE SAMPLES SHOULD BE KEPT BY THE APPLICANT.

The geodetic report is compulsory recorded on a CD - with electronic data for the object.

Geodetic elaborate is prepared by an authorized geodetic company and it must necessarily refer to the "legalization" of illegally built objects, which requires careful attention and differentiation from geodetic studies for other purposes!

The second element - property list for the land on which the illegal object is located is evidence that is necessary in order to determine the ownership of the land on which the facility was built, in the direction of protection of the right to ownership of the land.

EVIDENCE 4

CONTRACT FOR LONG-TERM LEASE OF LAND OR STATEMENT

If the illegal object is built on a land that is not owned by the applicant or the state or the land is owned by another natural or legal person, i.e. the land is a co-ownership of the applicant and another natural or legal person, it is necessary to submit:

- ***agreement for long-term lease of land concluded with the owner, or co-owner of the land or***
- ***a statement certified by a notary with which the owner, i.e. the co-owner of the land declares their consent to determine the legal status of the illegal object and to register it in the real estate cadastre on behalf of the applicant.***

This enclosure also covers **TWO ELEMENTS**, now set alternatively, that is, either one or the other of the evidence is submitted.

THE FIRST ELEMENT, that is, evidence is the long-term lease agreement concluded with the owner, i.e. with the co-owner or co-owners of the land. With such agreement are regulated the relations between the two sides in the form of landlord and tenant or the owner of the land is the one who leases the land - lessor and the holder of the land is the tenant or one who has the obligation to pay lease for the land to the lessor.

THE SECOND ALTERNATIVE ELEMENT is a statement verified by a notary with which the owner, i.e. the co-owner of the land declares that he agrees to determine the legal status of the illegal object and to register it in the real estate cadastre on behalf of the applicant. Such statement practically allows the applicant to establish the legal status of its object and write the object in the cadastre without any compensation to the landowner.

This possibility is provided by the law primarily because of the fact that in a very large number of cases, the land on which the illegal object was built has in some way been transferred into the actual possession of the holder of the illegal building. This in practice involved the conclusion of oral contracts for the purchase, exchange, gift and the like for the land, on which the holder then conscientiously built his own building. But, given that such contracts were concluded most often in oral form, they do not fulfill the legal form stipulated in the Law on obligatory relations (hard copy, certification before a competent authority) and as such do not constitute grounds for changing the holder of the right to ownership of the land before the competent cadastre. For this reason, for many years the land continued to be registered on behalf of a person who has already expropriated the same with such an informal agreement.

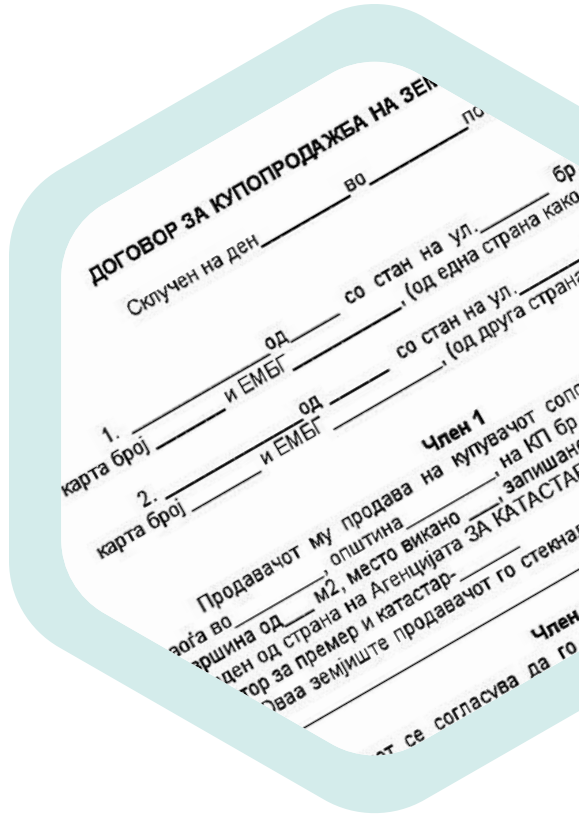
Also very often in practice there are objects built on land on which the holder of the illegal building is a co-owner of the land together with one or more other co-owners. However, having in mind that the land formally in the property list is listed as co-ownership of several persons and is infringing on their right to property (co-ownership), it requires written consent from each of the other co-owners besides the holder, in order to establish a legal status of the illegal object and to have it registered in the real estate cadastre..

If the applicant fails to obtain a statement - consent for "legalization" by the owner, that is, the co-owner of the land, the law provides an opportunity to submit **A LAND MOVEMENT CERTIFICATE**. This practically is a situation when the previous requirement is not fulfilled. Then the Law provides submission of a certificate for movement of the land on

which the illegal building was constructed, as well as a statement from the Applicant notarized under criminal, moral and material responsibility, in which it confirms **WHICH YEAR THE ILLEGAL OBJECT WAS BUILT.**

This evidence gives an opportunity to determine whether it was possibly another state of affairs regarding the ownership of the land at the time the illegal building was built, i.e. to determine if the land was possibly owned by the state at the moment of construction.

IF IN THE TIME OF CONSTRUCTION OF THE BUILDING, THE LAND WAS STATE OWNED, THEN AS A PROOF THE APPLICANT CAN SUBMIT THE CERTIFICATE FOR MOVEMENT OF THE LAND WITH AN ATTACHED STATEMENT CERTIFIED BY A NOTAR PUBLIC AND WITH WHICH IT IS CONFIRMED.



EVIDENCE 5

If the illegal object is built on land transferred by a former owner on the basis of a purchase contract, on which the former owner is registered as a user in the property list, and the applicant uses the land for more than 20 years from the date of conclusion of the contract, then the applicant is obliged to submit the CONTRACT FOR THE PURCHASE OF LAND, ALONG WITH A NOTARIZED STATEMENT.

The statement should be given under criminal, moral and material responsibility with which the applicant will confirm that he or his legal predecessor whose successor is he has purchased the land from the former owner and use it for more than 20 years from the date of conclusion of the contract.

This state of affairs exists when a purchase contract has been concluded, but for some reasons it has not been conducted before the competent cadastre. This is the situation when contracts for the purchase and sale of construction land were concluded in the period when the sale of this type of land was forbidden, and because of this objective obstacle the contracts were never implemented, or the concluded contracts for various financial or other reasons were not implemented before the competent cadastre. In all these situations, the former owner remained in the capacity of a land user.

In this way it is practically enabled to carry out "legalization" of illegal objects built on land for which there is a purchase contract, by simply submitting the contract and a statement confirming the fact of possession of the land in question for more than 20 years.

EVIDENCE 6

NOTARY'S NOTIFICATION THAT A PROBATE PROCEDURE IS BEING CONDUCTED

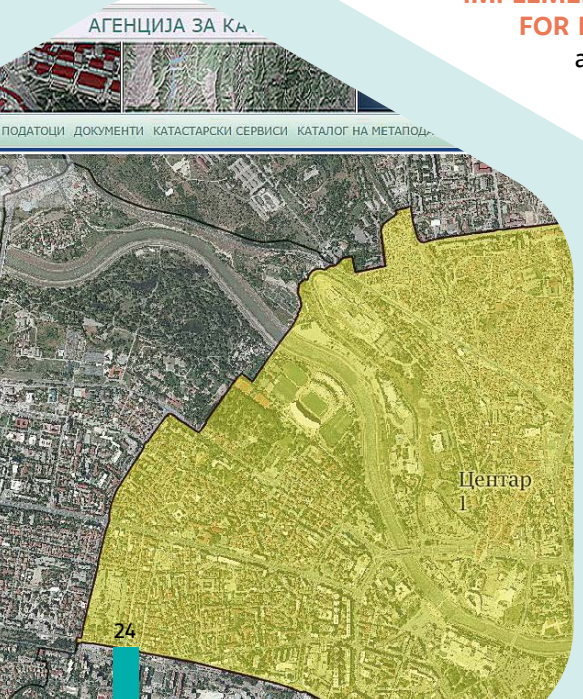
If a request for establishing a legal status of an illegal object **BUILT ON LAND WITH UNSETTLED PROPERTY RELATIONS**, has been submitted, because probate procedure has not been implemented, the applicant is obliged to submit a notification from the notary public trustee of the estate court that a probate procedure is being conducted for the land concerned. This legal solution regulates the situation when as the holder of the right to ownership of the land is a person who has deceased and his legacy has not yet been dealt with. It is then necessary to initiate the appropriate procedure for settlement of the legacy before a competent notary as a trustee of the court, after which the notary public informs the municipality that a probate procedure is being conducted for the land concerned.

EVIDENCE 7

In a number of situations, illegal buildings are built on land with unregistered rights. This means that before a competent real estate cadastre has not been conducted a procedure for the presentation of the property rights, **THE LAND HAS NO SPECIFIED OWNER**.

The disclosure of real estate rights implies that it should be determined in an administrative procedure, on the basis of evidence, who is the holder of the right to ownership, and on the basis of the data available to the competent cadastre.

IF THE ILLEGAL OBJECT WAS BUILT ON SUCH LAND, THEN THE MUNICIPALITY THAT RUNS THE PROCEDURE EX OFFICIO SUBMITS A REQUEST TO THE REAL ESTATE CADASTRE AGENCY FOR THE IMPLEMENTATION OF AN APPROPRIATE PROCEDURE FOR REGISTERING THE RIGHTS OVER THE LAND, in accordance with the Law on Real Estate Cadastre, which, in turn, (disclosure procedure mentioned above) is executed by the Agency for Real Estate Cadastre **(EX OFFICIO)**. This procedure is related to certain deadlines, which we will refer to later.



EVIDENCE 8

Statement certified by a notary public under the moral, material and criminal responsibility that the applicant is agreeing to determine the legal status of the illegal object on his responsibility and shall not claim compensation for damages in case of damage due to natural disasters as well as to compensate for any damage on the environment caused by the influence of the illegal object.

This evidence shall be provided if

- ***the illegal building is built in a protected coastal belt of artificial lakes and river beds,***
- ***the illegal building intended for housing in residential houses in accordance with the Rulebook on standards and norms for urban planning is built in a protected coastal belt of natural lakes.***

This is a very common situation, especially in Roma homes, because they are built in the basins of the river beds due to the natural amenities provided there. What needs to be emphasized and which in practice quite often appears as a matter of settling is the way in which the irregular object exactly meets the conditions should be given such a statement as described above. In accordance with the Law, in order to determine the above, it is necessary to provide an extract from the relevant urban planning documentation, i.e. an extract from the Detailed Urban Plan (DUP), where for the concrete cadastre parcel on which the illegal object is located will be specified what is the exact purpose of that land.

EVIDENCE 9

ADMINISTRATIVE FEE IN THE AMOUNT OF 300 DENARS.

It is compulsory with the application for "legalization" to submit an order slip for paid administrative fee of 300 MKD for the Applicant, paid to the appropriate account in the Municipality where the request for "legalization" is submitted.

ПРИМЕРОК

EVIDENCE 10

List of tenants, contracts for the purchase of apartments in the building, as well as a certificate of citizenship or a copy of an ID card from all apartment owners in the building.

This evidence is submitted if a request for establishing a legal status for residential buildings for collective housing has been submitted. Then it is necessary that the request is submitted by the tenant's community or be signed by more than half the apartment owners in the building and then, in addition to the other evidence, additional evidence is needed in terms of proof of ownership of the apartment as a separate part of the building, purchase agreement.

! The request for „legalization" must be signed by the Applicant, whereas it is advisable the Applicant to sign with the full name and surname and to put a signature on it (if the applicant has a shortened signature)

COURSE OF THE LEGALIZATION PROCEDURE?

In order to act upon the submitted requests for "legalization", a **COMMISSION** is formed, consisting of persons employed in the municipal, i.e. the state administration. The Commission is composed of 3 (three) members, of which at least one with a university degree is a civil engineer or engineer-architect.

Upon receipt of the request for determining the legal status of an illegal object (legalization), the Commission described above determines the actual situation on the spot by **INSPECTING AND COMPILING A RECORD FOR THE PERFORMED INSPECTION ON THE SPOT** with technical data on the illegal object and **PHOTOGRAPHS** thereof.

Insight on the spot is essential in the procedure, because during the inspection the survey of the illegal object is carried out, its measures, floors, purpose of the separate premises and parts of the facility are determined, checking if there is infrastructure connections of the object. With all these actions it is determined whether the building as such is a building and functional whole, and finally it is **PHOTOGRAPHED** to prove how the object looked on the spot during the inspection.

In this way, the Municipality actually performs verification and confirmations of the data contained in the geodetic elaborate submitted with the request, as well as the data for the land on which the illegal object is located. These data determine the further course of the procedure.

CONCLUSION ON TERMINATION OF THE PROCEDURE

BIn the course of the procedure, if it comes to certain circumstances provided for in the Law, the municipality issues a Conclusion on termination of the procedure. **A CONCLUSION ON TERMINATION SHOULD NOT MEAN THAT THE LEGALIZATION REQUEST IS REJECTED AND AN APPEAL AGAINST SUCH CONCLUSION CAN BE SUBMITTED!** In addition, in the conclusion about the termination of the procedure the municipality states the reasons for termination of the procedure and which actions should be taken. The Law envisages the following situations:

UNSUBMITTED PROOF

If with the application for determining the legal status of an illegal object were not submitted some of the proofs provided or the land on which the illegal object was built is with unregistered rights, the competent authority within **ten business days** of receipt of the application brings a conclusion for termination of the procedure. This Conclusion together with the notification is submitted to the applicant in order to supplement the request..

LAND WITH UNREGISTERED RIGHTS

If the land on which the illegal building is located is with unregistered rights, then according to the Law, the municipality submits an official request to the Agency for Real Estate Cadastre for the implementation of an appropriate procedure for registering the rights on the land in question in accordance with the Law on Real Estate Cadastre. This procedure is carried out by the Agency for Real Estate Cadastre ex officio. Thus, the administrative body that runs the procedure is bound by a specific deadline (ten business days after receipt of the request) in which it must take action in order to provide the necessary evidence for the procedure. In practice, in most cases this action was not undertaken by the administrative body, and in a good way the termination of the procedure referred to the delivery of a property list for land with unregistered rights, in which cases it is necessary to intervene to the administrative body, to undertake actions for termination of the procedure and to take further actions before the Agency for Real Estate Cadastre.

PROBATE PROCEDURE

If the request for establishment of a legal status is accompanied by notification from the notary public trustee of the inheritance court that a lawsuit for probate procedure is being conducted for the land on which the illegal building was built, then the Municipality shall, within 10 (ten) business days from the receipt of the request, pass a conclusion for termination of the procedure, in order to check the outcome of the legal procedure, in order to obtain data for the possible new owner or co-owners of the land in question.

CONFLICTING REQUESTS

The same deadline of 10 (ten) business days shall apply for passing of a conclusion on the termination of the procedure, and in the case of several more conflicting requests for establishing a legal status of an illegal object by several applicants. With the termination of the procedure on the matter at the same time, the petitioners are referred to the lawsuit at the competent court by the commune. This is a necessary step in order to clarify the property legal issue on whose the illegal object is, in the court procedure with a court decision between the parties themselves (inter-partes), after which such court decision is necessary to be submitted to the competent authority in the procedure for "legalization" in order to continue the procedure upon the request of the applicant who succeeded in the court procedure.

PURPOSE OF THE OBJECT

In the case when a request for legalization for an object built on land where construction is not envisaged, the procedure is terminated and a decision by the municipal council is awaited.

DISPUTED CONSENT/ STATEMENT OF CONSTRUCTION

Termination of the procedure within 10 (ten) business days shall also apply if any of the statements described previously (consent from the applicant, the statement for the year of construction, etc.) is contested at the competent authority by the user of the land, i.e. the owner or the co-owner of the land on which the illegal object was built and for which evidence has been submitted, whereas the deadline is considered from the receipt date of the evidence confirming that the statement is contested.

In all the above mentioned cases, the **PROCEDURE** for determining the legal status of an illegal object **WILL CONTINUE AFTER THE APPLICATION IS SUPPLEMENTED**, respectively:

- ***after the implementation of the procedure for registering the rights on the land concerned***
- ***after submitting a final probate decision***
- ***after submitting a final court verdict***
- ***after the adoption of a decision by the Municipal Council, that is, the Council of Municipalities in the City of Skopje and the Council of the City of Skopje***
- ***nafter submission of a final decision by a competent body adopted in the procedure in which the statement was contested***

In each case, a separate appeal is allowed against the conclusion for the termination of the procedure, by which the applicant can protect his rights before the higher authority (Ministry of Transport and Communications)

PASSING A DECISION

Local authority unit – the commune, or the state administration body responsible for the affairs of spatial arrangement - Ministry of Transport and Communications within one year of receipt of the request to establish the legal status of an illegal object, or from the day of the continuation of the procedure, if it was interrupted, determines whether the conditions for determining the legal status prescribed by this Law are fulfilled and issues an urban approval or adopts a decision rejecting the request for determining legal status of an illegal object.

The form and content of the urban consent and the decision for rejecting the request for determining legal status shall be prescribed by the Minister managing the body of the public administration responsible for the performance of the affairs in the spatial arrangement (Minister of Transport and Communications) with the Rulebook on the form and the content of the urban consent, that is, the Rulebook on the form and content of the decision for rejecting the request for establishing the legal status of an illegal object.

URBAN CONSENT

Urban consent for illegal objects of importance for the Republic, facilities for health institutions for primary, secondary and tertiary health care and facilities of local importance except electronic communication networks and facilities and line infrastructure objects shall be issued if the following conditions are met:

- ***the request for determining legal status has been filed within the deadline prescribed by the Law***
- ***a report on the performed inspection was prepared on the spot***
- ***the illegal object was built before the entry into force of this law and it represents a construction and functional whole***
- ***there have been obtained and submitted written evidence/ consents/ statements, required depending on the particular case, and according to the previously stated describing in which situation the evidence/ consent/ statement is required***
- ***the illegal object meets geo-mechanics standards if it is located in a potentially unstable zone***
- ***has a consent or opinion issued by a competent authority if the illegal object is located in the areas and zones for which according to the Law it is envisaged to obtain such consent or opinion, i.e. an opinion has been submitted by the competent authority that it is not envisaged to extend the route of the road and railway infrastructure***
- ***the illegal object can be fitted into the urban planning documentation in accordance with the standards prescribed in the Law on the treatment of illegally constructed buildings.***

In determining the fulfillment of the requirement for illegal buildings built on land which according to the valid urban planning documentation is planned construction of traffic infrastructure, illegal constructions intended for housing in residential homes built in the protected coastal zone of lakes, as well as illegal structures built in a protected coastal strip of artificial lakes and riverbeds, care is taken whether the object is a construction and functional unit, if it is prone to falling and whether there is an access to the buildings, and these buildings do not fit into urban planning documentation.

Above are already mentioned certain consents, i.e. opinions that are needed to be obtained in the procedure of "legalization". The competent authorities specified in the Law are obliged to act upon the request of the municipality for giving or not giving consent or opinion within 30 days from the day of receipt thereof. Otherwise, it will be considered that they have no objections and if due to their failure to act in the future there will be damages, and then the obligation for compensation of damage will be borne by the body, i.e. the entity whose non-performance caused the damage. Also, such consents or opinions do not apply to cases where the illegal building is built on a land where, according to the valid urban planning documentation, construction of a traffic infrastructure is envisaged.

If the conditions for issuing the urban consent provided above are fulfilled then the urban approval/consent is issued by the competent authority. Urban consent constitutes a separate decision and it should be submitted to the applicant and stored as it is required in the implementation of the decision at the Cadastre.

CONCLUSION FOR PAYMENT

AFTER THE ISSUANCE OF URBAN CONSENT THE COMMUNE WITHIN FIVE BUSINESS DAYS SHALL PRODUCE A CONCLUSION TO PAY THE FEE FOR DETERMINING THE LEGAL STATUS OF AN ILLEGAL OBJECT and it is given to the applicant.

The conclusion for payment of a fee for determining the legal status of an illegal object distributed between the City of Skopje and the local self-government units in the City of Skopje shall be prepared by the City of Skopje within a period of five business days from the day of receiving the urban approval in the City of Skopje, which unit of local self-government in the City of Skopje is obliged to submit immediately to the City of Skopje immediately after its issuance.

A special appeal is allowed against the conclusion for payment of the fee.

THE AMOUNT OF THE FEE for determining the legal status of the buildings for the purpose of **HOUSING IN RESIDENTIAL HOUSES**, transformer stations, weekend houses, for extensions of buildings intended for housing in residential buildings - terraces and lodges rearranged in residential space and for the electronic communications networks and funds **AMOUNTS TO 61,00 DENARS PER M²** of the constructed area of the illegal building, which is determined by the geodetic elaborate for determining the actual condition of the illegal object.

$1m^2$
↓
61 denars

The fee for determining the legal status of apartment buildings for collective housing is paid by the owners of apartments in the apartment building. After the conclusion of the payment of the fee, the apartment owners in the apartment building can jointly pay the total amount or each apartment owner can individually pay the part of the fee that applies to his apartment.

The fee for determining the legal status of an illegal object can be paid by the applicant on a **ONE-OFF BASIS WITHIN TEN BUSINESS DAYS** from the date of receipt of the conclusion or deferred to twelve monthly installments. If the fee is deferred, the applicant is obliged to conclude a contract for deferred payment of the fee for determining legal status with the unit of local self-government.

IF THE APPLICANT HAS NO MONEY TO PAY THE FEES ONE-OFF, AND IS NOT A SOCIAL WELFARE BENEFICIARY, THEN ONE CAN REQUEST AT THE COUNTER IN THE MUNICIPALITY TO PAY THE FEE IN 12 INSTALLMENTS.

Applicants who are social welfare beneficiaries do not pay a fee for determining the legal status of an illegal object, whereby they are obliged to submit a certificate from the competent authority that they are social welfare beneficiaries.

In the conclusion for payment of compensation for determining the legal status of an illegal object, **NO DEADLINE FOR PAYMENT OF THE FEE IS DETERMINED.**

DECISION TO DETERMINE THE LEGAL STATUS OF AN ILLEGAL OBJECT

Once the issue of the fee for "legalization" (with payment, exemption and payment of installments pursuant to a contract signed) is regulated, the municipality issues a Decision determining the legal status of an illegal object - for "legalization". The "legalization" decision confirms that the facility meets the requirements stipulated by the Law and the bylaws and it can be registered in the public book for registering the rights to real estate, that is, to register in the real estate cadastre.

For objects of local significance, which include housing facilities, the Decision is adopted by the Mayor of the local self-government unit (municipality) within 5 business days from the date of submission of proof of paid fee, i.e. a signed payment contract, i.e. submission of a certificate that the applicant is a social welfare beneficiary.

The decision for determining the legal status of the illegal objects, including the housing facilities, which is effective and final, represents a legal basis for registering the ownership right of the object in the public book for registering the rights to real estate. The competent authority ex officio submits the decision for determining the legal status of the illegal objects that is effective and final to the Agency for Real Estate Cadastre, in electronic form.

When registering the right to ownership of an object in the public book for registering real estate rights, it is noted that the object has received legal status in accordance with the Law on treatment of illegally built objects.

ИМОТЕН ЛИСТ – ПРИМЕРОК

РЕПУБЛИКА МАКЕДОНИЈА
АГЕНЦИЈА ЗА КАТАСТАР НА НЕДВИЖНОСТИ
1105-292/2019 од 09.01.2019 10:32:03

1105-292/2019

ИМОТЕН ЛИСТ број: 2910 ПРЕПИС
Катастарска општина: ШТИП-ВОН Г.Р.

ЛИСТ А: ПОДАТОЦИ ЗА НОСИТЕЛОТ НА ПРАВОТО НА СОПСТВЕНОСТ

Ред. бр.	ЕМБГ / ЕМБС	Име и презиме / Назив	Адреса / Седиште	Дел на недвижност	Правен основ на запишување	Бр. на пред. по кој е извршено запишување	Датум и час на запишување
1	***	БИЛЈГИН ДЕМИРОВ	ВАСИЛ ДОГАНЏИСКИ ББ, ШТИП	1/1	Решение за утврдување на правен статус на бесправен објект УП 1 бр. 18/16-862 од 24.10.2018 година, донесено од Општина Штип.	1113-1232/2018	28.12.2018 16:20:30

ЛИСТ Б: ПОДАТОЦИ ЗА ЗГРАДИ, ПОСЕБНИ ДЕЛОВИ ОД ЗГРАДИ И ДРУГИ ОБЈЕКТИ И ЗА ПРАВОТО НА СОПСТВЕНОСТ

Број на катастарска парцела: основен	Број на катастарска парцела: дел	Адреса (улица и куќен број на зграда)	Бр. на зграда/друг објект	Ниш. на зграда/друг објект	Намена на зграда/друг објект при конверзија на податоците од стариот ел.систем	Внатрешен број на посебен дел од зграда: Влез	Внатрешен број на посебен дел од зграда: Кат	Внатрешен број на посебен дел од зграда: Број	Намена на посебен дел од зграда	Внатрешна површина во м2	Отворена површина во м2	Волумен во м3	Сопственост / сосопственост / заедничка сопственост	Право преземено при конверзија на податоците од стариот ел.систем	Бр. на евид. лист	Бр. на пред. по кој е извршено запишување	Датум и час на запишување
2017	0	КАДИДЕРЕ	5	А1-1		1	МА	1	СТ	29			СОПСТВЕНОСТ			1113-1232/2018	28.12.2018 16:20:30
2017	0	КАДИДЕРЕ	5	А1-1		1	МА	1	ПП	2			СОПСТВЕНОСТ			1113-1232/2018	28.12.2018 16:20:30
2017	0	КАДИДЕРЕ	5	А1-1		1	ПР	1	СТ	25			СОПСТВЕНОСТ			1113-1232/2018	28.12.2018 16:20:30
2017	0	КАДИДЕРЕ	6	А1-1		1	ПР	1	СТ	6			СОПСТВЕНОСТ			1113-1232/2018	28.12.2018 16:20:30

РЕПУБЛИКА МАКЕДОНИЈА
АГЕНЦИЈА ЗА КАТАСТАР НА НЕДВИЖНОСТИ
1105-292/2019 од 09.01.2019 10:32:03

1105-292/2019

ИМОТЕН ЛИСТ број: 2910 ПРЕПИС
Катастарска општина: ШТИП-ВОН Г.Р.

Г9.з.Други факти чие прибележување е предвидено со закон:

Вид на прибележување: ЛЕГАЛИЗАЦИЈА

Носител на правото на службеност (владеење, употреба и домување): БИЛЈГИН ДЕМИРОВ

ЕМБГ / ЕМБС:

Адреса / Седиште: ШТИП; ВАСИЛ ДОГАНЏИСКИ ББ

Број на катастарска парцела: основен	Број на катастарска парцела: дел	Видина местилиште	Катастарска: Култура	Катастарска: Класа	Површина во м2	Број на зграда/друг објект	Влез/Кат/Број на посебен дел: Влез	Кат	Број	Намена на посебен дел од зграда	Внатрешна површина во м2	Отворена површина во м2	Волумен во м3	Краток опис на прибележувањето	Правен основ на запишување	Број на предмет по кој е извршено прибележувањето	Датум и час на запишување
2017	0					5	1	МА	1	ПП	2			ОБЈЕКТИТЕ - ЗГРАДА 5 И ЗГРАДА 6 НА КП БР. 2017 ДОБИЛЕ ПРАВЕН СТАТУС СОГЛАСНО ЗАКОНОТ ЗА ПОСТАПУВАЊЕ СО БЕСПРАВНО ИЗГРАДЕНИ ОБЈЕКТИ.	Решение за утврдување на правен статус на бесправен објект УП 1 бр. 18/16-862 од 24.10.2018 година, донесено од Општина Штип.	1113-1232/2018	28.12.2018 16:20:30
2017	0					5	1	МА	1	СТ	29						
2017	0					5	1	ПР	1	СТ	25						
2017	0					6	1	ПР	1	СТ	6						

Легенда на внесени шифри и кратенки:

Шифра	Опис
А1-1	станбени куќи со дворови – самостојни
СТ	стан
ПП	помошни простории (тераса, лоџија, балкон)
***	СОГЛАСНО ЗАКОНОТ ЗА ЗАШТИТА НА ЛИЧНИ ПОДАТОЦИ, ЕМБГ/ЕМБС ПРЕТСТАВУВА ЛИЧЕН ПОДАТОК И ПОРАДИ ТОА ИСТИОТ НЕ МОЖЕ ДА СЕ ПРИКАЖЕ

Тип	Опис
Препис	Цела содржина од имотниот лист

М.П.

Овластено лице:
Светле Димитриевска
име и презиме, потпис

APPEAL PROCEDURE

During the procedures for “legalization”, an appeal procedure is envisaged.

An appeal may be filed against any of the decisions taken during the proceedings.

An appeal may be filed against:

- ***The conclusion for termination of the procedure,***
- ***The payment conclusion,***
- ***The decision to reject the request for “legalization”***
- ***The decision for “legalization” (if there is a need in this case)***

The appeal as a regular legal remedy in the procedure is submitted to the higher authority, in this case to the Ministry of Transport and Communications, within 15 days from the receipt of the decision (the decision or the conclusion) with which decision the party is not satisfied. The appeal shall be filed through the Commune, to the Ministry of Transport and Communications, or directly to the Ministry of Transport and Communications. This is defined in more detail in the morale that must be necessarily included in the decision.

In order to be able to use the appeal effectively and as a remedy, it is obligatory, when receiving the decision, the person receiving it should always clearly notice the date on which the decision was received. This means that when such a decision is received from a postman, a date should be put down, and then a signature in the delivery book of the postman. When the reception is done in the commune, it is also necessary to put the date when the decision is received on the receipt first, and then the signature of the recipient.

! **In any case, it is mandatory to mark the date of the envelope itself or the decision itself, since the deadline for filing an appeal is running from that date. Otherwise the deadline for appeal is considered to be counted from the first day following the day of receipt (!!!) and expires on the last 15th day. When calculating the deadline in the 15 days, all business and non-business days are counted. If the last day falls into a non-business day or Sunday, then it is continued until the next first business day.**

In practice, it was found that in many cases for "legalization" the interruptions of the proceedings were unfounded, that is, the Municipalities as first instance authorities interrupted the procedure without any reason and demanded unnecessary evidence, or already submitted evidence, etc. The filing of the complaint can in no way be detrimental to the claimants, but only in their favor, in the direction of all of the aforementioned.

A decision on the appeal is made within 30 days, that is, two months after the submission of the appeal. If the second instance authority fails to reach a decision, the appellant may address again with a new request for a decision within 7 days. If such a decision was not passed, the appellant has the right to initiate an administrative dispute over the silence of administration in front of the Administrative Court. The appeal is levied with an administrative fee of 250 MKD, obligatory.

PROCEDURE BEFORE THE ADMINISTRATIVE COURT – ADMINISTRATIVE DISPUTE

If a decision is made in the appeals procedure, this decision shall be adopted in the form of a Decision by which the appeal may:

- ***be rejected as unfounded or***
- ***be accepted, and the first-instance decision to be annulled***

If the appeal is upheld, and the first instance decision is annulled, then the municipality has a deadline of **30 DAYS** for a new decision.

If this deadline is not respected, the applicant has the right to file a complaint again (in accordance with Article 242 of the Law on general administrative procedure), with which the applicant will ask the second instance authority to oblige the first instance body to issue a new decision within a certain period. In practice, such appeals are immediately respected and the first instance body – the commune receives the obligation to adopt a new act within a certain deadline.

The procedure before the Administrative Court (in the procedures for "legalization") is initiated by filing a lawsuit.

Two types of administrative dispute can be pursued at the Administrative Court, arising from the actions or non-actions of the administrative bodies (municipalities and the Ministry of Transport and Communications):

- ***Administrative dispute over silence of administration and***
- ***Administrative dispute against a decision of the governing body.***

ADMINISTRATIVE DISPUTE OVER SILENCE OF ADMINISTRATION

TA lawsuit for silence of administration is submitted to the Administrative Court in case when the Ministry of Transport and Communications will not pass a decision after the submitted appeal within the deadline of 60 days - 2 months, nor in the additional 7 days. In this case, the applicant has the right to file a lawsuit for silence of the administration against the Ministry of Transport and Communications, requesting the Administrative Court to oblige the respondent Ministry to make a decision upon the submitted appeal.

ADMINISTRATIVE DISPUTE AGAINST THE DECISION OF THE MINISTRY OF TRANSPORT AND COMMUNICATIONS

A lawsuit for initiating an administrative dispute may be filed against the decision passed by the Ministry of Transport and Communications, with which it has been decided upon the appeal lodged by the Applicant. This case exists most frequently when the applicant's appeal is rejected as unfounded.

The applicant may then, within 30 days of receipt of the decision of the Ministry, file a lawsuit denying such a decision. The 30-day period is considered in the same way as the deadline for lodging an appeal.

The Administrative Court may take its own decision by which:

- ***the lodged appeal will be upheld, and the decision of the Ministry of Transport and Communications shall be cancelled or***
- ***will reject the lodged appeal as unfounded.***

If the Administrative Court rejects the complaint, the plaintiff-party has the right to appeal against such a verdict within 15 days from the receipt of the verdict, to the Higher Administrative Court. The Higher Administrative Court can accept the appeal and annul the verdict of the Administrative Court, or reject the appeal.

If the Administrative Court accepts the lawsuit and annuls the decision of the Ministry of Transport and Communications, then the Ministry of Transport and Communications has a maximum of 30 days to pass a new decision, according to the instructions of the Administrative Court.

If the Ministry does not adopt a new decision, the party has the right to file a special submission in accordance with the Law on administrative disputes, with a request to make a decision within 7 days.

If the Ministry does not make a decision even within this additional period of 7 days, the client may request such decision to be brought by the Administrative Court.

In the administrative dispute when the decision of the Ministry is annulled, along with the lawsuit is mandatory submitted the original or verified copy of the decision whose annulment is requested. If it is not submitted, the lawsuit may be overruled.

With every complaint that initiates an administrative dispute, a mandatory court fee for a lawsuit in the amount of MKD 480 is charged, and upon receipt of the verdict and a fee for a decision in the amount of MKD 800. In the appeal procedure to the Higher Administrative Court, a fee of 800 denars is paid for the submitted appeal.

LEGALIZATION CASE EXAMPLE

THE REQUEST FOR "LEGALIZATION" was submitted by an Applicant in 2011. Until January 2019 they have not received a decision from the municipality.

During the month of **JULY 2015,** the party through an authorized attorney **SUBMITTED THE GEODETIC ELABORATE**, together with a statement on the construction of the illegal building and ownership of the land and a copy of the identity card for the party.

In the course of **SEPTEMBER 2015**, the request was supplemented with a **PROPERTY LIST FOR THE LAND** on which the illegal building is located.

Consequently, during December 2015, the authorized representative of the applicant has received a **DECISION FOR TERMINATION OF THE PROCEDURE** adopted by the municipality, and due to the need to submit evidence that was already submitted in the procedure.

Against this Conclusion was filed **A TIMELY APPEAL** преку општината, до Министерството за транспорт и врски.

THE APPEAL WAS UPHELD BY A DECISION of the Ministry of Transport and Communications from February 2016, and the Conclusion of the commune was annulled and the case was returned for a retrial.

In April 2016, a new **CONCLUSION ON TERMINATION OF THE PROCEDURE**, was again adopted by the commune, stating that it was necessary to submit additional evidence (purchase and sale agreement with a statement - described as evidence 5 above).

Such evidence is not required in this procedure and due to it was filed **A TIMELY APPEAL** through the commune, to the Ministry of Transport and Communications.

THE APPEAL WAS UPHELD BY A DECISION of the Ministry of Transport and Communications from July 2016, and the verdict conclusion was revoked again and the case was returned for a new procedure.

Some time there was no activity and the party turned to the commune with a new submission in October 2016.

The municipality acted even after a period of more than 1 year, again with the adoption **OF THE CONCLUSION ON TERMINATION OF THE PROCEDURE** from February 2018, now for a new reason - the need for the decision of the Communal Council.

A COMPLAINT was lodged again **TO THE MINISTRY OF TRANSPORT AND COMMUNICATIONS.**

Since there was no decision for more than two months, at the end of April 2018, a **REQUEST FOR A DECISION ON THE SUBMITTED APPEAL**. There was no decision passed in this period neither.

An **ADMINISTRATIVE DISPUTE** was filed from the party **FOR SILENCE OF ADMINISTRATION** in May 2018.

THE LAWSUIT WAS UPHELD by a verdict of July 2018, and the Ministry of Transport and Communications was obliged to pass **A DECISION ON AN APPEAL WITHIN 30 DAYS AFTER THE RECEIPT OF THE VERDICT.**

This was not done by the Ministry of Transport and Communications in the foreseen deadline, due to which the party addressed a **WRITTEN SUBMISSION** in October 2018 to the Ministry, in accordance with the Law on administrative disputes that a decision was made within a further period of 7 days.

Following this, a decision was received after the appeal was lodged, with which the **APPEAL WAS UPHELD** and the conclusion from February 2018 was annulled.

The commune as the first instance authority did not adopt a decision for continuation of the procedure after annulment of the Conclusion within the legal period of 30 days, and the party in November filed **A TIMELY COMPLAINT** in accordance with the Law on general administrative procedure, as the procedure was again stopped.

In December, we received a **DECISION** passed by the first-instance body - the commune with which the appeal was accepted, and the procedure was prolonged.

The procedure is still pending.

MORALE

The case described above shows that the use of remedies in a timely manner contributes to achieving dynamics in the process. If the applicant had not taken any action, the procedure would still be interrupted due to evidence that either was already submitted or unnecessary, with the possibility of complete failure of the procedure.

Upon completion of the "legalization" procedure, the Applicant exercises his right to have his own home, for which there will be an appropriate property list where the applicant will be the holder of the right to ownership of the "legalized" object

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FREE LEGAL AID

EQUALITY, THE RULE OF LAW AND THE PROTECTION OF HUMAN RIGHTS AND FREEDOMS ARE THE BASIC PRINCIPLES ON WHICH EVERY MODERN SOCIETY IS BASED.

One of the ways that every individual and citizen could achieve a quality and efficient realization of his rights and interests is to have access to professional and appropriate legal assistance.

Legal assistance as a type of service is most often and basically provided by lawyers, whose actions and taking actions are charged, due to which something such a right is limited for persons with poor financial standing.

Free legal aid as a right provides access to legal aid and to persons who do not have the financial opportunity to pay for it.

Free legal aid can be used by applicants for the "legalization" and, under certain conditions; to be able to use this right should contact the district departments of the Ministry of Justice and the authorized associations.

ONE SHOULD ADDRESS TO:
- **LOCAL DEPARTMENTS OF THE MINISTRY OF JUSTICE**
- **AUTHORIZED ASSOCIATIONS**

1. WHAT IS LEGAL AID

Legal aid includes:

- ***giving legal advice;***
- ***advocacy in conducting negotiations and providing services in the field of business protocol;***
- ***making corrections for legal acts;***
- ***making submissions in court and other proceedings;***
- ***representing the parties to the courts, state bodies and other legal entities;***
- ***defense of suspected indictees and***
- ***performing other legal assistance activities.*** [10]

WHAT IS MEANT BY LEGAL ASSISTANCE WHEN IT COMES TO THE „LEGALIZATION" PROCEDURE

The person who has submitted a request for "legalization" starts an administrative procedure, which is regulated in accordance with the Law on general administrative procedure and with special provisions from the Law on determining the legal status of illegally built objects.

The applicant may, in accordance with the law, seek legal assistance to obtain legal advice on a legalization procedure, legal assistance if it's needed to obtain consent for legalization by some other persons, to be represented by a lawyer in a procedure for inheritance and in other judicial and administrative proceedings if it is necessary, as well as writing submissions, statements, consents, and so on.

Such legal assistance and procedures for legalization are provided by lawyers and legal associations in accordance with the law have the right to legally represent and provide other legal assistance.

11Law on Advocacy of the Republic of Macedonia (Official Gazette of the Republic of Macedonia No. 59/02 from23.07.2002, 60/2006 from 15.05.2006, 29/2007 from 09.03.2007, 106/2008 from 27.08.2008, 135/ 2011 from 03.10.2011, 113/2012 from 12.09.2012);)

The person who has submitted a request for "legalization" in order to empower the lawyer or the authorized association to provide legal assistance must give him A WRITTEN AUTHORIZATION - POWER OF ATTORNEY to enable them to undertake actions and to provide legal assistance.

In the power of attorney shall be expressly stated that the authorization applies to the legalization procedure, preferably to state the case number for the "legalization" and the acting commune.

2. COSTS FOR RECEIVING LEGAL ASSISTANCE FROM LAWYERS

When legal assistance is provided by lawyers who are public service and with the highest authority to provide legal assistance and undertake actions related to providing legal assistance in front of judicial and other state bodies, they have the right to reward and reimbursement of expenses that are charged for each action taken.

The right to reward and reimbursement is regulated in accordance with the **"TARIFF ON REWARD AND REIMBURSEMENT OF THE COSTS FOR THE WORK OF LAWYERS"**, where it is precisely determined for which legal action and for which legal activity, what compensation can legally be requested by the lawyer.

The mentioned Tariff also lists all the actions that the lawyer can undertake, and we will list only those that are important for the "legalization" procedure::

- ***writing submissions with which a procedure is initiated;***
- ***writing well-argued submissions;***
- ***writing contracts;***
- ***advocacy;***
- ***writing statements, pleas, proxies;***
- ***writing appeals (regular and extraordinary legal remedies);***
- ***giving legal advice;***

MINIMUM VALUE FOR ONE ACTION TAKEN IN ACCORDANCE WITH THE LAWYER'S TARIFF IS 1.000 DENARS, WHICH IS INCREASED ON A WIDE RANGE OF BASIS; WHILE A REWARD FOR LEGAL ADVICE IS CHARGED PER HOUR.[11]

[11] *See Tariff on reward and reimbursement of the costs for the work of lawyers for more details (Official Gazette no.126 of 08.07.2016).*

3. LAW ON FREE LEGAL AID

Free legal aid is a right of all natural persons who fulfill certain criteria stipulated by law to receive legal assistance from authorized lawyers or civil associations, without having to pay for it.

In our country, the right to free legal aid is regulated by the **"LAW ON FREE LEGAL AID"** кwhich was published in Official Gazette no.161 on 30.12.2009 and started to apply 6 months after its entry into force, which means the beginning of its application is during the month of July 2010.

The Law on Free Legal Aid has been amended and updated on three occasions:

- ***Law amending the Law on free legal aid (Official Gazette No. 185/2011 from 30.12.2011).***
- ***Law amending the Law on free legal aid (Official Gazette No. 27/2014 from 05.02.2014).***
- ***Law Amending the Law on free legal aid (Official Gazette No. 104/2015 from 24.06.2015).***

The Law on free legal aid determines the right to free legal aid, which persons can be beneficiaries, which entities can be providers, the conditions, the manner and the procedure for exercising the right and the decision-making bodies.

4. THE RIGHT TO FREE LEGAL AID

The Law on free legal aid envisages two types of exercising the right to free legal aid:

- ***Preliminary legal aid,***
- ***Legal assistance in all judicial and administrative proceedings.***

Preliminary legal assistance involves providing legal assistance to the moments until a dispute has not arisen yet and a judicial settlement of the issue has not yet arrived. This is why it is called preliminary legal aid because it does not actually constitute legal aid in direct acting, but rather a kind of administrative free of charge servicing of citizens. Preliminary legal aid may be defined as:

- ***Initial legal advice on the right to use legal aid,***
- ***General legal information,***
- ***Legal assistance in completing the request for free legal aid.[12]***

[12] *Law on free legal aid (Official Gazette no.161 from 30.12.2009, 185/2011 from 30.12.2011, 27/2014 from 05.02.2014, 104/2015 from 24.06.2015).*

WHEN IT COMES TO PREVIOUS LEGAL ASSISTANCE, IT IS PROVIDED BY THE OFFICIALS IN THE MINISTRY OF JUSTICE OR THE AUTHORIZED CITIZENS' ASSOCIATIONS.

Under legal aid from this aspect we mean:

- ***Representation at all levels of judicial and administrative proceedings,***
- ***Compiling written instruments in court and administrative procedures.***

This type of legal assistance is provided by the lawyers.

Ask for information on how to get to this type of legal assistance and through authorized citizens and officials in the Ministry of Justice

5. PROVIDERS OF FREE LEGAL AID

Free legal aid is provided by registered lawyers and authorized citizens' associations in the Register of the Ministry of Justice.

Any person who has the right to use free legal aid may choose a lawyer exclusively enrolled in the Register of the Ministry of Justice.

Lawyers who are not registered in the Register of the Ministry of Justice cannot be selected by persons who have become entitled for legal aid.

Information on how to get to the register for free legal aid providers can be obtained through the official website of the Ministry of Justice or directly at the offices and counters in the Ministry

6. WHO CAN BE ENTITLED TO FREE LEGAL AID?

The right to free legal aid is available to all natural persons who, because of their material status, could not pay for legal aid without jeopardizing their livelihood and support of their family members living in a common household.

The law stipulates the following categories of individuals who are entitled to free legal aid:

1. Domestic nationals with permanent residence in the state if:

- ***They are social welfare beneficiaries,***
- ***They are beneficiaries of the right to a disability allowance that do not realize other income on the basis of earnings or real estate revenues,***
- ***They are the lowest pension beneficiaries who live with two or more persons supported by a family,***
- ***A family or single parent with one or more minor children who exercise the right to child allowance***

2. Other natural persons if:

- ***They use the right to asylum, internally displaced persons, displaced or expelled persons who have their place of residence in the territory of our country;***
- ***He/she is a foreign citizen who, in accordance with international agreements, whether in the territory of our country has a place of residence or permanent residence, exercises his/her right for which the state authority is competent.***
- ***He/she is a person without citizenship and who legally resides in the state,***
- ***He/she is a citizen of a member state of the European Union, under conditions and manner determined by law.***

WHEN IT COMES TO ROMA FAMILIES, THERE ARE CATEGORIES OF PERSONS FROM ITEM 1 AND ITEM 2, BECAUSE VERY OFTEN DESPITE THE ECONOMIC AND SOCIAL VULNERABILITY, THERE ARE ROMA PEOPLE WHO HAVE NO CITIZENSHIP

In determining whether a person can be a beneficiary of free legal aid, besides the status they should have in item 1 and item 2, they must not have incomes greater than 50% of the average monthly salary calculated for the month which elapsed before the application for free legal aid, as well as the applicant or members of his household do not possess property that exceeds the value of 5 average monthly gross salaries paid in the country, and according to the calculated average salary for the month elapsed before submitting the request.

WHAT IS INCOME?

Income means all the movable and immovable property that the applicant or members of his/ her family have at their disposal.

EXCEPTION:

- ***Financial means from child allowance, disability allowance, allowance for other people's care, scholarships and other income for education and vocational training.***
- ***Funds received for the purpose of eliminating the consequences of natural disasters,***
- ***Compensation for damage due to reduced life activity, as well as unjustified, ungrounded and unlawfully convicted persons.***
- ***Funds approved for medical treatment abroad by a competent institution.***
- ***Objects that are exempt from enforcement according to law,***
- ***A motor vehicle that does not exceed the value of 5 average monthly gross salaries paid in the state, and according to the calculated average salary for the month elapsed before the application was submitted.***

7. PROCEDURE FOR THE REALIZATION OF THE RIGHT TO FREE LEGAL AID

In order to be able to initiate a procedure for free legal aid, **A REQUEST SHOULD BE SUBMITTED TO THE MINISTRY OF JUSTICE,** which is submitted personally on the counter in the ministry (reception department), or the request to be delivered by mail (with registered mail, as proof that the request was submitted).

The request has a special form, a copy can be found on the official website of the Ministry of Justice or directly at the ministry's counters, and the applicant can also obtain one through the authorized civil associations.

With the application, the applicant must also submit **A STATEMENT ON THE FINANCIAL SITUATION**, and with the same statement to give a written consent that the competent services can inspect the financial situation of the applicant and his family members (a statement is not submitted by family members if the applicant is a victim of domestic violence).

The statement can also be provided through the counters of the ministry, and the applicant can also obtain one through the authorized civil associations.

The applicants from the category of persons who are asylum seekers, foreign nationals, displaced persons, stateless persons must submit their proof of their status with the request.

METHOD AND DEADLINES IN WHICH THE MINISTRY ACTS:

Upon receipt of the request, the authorized official is obliged to take the case **IMMEDIATELY, AND AT THE LATEST WITHIN 12 DAYS** to complete the request and submit it for decision.

The authorities competent for the data on the assets of the applicant are obliged to respond within 3 days of the request submitted by the services to the Ministry of Justice.

The Ministry is obliged to make a decision upon receipt of the completed application within 8 days, with the adoption of a decision.

The applicant may initiate an administrative dispute before the Administrative Court by filing a lawsuit, against the Decision rejecting the request.

ADMINISTRATIVE, COURT AND OTHER FEES AT ANY STAGE OF THE PROCEDURE ARE NOT PAID.

WHAT AFTER ACQUIRING THE RIGHT TO FREE LEGAL AID:

In the event that a positive decision is adopted with which the request for free legal aid is accepted, the request for the necessary legal assistance is being realized. The Free Legal Aid Law states that the approval itself covers all costs of the procedure that arose after the day of the approval of the free legal aid application and legal aid actions that have not been carried out since the day of the approval of the legal aid.

A good legal solution is that the party using free legal aid, and needs a lawyer - attorney, can choose the freelance agent freely, if that is possible.

We are explaining here that according to the law there are **REGISTRIES OF FREE LEGAL AID**, where a special register of lawyers are registered, from which registry the applicant - the beneficiary has the right to choose a lawyer on his own will, i.e. if he/she is granted the right to free legal aid, a lawyer can only be chosen from the registry, and not from all the registered lawyers in the Bar Association.

Although it exists, as we have seen a certain procedure in the granting of free legal aid, certain abuses are possible, and the Law on Free Legal Aid protects them by determining the supervision, that is, monitoring the assets of the applicant, and also conducts additional control over the given data from the applicant, i.e. already the beneficiary of free legal aid, and if it is determined additionally that the data are incorrect, the same is sanctioned accordingly.

The Applicant must be aware of their property status, and always give accurate data, because by obtaining the right to free legal aid, the Ministry continuously controls, and the applicant is obligated if the situation changes to inform the ministry, otherwise the further exercise of this right can be stopped and they being requested to return the paid funds.

7. REGISTERS FOR LEGAL ASSISTANCE, RECORDS, SUPERVISION AND REPORTS

For quality and more expeditious implementation of such a legal instrument, the relevant records are very important. Such records in the free legal aid are carried out with the help of registers for legal assistance and supervision over them .

By starting the application of this law, the Ministry of Justice shall register in an official register of attorneys, i.e. associations of citizens, which will be responsible in this respect.

The registration in the register with the lawyers is carried out in cooperation and in agreement with the Bar Association, while in the civil associations, on the basis of previous fulfillment of certain conditions with a request for their registration in the register.

[13] *http://www.pravda.gov.mk/bp-advokati, http://www.pravda.gov.mk/bpp, on these links you can find the registers of all registered attorneys and citizens' associations that can provide free legal aid.*

The Ministry may erase lawyers, lawyers' associations, as well as associations of citizens authorized to provide free prior legal assistance, in case of loss of the conditions under which they were entered in the register. An administrative dispute may be initiated against such deletion.

With the entry itself in the register, the Ministry has a record, and thus performs supervision or control over authorized subjects in their provision of free legal aid. Of course, if there is a violation of the legal norms in the provision of free legal aid, the entity may be deleted from the records, i.e. from the register.

The Ministry is obliged to submit a report to the Government once a year, which the Government, within 30 days after its adoption, submits to the Parliament. "The report contains the following elements

:

- ***Number of requests for free legal aid submitted,***
- ***Number of adopted free legal aid decisions,***
- ***Number of rejected requests for free legal aid,***
- ***The type of work for which free legal aid is approved,***
- ***The volume of funds paid for free legal aid,***
- ***Statistical indicators, etc.***

9. REWARD FOR LEGAL ASSISTANCE

As mentioned the cost of benefits of free legal assistance shall be borne by the budget of the country.

On the basis of this, the Law on Free Legal Aid determines a certain procedure in which the rewards of the entities providing free legal aid are reimbursed.

The attorney's reward for legal assistance is reimbursed on the basis of the Tariff on reward and reimbursement of the expenses for the work of lawyers. It is important to note that it is always **reduced by 30% of the real amount**, determined by the previously mentioned tariff, and understandable from the circumstances of the right institute. The lawyer submits a bill on the basis of an overly prescribed form which, on the basis of an assessment by the Ministry, brings the decision on its approval or refusal. The refusal can occur if the Ministry finds that the lawyer, unethically or unprofessionally, provided free legal aid, against which he has the right to initiate an administrative dispute .

When it comes to authorized Citizens' Associations to provide free legal aid, the procedure is almost identical, with the difference that the amount of the award is determined on the basis of an appropriate Tariff for reimbursement of the costs of the work of Citizens' Associations.

METHODS AND SKILLS FOR WORK WITH VULNERABLE GROUPS

THE ROMA COMMUNITY IN OUR SOCIETY IS ONE OF THE MOST VULNERABLE WHEN IT COMES TO BASIC HUMAN RIGHTS IN EVERYDAY LIFE.

METHODS AND SKILLS FOR WORK WITH VULNERABLE GROUPS

The problems arise for various reasons and of a variety of character, and they contribute to this community being marginalized, discriminated, socially and economically endangered.

The most common problem that arise in practice and on the field is the unrealized right to housing, which for each individual in the future can contribute to their greater social and existential problems.

It is precisely because of the stated that Roma appear as vulnerable groups, due to which for this category of people there are various ways for their inclusion in all social processes, as well as the protection of their basic human rights and freedoms.

1. WHAT ARE VULNERABLE GROUPS AND HOW CAN WE RECOGNIZE THEM:

The very term **"Vulnerable Groups"** gives us an answer to the question posed by this category of persons and how we can identify the individual as a person belonging to this group.

These are persons who are socially, existentially, economically, healthily and otherwise endangered, and because of this condition they are susceptible to the risks of losing and breaking their basic rights.

In our laws for this category of citizens, the term **"MARGINALIZED GROUPS"**, is used, for which there is even a definition in the Law on Prevention and Protection against Discrimination, where it is stipulated that:

"Marginalized group is a group of individuals that unites a specific situation in the society, which is a subject of prejudice, which has special characteristics that make them suitable for certain types of violence, have less opportunity to exercise and protect their own rights or are exposed to increased opportunity for further victimization" [15]

Every day we come across people belonging to these "vulnerable groups", but not always they can be easily recognized or identified, therefore it is necessary to carefully determine the criteria for distinguishing them and recognizing them.

[15] *Law on Prevention and Protection against Discrimination (Official Gazette No. 50/2010, 44/2014, 150/2015, 177/2015, 31/2016, 21/2018).*

2. CRITERIA AND FACTORS FOR IDENTIFICATION OF „VULNERABLE GROUPS":

In our country, the most important role in recognizing and identifying such groups is the laws related to social protection, social security, employment and health care.

The institutions that are obliged to apply the regulations that determine the state of eventual social risk are the **Ministry of Labor and Social Policy**, as well as the administrative bodies, which function within the Ministry, such as the **Centers for Social Work,** cwhich directly provide state protection to this type of persons.

In addition to these institutions, in the protection of this category of persons, there are also the judicial system, the municipalities, the religious community, the non-governmental sector, the civil society organizations, the humanitarian organizations that are directly and indirectly involved in the system for identifying and protecting these categories of people.

FACTORS – REASONS

In identifying the "vulnerable groups" of persons, the following factors play a role, which are used as the key of identification:

- ***Social problem***
- ***Social risk***
- ***Social vulnerability***

Each of these key points and factors in identifying vulnerable groups has its own sub-factors which more specifically define possible problems and potential vulnerability.

THE SOCIAL PROBLEM CAN BE DEFINED AS

- *Problems caused by development – the development as a factor of social problems can arise from several aspects: poor primary education, absence from educational process, illnesses in development, poor socio-economic status of the family, etc. Proper and appropriate development of individuals can help prevent or reduce the potential social problems that an individual can face.*
- ***Problems caused by deviations** – deviation as a phenomenon, in itself, points to some problem and mismatch of the individual with the social, legal and moral norms, which in any case can easily contribute to exclusion from the social processes and its normal functioning through the system, and therefore to potential social problems.*

- *Problems caused by natural disasters – othese manifestations alone create a great opportunity for the individual and above all certain groups that are affected by a natural disaster to get the status of a social problem, and above all taking into account the socio-economic, health, hygienic and other problems that can be caused by natural disasters.*

Social risks are potential situations that can lead to a social problem and they are divided into:

- *Political – discrimination, social exclusion, segregation.*
- *Natural or geophysical risks - which are created by the nature - disasters and catastrophes (earthquakes, fires, floods)*
- *Health issues – diseases, disabilities, etc.*
- *Social – war, economic conditions and similar.*
- *Sociological - physiological risks (maternity, illness, old age, death)*
  - ***family risks** (difficulties in raising and educating children, family dysfunction, structurally disrupted families)*
  - ***occupational risks** (diseases, injuries and deaths at work, unemployment)*

Social vulnerability is a condition of a certain person who has been identified as a person from a "vulnerable group", with the following divisions known:

- ***Inability to overcome the negative consequences of stressful situations;***
- ***Great possibility for a person to be physically or mentally wounded/ injured, and***
- ***Lack of capacity, capabilities and opportunities for: predicting stressful situations; dealing with stressful situations; overcoming the consequences of stressful situations, and recovering from stressful situations*** [16]

16 See more in the Handbook for the Development of Social Services for Vulnerable Groups in Local Communities, Ministry of Labor and Social Policy, March 2013.

WORKING WITH VULNERABLE GROUPS OF PEOPLE

As the science and the system of social solidarity matures, so does the society from a variety of aspects, manages to offer ways, methods and techniques for dealing and working with vulnerable or socially endangered groups of people.

Namely, the education system itself forms special academic institutions that practice ways and skills how to identify these groups, how to protect themselves and how to approach the elimination of the risk they face.

The state apparatus also provides various training for persons specialized in working with this category of people, which determines something as a professionalization of this part of the state service towards the citizens.

Of course, this aspect also includes a wide range of civil society organizations and organizations that, thanks to the international processes of the principle of solidarity and equality, enable exchange of mutual experiences and ways of dealing with this social phenomenon.

People from "vulnerable groups" are often uninformed, they are afraid, they do not want to cooperate, they have mistrust, and because of the frequent prejudices against them, discrimination, as well as the very condition they have found themselves.

! EXACTLY WHEN DEALING WITH SUCH A PERSON NEEDS TO BE CAREFUL IN COMMUNICATING WITH HIM, IT SHOULD BE INFORMED AS SIMPLER AS POSSIBLE AND GRANTED A FULL TREATMENT

The basic elements to be observed when working with a person from a "vulnerable group" are the following:

- ***Explain the problem in which they are in;***
- ***Tell them about the rights they possess;***
- ***Meet with the institutions through which they can seek protection and help;***
- ***Explain them the way in which they can exercise their protection free of charge;***

Persons who work and function within civil associations, and who work daily with such a category of persons, must be willing to be constantly present on the field and collect information, to continuously educate themselves, to cooperate with institutions that provide protection, to be able to point out the fundamental rights, as well as to pursue the principle of solidarity and humanity.

4. LEGAL FRAMEWORK FOR THE PROTECTION OF THE VULNERABLE GROUPS

As noted above, the basic mechanism for implementation and protection of vulnerable groups is adequate legal regulation and placement.

In our country, the basic legislation is based on several laws from a social aspect, and as a basic one is the Law on Social Protection. This law regulates basic social issues and institutions and the ways of regulation through which institutions should act.

However, apart from social protection, the very constitutional establishment of our country, which provides for a principle of solidarity, the possibility of dealing with persons from a vulnerable group with appropriate legal solutions has also been addressed through:

- ***Labor relations,***
- ***Health care,***
- ***Pension and disability insurance***
- ***Prevention of discrimination***
- ***Criminal legislation***
- ***Property - legal relations, etc.***

This is only a segment of the possibility of protection, positive discrimination and inclusion of vulnerable groups, something that is evidence of the existence of a wide body of social and legal norms for the protection of this category of persons.

As one of the special laws that treat equality and the struggle for the protection of vulnerable and marginalized groups in the social order, is the **LAW ON PREVENTION AND PROTECTION AGAINST DISCRIMINATION**, which treats all acts that contribute to unequal treatment of certain groups of people or individuals. [17]

17 Law on Prevention and Protection against Discrimination (Official Gazette No. 50/2010, 44/2014, 150/2015, 177/2015, 31/2016, 21/2018).

SUBJECTS IN THE PROTECTION AND WORK WITH VULNERABLE GROUPS"

ПPreviously were mentioned the institutions that are directly responsible and obligated to perform protection and care for the rights of the vulnerable groups of people, and the **MINISTRY OF LABOR AND SOCIAL POLICY AND THE SOCIAL WORK CENTERS** are the basic and the main ones.

However, the state institutions are not exhausted only with this Ministry and the Center for Social Work as a direct implementer of the protection of socially endangered people, that is, there are other institutions that perform protection, and of a variety of different types:

- ***Ministry of Healthy*** *– through health and hospital centers and other institutions.*
- ***Ministry of Justice*** *– through services for legal protection and free legal aid,*
- ***Ministry of Internal Affairs*** *– through competent Sectors, and in the treatment, suppression and protection of victims of various types of crimes (domestic violence, abuse of office and authorization, etc.),*
- ***Ministry of Education*** *– through educational system and education centers*
- ***General secretariat at the Government*** *– cservices for appeals and written submissions.*
- ***State Administrative Inspectorate*** *– control and supervision of institutions for the proper implementation of laws and application of the principle of equality, prohibition of discrimination and service orientation of institutions.*
- ***Commission Against Discrimination*** *– as a direct entity in implementing the Law on Prevention of Discrimination*
- ***Municipalities*** *– кas a local government with broad responsibilities from everyday life.*

There are also other institutions and public services that implement and assist this process, and are not part of the state power:

- ***Courts*** *– as instruments of the judiciary for the protection of human rights and freedoms*
- ***Public Prosecutor's Office*** *– as an authorized prosecution authority*
- ***The Ombudsman*** *– as an institution that protects against violations of the rights and freedoms of citizens.*
- ***Advocacy*** *– as a public service that provides legal assistance.*

Previously, we mentioned that besides state and judicial authorities, and public services, there is also the non-governmental sector, and above all represented through the system of civil society organizations that are directly involved in the system of protection and inclusion of this category of persons.

CONCLUSION

BY ENACTING THE LEGAL SOLUTION FOR LEGALIZATION, CITIZENS AND, IN PARTICULAR, ROMA FAMILIES, IN ONE PROCEDURE, WERE ABLE TO LEGALIZE THE FACILITIES IN WHICH THEY LIVE.

Upon completion of the “legalization” procedure, the Applicant exercises his right to have his own home, for which there will be an appropriate property list where the applicant will be the holder of the right to ownership of the “legalized” facility.

The process of timely use of legal remedies contributes to the dynamisation of the procedure and the achievement of the right to legalization.

Free legal aid is a relatively new legal institution, which, thanks to the new legal solutions, receives its own legal regulation.

Free legal aid enables creation of as much as possible accessibility to legal means and mechanisms for citizens.

Free legal aid embodies humanization of law in general. The main goal, and therefore the basic conclusion, is in the overall analysis that an instrument, such as free legal aid, provides access to justice and legal means for everyone, and thus to greater protection of human rights.

Vulnerable or marginalized groups, as determined by the legal terminology, are a threatened category and precisely because of this, the need for their protection is great, and the need for prevention is even greater.

The entities that deal with the protection of these categories of people have established a significant system of mechanisms and ways of protection and prevention, so that these persons can integrate fully and quality in everyday life.

Marginalized groups are always difficult to identify, risk factors are numerous and complex, which requires that all entities involved in the process of protecting and working with these groups of people act daily and efficiently.

The state as the first and the main entity, which has an obligation to take care of these people, has strong mechanisms for realization of this role, but on the other hand we can also see that the civil organizations that actively act in this process are a strong and important factor both in the direct realization of this role, and indirectly by encouraging state bodies to act.

The governing bodies, through which the state fulfills the role of protection of vulnerable groups of persons, function in accordance with the principles stipulated in the LGAP, which refer to the principle of service orientation of the bodies towards the citizens, the principle of efficiency, as well as the principles of legality and equality.

The entire conclusion goes in the direction that the state is the main protector of these categories of persons, not only because of the mechanisms at its disposal, but also because of the responsibility and obligation that it brings, but in practice civil society organizations are the driving force of these processes, a direct implementer of the human rights protection mission that are the most vulnerable in this category of persons, and a kind of bridge between the communication of the individual and the institution.

It is precisely because of this that a greater correlation and acceptance by the state of the civil society organizations is needed, which should receive more space and a greater role in working with vulnerable groups, that is, the state should be involved in stimulating and deepening of this relationship, goal, protection and inclusion of these people in everyday life.

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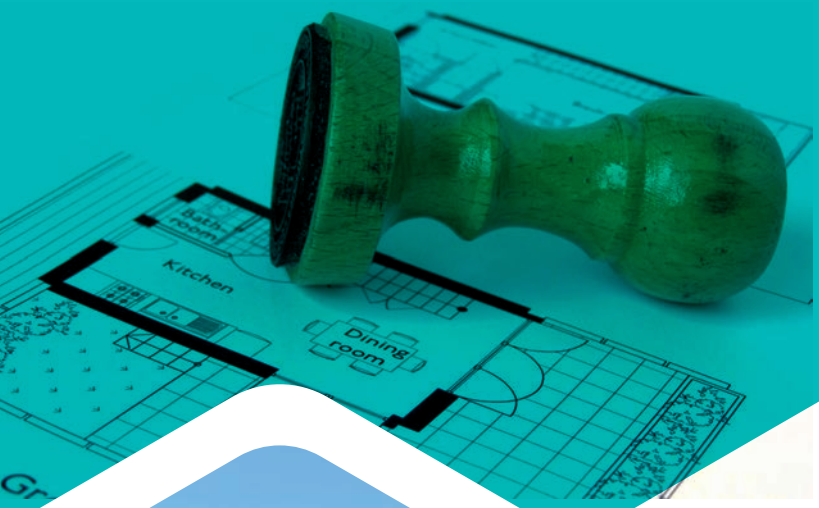
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Dining room