

The credibility of illegal and informal construction: Assessing legalization policies in Serbia



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ABSTRACT

This paper explores the legalization of mass illegal and informal construction (IIC) in Serbia (with particular reference to the city of Belgrade). It analyzes the credibility of the socialist and post-socialist institutional frameworks on IIC predicated upon the “credibility thesis” – an evolutionary understanding of institutions and their path-dependent development. In the empirical analysis, the measures of state policies were interpreted, assessed, and summarized in accordance with the Credibility Scales and Intervention (CSI) checklist. During the 1960s, a restrictive urban policy and the impossibility of the socialist model to provide affordable residential space due to fast urbanization, IIC consequently became an alternative method for meeting housing needs. In the 1990s, the socialist development model was transformed into one that was post-socialist. A new wave of IIC ensued due to the privatization of land-use and tenancy rights, and its vast scale has been a key driver for accommodating flows of immigrants after the break-up of the Socialist Federal Republic of Yugoslavia. During this period, the Serbian State stimulated policies that are more credible to facilitate, formalize, and condone IIC. It is concluded that IIC in Serbia cannot be fully averted while legalization policies have, to date, been unsuccessful and non-credible.

1. Introduction

Since the 1950s and especially during the post-socialist period, one of the greatest urban development issues in Serbia has been widespread spontaneous and unplanned construction. According to the official data of MBTIS (2017), the number of illegally constructed buildings (ICBs) in Serbia is 2.05 million¹ or 44% of the total number of structures. Literature has studied the “illegal” and “informal” in terms of their dual nature: illegality, semi-illegality, and semi-legality of urban development. There are stark differences as well as overlap between these terms.

Despite the globally used concept of “*informal*”, however, there is no

global agreement on the terms “informal” and “illegal”. De Biase and Losco (2017) suggest that *informal* has a positive connotation while *illegal* is generally more negative. UNECE (2017) indicated that “the question of illegality is often put aside” and that “illegality is the key issue in accessing security of tenure in informal settlements in the countries of the Western Balkans”. The understanding of *illegal* construction in Serbia encompasses a wide range of construction activities “contrary to or forbidden by law, especially criminal law” (Oxford English Dictionary, 2017); an activity or thing “contrary to or in violation of a law”, “not according to or authorized by law”, or “not allowed by the laws or rules” (The Merriam-Webster, 2019).

The term *illegal* expresses a violation of law by the person who

Abbreviations: ACAS, Anti-Corruption Agency of Serbia; CSI, Credibility Scales and Intervention (checklist); GDP, gross domestic product; FAT framework, formal, actual and targeted framework; IIC, illegal and informal construction; MBTIS, Ministry of Building, Transportation and Infrastructure of Serbia; PCA, Planning and Construction Act; SFRY, Socialist Federal Republic of Yugoslavia; UNECE, United Nations Economic Commission for Europe; UN Habitat, United Nations Human Settlements Programme; USSR, Union of Soviet Socialist Republics

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¹ Ministry of Building, Transportation and Infrastructure of Serbia/MBTIS. However, there are no data on the structure and share of illegal and informal buildings, and there is no typology of buildings. We emphasize that IIC includes: the construction of new buildings, renovation and repurposing of existing buildings, construction of auxiliary and ancillary facilities, closing/walling loggias, and adding floors onto residential buildings.

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builds without a legal permit² or, as the introduction to the special issue ascertains:

“[W]e can define an activity or matter as illegal when it contravenes law, lacks statutory sanctioning, or when it is explicitly prohibited” (Ho, this issue).

The term “illegally constructed building” (ICB) is defined by the Planning and Construction Act (2009, 2018), the Law on Legalization (2013, 2015), and the Law on the Legalization of Buildings (2018) based on the principle of the unity of Serbia's legal system. A significant number of the ICBs occurs through speculative investment, especially in the construction of large multi-family housing as well as commercial and office buildings.³ Those who invest in buildings without a building permit in order to sell them on the “black” market are actually involved in illegal activity that is often linked to money laundering and tax evasion. Investments in illegal real estate began during the wars in the 1990s so even luxurious structures in the most prestigious residential areas were built illegally (Grubovic, 2006; Milić, Petovar, & Čolić, 2004).

From our understanding, the term *informal* can be regarded as an introduced euphemism that is significantly different from the relevance of illegal construction in Serbia.⁴ Contrary to illegal construction, *informal* construction is the least opposed to the desired conduct or standards that the state has sanctioned or prohibited. In this context, we might invoke the following observation:

“Institutional forms that are illegal, but considered credible by governments, are more likely to be called informal” (Kolocek cited in Ho, Introduction of this issue).

Informal construction involves satisfying existential human needs in terms of an inadequate institutional framework for which a rule does not jeopardize public interest and the property rights of others. In accordance with the legal definition of the *informal* “marked by the absence of required forms or procedures or by the relaxation of prescribed rules” (Merriam - Webster, 2017). The “informal” is defined differently in international documents (UN Habitat, 2007; UN Habitat, 2015; Vienna Declaration, 2004⁵; International Guidelines on Urban and Territorial Planning, 2015; UNECE, 2017).

Due to the distinctions in the global understanding of the concept of “informal construction” and the concept of ICB and “illegal construction”, which are regulated by Serbian law, we opted to use both terms. Illegal construction is not part of the formal law, and it also does not belong with the “informal” concept. In this paper, it is integrated into the sublimated conceptual framework of “illegal and informal construction” (IIC). In our interpretation, the phenomenon of IIC can be understood as a type of *juxtaposition*. Due to the specificity of mass

² De Biase and Losco (2017) have defined the illegal construction as “particularistic social regulation” with two types of illegal building: the necessary illegal building and speculative illegal building. The necessary illegal building refers to the need to provide housing because of serious individual economic difficulties while speculative illegal building includes investments in objects to make a profit and launder money.

³ Part of the illegal construction was performed even for public institutions during the 1990s (e.g., the construction of buildings for public administration, infrastructure, social welfare, schools, kindergartens, health care, churches, etc.).

⁴ E.g., Grubovic (2006:21) indicates that informal construction in Serbia is different from informal construction worldwide - “In Serbia, illegal housing developed in a different context - economic, political and institutional...illegal building in the post-communist period was led by the elite, and the existing middle class”.

⁵ A document related to South-East Europe, which defines *informal settlements* as “human settlements, which for a variety of reasons do not meet the requirements for legal recognition (and have been constructed without respecting formal procedures of legal ownership, transfer of ownership, and construction and urban planning regulations)”.

spontaneous construction in Serbia (the co-existence and vagueness of the concepts of informal and illegal), our study addresses two key terms: “illegal and informal construction” (IIC) and “illegally constructed building” (ICB).

Over the course of the last century, there has been a shift in thinking in neoclassical and heterodox economics related to the significance of informal institutions, especially tenure security and the legal status of property rights. There has been a move away from the conventional neoclassical approach that supports titling and the security of property rights. In the neoliberal discourse, it is important to establish strict property rights, titling, and institutions that encourage “good governance”.

The proponents of such policies indicate that titling improves economic development, contrarily, for instance, Bromley (2009) indicates that the formalization of ownership relationships through land registration presents a part of the political guidelines that are imposed on less advantaged countries. The formalization of property rights has become one way to promote economic growth in underdeveloped areas especially by applying the principles of the Washington Consensus that supports privatization and the strengthening of private property. Unlike mainstream (neoclassical) economics, which appreciates “rationality, individualism, and the balance of relationships”, heterodox economics is directed towards institutions, social ties and structure (Davis, 2006), and tradition (Lawson, 2005) together with a trans-disciplinary approach.

In a new theoretical (heterodox economic) approach, there is a deliberate focus on utilizing opposite principles and elements. At the core of such a reading of institutional development lies the concept of “credibility” that is related to the credibility thesis (Ho, 2014) and the evolutionary approach of institutions as well as their path-dependent development (Liebowitz and Margolis, 2000; Hodgson, 2006, 2009). Referring to Hodgson (2006), institutions may be regarded as systems of established and embedded social rules that structure social interactions. He indicated the distinctions between “formal” and “informal” institutions and that “formal institutions... always depend on *non-legal* rules and implicit norms in order to operate”. Helmke and Levitsky (2003) define informal institutions as common social rules that are usually unwritten, designed, and enforced through official channels. Lang (2012) points to the equality between formal rules and informal practices, the power of individuals, and local specificities.

The aim of this paper is to analyze the underlying causes of mass IIC; the influence of the socialist and post-socialist institutional frameworks on IIC; the limitations and options of different legalization policies; and the implied risks, consequences, and credibility of IIC in Serbia. It is comprised of several parts: 1) the adopted theoretical framework and methodology for analyzing and explaining IIC; 2) the causes, credibility, and dynamics of IIC; and 3) the effects of the legalization policy during the socialist and post-socialist periods in Serbia with a number of recommendations for solutions that are more credible.

2. Theoretical framework and methods

The study of the phenomenon of IIC as an informal institution in Serbia is based on a contextually sensitive approach and the analysis of institutional credibility by applying the new concept of the “credibility thesis” including the concept of the evolutionary nature of institutions and their path-dependent development (as compatible theoretical approaches). The credibility thesis belongs to a heterodox economic theoretical framework for understanding the context of the development of social institutions and social rules. It ascertains that institutions result from planned, intentional institution building but often materialize in a significantly modified form than what was originally intended. The credibility thesis is formulated in opposition to the neoclassical approach and posits contrasting postulates (Ho, 2016; Ho, 2017a):

- 1) institutional changes result from endogenous growth, spontaneity, and self-organization;

- 2) dynamic disequilibrium in institutional changes (continuous changes); and.
- 3) institutional function supersedes to institutional form.

According to the theory, the credibility of institutions is not determined by their “form” but by their spatially and temporally defined “functions” (Ho, 2014). The concept of the credibility thesis contests the basic neoliberal assumption that clear, transparent, formal property rights are a necessary precondition for development. Ho (2017b) has ascertained through the case of China that it is possible to achieve remarkable economic and urban development despite uncertain property rights, i.e., with insecure and ambiguous rules of ownership and without institutional reforms. He contends that institutional change is “never a simple matter of oppressed versus oppressors, winners versus losers, or governors versus governed, but that all are intricately tied into the same endogenous game” (Ho, 2017b: xvii). According to the credibility thesis, institutions evolve from a spontaneous order that goes beyond the intentions and powers of individual actors. Institutional evolution is essentially of a conflicting nature, and institutions emerge as a catalyst for economic, socio-political, and cultural functions.

The credibility thesis implies that credible (functional) institutions survive in a certain space or time; otherwise, they would change or disappear (Ho, 2016). The survival of institutions implies the changing of their form or their disappearance, which is particularly important in the design of a new institutional configuration. Additionally, credible institutions cannot be exogenously designed because credibility includes endogenous and non-deliberate interaction between actors concentrated on one goal.

Dynamic imbalance or disequilibrium is a continuous process, the accumulation of change, and constitutes the essence of credibility. Ho (2014, 2016) indicates that the credibility thesis could be applied to institutions in two steps: first, by assessing the credibility level and, secondly, by examining policy options based on the existing credibility. Assessment of the institutional credibility level includes the establishment of credibility proxies by indicators. Moreover, Ho (2014) states that the indicators of institutional credibility include: the existence of conflicts; the actors' perceptions of institutions or their benefits from property rights, starting from the credibility of property rights within the FAT (Formal, Actual and Targeted) framework; and the relative speed of institutional changes.

According to Ho (2014, 2016), the stakeholders' perceptions about the institutions involve using the FAT framework that contains formally established rights, actual property rights in practice, and targeted property rights. He has indicated that the policy options based on the current institutional credibility imply the implementation of Credibility Scales and Intervention, otherwise known as the CSI checklist (Ho, 2017b: 245), which we have also adopted for our analysis of IIC in Serbia. It includes ordaining, prohibiting, facilitating, co-opting, and condoning and implies different levels of credibility in relation to institutional arrangements.

The issue of informal institutional credibility (Ho, 2014) was initiated due to the frequent failures of neoliberal structural adjustment policies in developing countries. In this context, Grabel (2000) pointed out that the failure of institutional reforms is not conditioned by the insufficient commitment of some actors but by the absence of endogenous credibility. She notes that the state has a major role in the establishment of credible institutions by using “shock therapy” or the gradual approach.

Neoliberalists widely believe that the success of economic policy depends on a credible commitment to the free market, trade liberalization, privatization of state enterprises and resources, and the legal security of property rights.⁶ Grabel (2000) criticized these

interpretations of credibility, noting that the criteria of credibility are used for the privileged neoliberal economic policies and institutions. She believes that the criteria of credibility in theoretical terms are anti-pluralist, i.e., credibility is always provided endogenously and not exogenously by political and economic powers.⁷ Grabel also contends that, if the credibility is conceptualized as a function of an endogenous institution, then it becomes deprived of neoliberal postulates. That is why neoclassical theorists deny the importance of endogenous factors. Chang (2002) points to the interaction as a “constitutive” role of institutions, emphasizing the internal process of their shaping. Grabel (2000) and Chang (2007) suggest the need to change the focus from the institutional form to the institutional function, indicating that it is more important to focus on what the institutions are doing (*function*) rather than to focus on their appearance (*form*).

The credibility thesis is compatible with the widely accepted concept of the evolutionary nature of institutions and their path-dependent development (Dollimore & Hodgson, 2014; Hodgson, 2006, 2008; Liebowitz & Margolis, 1999). Veblen (1994) introduced the evolutionary approach to institutional economics in the late 19th century. He believed that economics should be transformed into an evolutionist doctrine that is focused on institutional evolution (Hodgson, 2008). The evolutionary approach to economic theory is widely diversified, particularly in relationship to the operational principles and structural relations, and it was intensively developed in the 1980s, although in the absence of a common conceptual framework.

3. A discussion of IIC in Serbia: causes, credibility, and dynamics

The empirical research of the co-evolution of formal construction and IIC provides an explanation of the primary causes of IIC in the urban development of Serbia in the socialist and post-socialist contexts. The significant of the three key elements of the credibility thesis related to IIC in the Serbia's urban development process is preliminarily estimated in both periods. The credibility thesis explains why interventions, procedures, and patterns aim to rectify the abuse or deficit of property rights. Research involves the analysis of institutional changes, formal and informal causality, and the credibility of IIC in different historical contexts.

The main causes of IIC during the socialist and post-socialist periods in Serbia have generally been identified as follows: 1) migratory pressure on urban areas⁸ that resulted from the industrialization and economic growth from the 1950s to the 1990s; 2) uncontrolled urbanization that has effectuated the dynamic growth of suburbs and spontaneous constructions; 3) the anomie of transition period (this is a situation in which a number of individual actions intersect, or they are integrated into the social norms; a state in which (old) norms and rules are destabilized or social and societal norms are absent or nonexistent); 4) the legal framework (e.g., an inadequate system of spatial and urban planning, insufficient plans or absence of their rigidity, inefficiencies in urban planning, etc.); 5) deficient housing and urban policy (unsolved existential housing issues for numerous citizens, a lack of access to solving the housing needs and affordability of housing); 6) significant immigration because of armed conflicts and wars over the period from 1991 to 1999 (leading to the massive influx of refugees and internally

(footnote continued)

three different forms of **tenure security**: as *perceived* by inhabitants, as a *legal act de jure*, and *de facto*, i.e., a tripartite concept: the perception of dwellers, *de jure*, and *de facto*.

⁷ Considering the characteristics of the institutional framework in Serbia since the 1990s, new institutionalism offers an explanation of the development of (non)standard political practices and institutional deviations. Political nomenclatures transfer powers onto the political parties and interest groups, leaving key institutions without any decision-making power.

⁸ From 1953 to 2011, the share of urban population in the total population of Serbia increased from 22.5% to 59.4% (Mitrović, 2015).

⁶ Van Gelder (2010) indicated that urban informality in developing countries has been faced with tenure security as developmental propulsion. There are

displaced persons and their housing needs); 7) the impact of the global economic and financial crisis on unemployment that led to impoverishment of the majority of the population; 8) weak governance and implementation (unsuccessful control of unplanned construction, corruption, and monopoly); 9) key contextual factors and possibilities (e.g., IIC as a tool of social policy, the emergence of an “informal” economy, limited investments in the supply of urban construction land and infrastructure, speculative construction, and expectations of legalization).

Yet, the essential cause of IIC in Serbia is perhaps the inefficiency of the institutional framework in facilitating and meeting affordable housing needs as well as a non-compliance to legal norms. Informal construction is tacitly tolerated and/or deliberately marginalized (by the state) as an outcome that occurs beyond the realm of the law or in the absence of law due to the inconsistencies, ambiguities, and contradictions of the ideological, legal, and institutional systems, i.e., normative dissonance (Lazic & Cvejic, 2007).

In Serbia, IIC is also a consequence of failing to meet existential housing demands due to a combined impact of inconsistent legal, planning, and institutional frameworks (i.e., legal vacuum) which is a process of uncontrolled urbanization and migration pressures.⁹ In this institutional prolonged uncertainty, IIC has intensified mainly in order to meet the existential social needs of the less advantaged and middle class populations with a significant share of “speculative” housing and other construction in the market (Zeković, Maričić, & Cvetinović, 2016). This has led to confusion in the use of the term IIC, meaning that illegal and informal construction are not sufficiently differentiated and that they relate to different forms of construction without building permits. Mass IIC in Serbia, as a multi-dimensional issue with different components, is based on the co-existence of the informal and the illegal as a reflection of their juxtaposition. In the following two sub-sections, we will examine how IIC developed during the socialist and post-socialist periods.

3.1. Socialist period (1945–1990)

The socialist period of development in Serbia was characterized by two phases: i) the administrative-centralist system and post-war restoration based on a communist paradigm (1945–1950) and ii) a system of relative self-management (1950–1990) inherently featuring different phases (with associated labor and consensus economics). The political system in Yugoslavia after the Second World War was founded on state ownership with the Communist Party in strong control over the economy in accordance with the USSR model. Private property was marginalized; it only remained in the agricultural sector and in housing (family houses in the rural areas and urban periphery). The state's takerover of the key resources in private and other forms of property was accomplished together with new urban planning regulations by nationalizing, confiscating, and expropriating real estate.

The economic basis for the socialist self-management political system was a type of “exotic” social ownership – one might say, “theoretically inconsistent”, legally inarticulate, and seldom empirically and objectively researched. The Law on the Nationalization of Rentals and Construction Land, Nationalizing Built and Non-Built Construction Land in Urban Areas and Urban Settlements, was adopted by the Yugoslav Assembly in 1958. Construction land passed into state ownership for which the state took full control. After the adoption of the Law on Determining Construction Land in Cities and Urban Settlements in 1968, this land became socially owned. Social ownership is a specific form of ownership, i.e., the property of construction land belongs to all

⁹ Some maintain that formal property rights lead to a reduced migration (Zheng, Gu, & Zhu, 2019), but our study lends no support to this. In fact, ascertains the reversed situation, as property rights were shaped by the large influx of migrants.

of the residents of a particular social community - the state, republic, province, regions, municipalities, and so forth. This form of ownership existed between 1968 and 2006. The owners of construction land became its users, and the right of access could not be alienated. Because construction land could not be marketed, the legal transfer and development of the real estate market was ceased.

During the period of relative self-management, a special phase of associated labor, consensus economics, self-management agreements, and social arrangements was based on the principles of decentralization, “democratization”, and “bottom-up” decision-making.¹⁰ Urban and spatial planning were gradually losing their significance as tools for regulating social relations in space; plans were not realized due to a general disrespect for legalities and the arbitration and rigidity in their passing. In the housing sector, according to the Constitution of the SFRY (Socialist Federal Republic of Yugoslavia, 1974), all employees had the right to compete for obtaining a socially-owned apartment for use. However, that right was reduced to less than 50% of employees due to insufficient finances for residential construction (4–6% was deducted from all employees' gross earnings as participation for housing construction). Other modalities of solving the housing need (cooperative residential construction, crediting private construction, subsidizing the leasing of private apartments, etc.) were not established.

3.1.1. Emergence of IIC

IIC had been a widespread phenomenon in the former Yugoslavia, and Živković (1981) contended that perhaps the issues mentioned previously led to citizens once again opting for it. Until 1980, in Serbia, illegal buildings accounted for one third of all buildings (Milić et al., 2004), however, to date, there are no reliable data regarding the number, structure, and type of IIC in Serbia during the 1990s. It was mainly concentrated in big cities, especially in Belgrade (Table 1). Petovar (1992) provides data on the dynamics of total and illegal residential construction with the example of 32 cities in Serbia, including Belgrade, and he indicates that approximately 20% of the total number of apartments was illegal. The greatest part of construction occurred outside the urban area by converting agricultural land into urban plots. IIC was conditioned by contextual factors, especially in the field of property rights.¹¹

Sources: Žegarac (1999); ¹Primary database of MBTIS (2017).

As the result of a credibility gap between the ideological framework and housing needs, IIC was intensified within the political system. The credibility gap is an apparent discrepancy between what is systemically declared and institutionally established and what occurs in practice regarding IIC. The aggravation of the availability of housing in the 1990s encouraged the momentum of individual self-building and individual housing construction. The causes in the socialist period were different from those in the post-socialist period, and they were precipitated by the inefficient and unsustainable functioning of formal institutions.

The socialist period is characterized by several forms of IIC¹²: a)

¹⁰ In the socialist system of the former Yugoslavia, citizen participation in the planning of residential and urban environments was imperative (Vujović et al., 1971). Citizens were involved in the decision-making at the local level despite the lack of efficiency, complicated procedures, authoritarian decision-making of the power centers, etc.

¹¹ The dominance of social ownership over construction land, the construction of social/collective housing, the marginal extent of legal construction of individual houses, various restrictions in the construction of privately-owned apartments, the impossibility of private housing construction for the market, and no legal transfer of building land.

¹² Links for some photos of IIC in Serbia:

https://www.google.com/search?q=illegal+construction+in+serbia+images&client=firefox-b&tbm=isch&tbo=u&source=univ&sa=X&ved=2ahUKewj42ujrjs_eAhWK1SwKHelfBTgQsAR6BAgEAA&biw=1536&bih=752;
<https://www.google.com/search?q=bespravna+gradnja+srbiya>

Table 1
Dynamics of IIC in Belgrade (1955–2017).

Period	Residential buildings	Weekend cottages	Auxiliary and other buildings	Total
Socialist	(1946–1990)			
1955.	6928	–	23,599	30,527
1975.	17,903	1062	42,719	61,689
1988.	37,963	3518	88,488	129,969
Post - socialist	(From 1990	Onwards)		
1995.	33,594	3351	116,423	153,368
2017. ¹	203,298	–	63,357	266,655

construction of private buildings in the suburbs and the invasion of public construction land and public areas (by establishing kiosks and structures as well as usurping public land) with silent or “temporary” permission of the formal institutions; b) construction in the built central urban area with massive vertical enlargements and the addition of new floors atop old buildings (so-called “piggy-back buildings”),¹³ and construction of buildings on public surfaces of built urban zones (“densification”); c) construction in protected areas, planned infrastructural corridors, rural areas; and d) slums and “non-hygienic” settlements.¹⁴

3.1.2. Credibility of IIC

Due to a shortage of commercial apartments and construction land, the impossibility of acquiring socially-owned land for the construction of individual buildings, and weak management, IIC became a credible solution for the housing deficit despite its lack of legitimacy. Basically, the contextual framework and the confronting housing and urban policies had strengthened the parallel processes of co-evolution, co-existence, self-organization, and self-management despite the socialist institutional structures. This resulted in an explosion of IIC in the suburbs and in developed urban areas. Since it was impossible for the socialist model to meet the housing demand, IIC became an alternative method for achieving this by means of self-organization (Zeković et al., 2016) which often led to conflicts.

IIC remained outside the institutional, fiscal, and planning systems. This created a paradoxical situation in which approximately half of the buildings were outside the legal system (fiscal, property registry, etc.). State intervention amounted to a policy of legalizing buildings by “fitting” them into plans even though it could not prevent the social and institutional causes of IIC. Although IIC ruined the integrity of legal construction, it formally became a “credible” social mechanism in the institutional changes. This implied the necessity to assess its credibility from the point of its juxtaposition (see: Section 3.2.1 below).

3.2. Post-socialist period (from 1990 onwards)

The break-up of Yugoslavia and the establishment of the Republic of Serbia introduced a new concept of neoliberal capitalism along with a radical change in institutions and property rights. The contradictions of

(footnote continued)

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¹³ In addition to laws, local regulations on the possibility of upgrading housing buildings during the 1990s supported the spreading of IIC to areas of the urban center (Lazić, 2005).

¹⁴ Milić et al. (2004) distinguished eight forms of illegal construction and illegal settlements: slums; substandard old settlements; old residential districts in cities with added/reconstructed housing premises; areas of several dwellings in one common yard; areas of unplanned construction on state-owned agricultural land (suburban); compact, newly-built illegal settlements (suburban); illegal construction in protected urban and non-urban areas, and additions to the existing multi-story residential buildings.

Table 2

Dynamics of population, economic growth, housing and urban land in Belgrade (1991–2011).

Sources: Statistical Office of the Republic of Serbia (2014); <http://publikacije.stat.gov.rs/G2014/Pdf/G20142013.pdf>.

Indicators	1991	2002	2011	Index 2011/1991
1. Population	1,602,226	1,576,124	1,659,440	103.6
2. GDP - total (in billion €)	8.5	5.76	12.78	150.4
3. Total number of apartments	512,407 ¹	586,889 ¹	702,775 ¹	137.2
4. Urban construction land (ha)	37,331.8 ²	–	111,260.7 ³	298.0

¹ 2011 Census of Population, Households and Dwellings in the Republic of Serbia, Statistical Office of the Republic of Serbia, Belgrade (2012), <http://data.stat.gov.rs/Home/Result/31020301?languageCode=sr-Cyrl>.

² Corine Land Cover (EEA, 2013) <http://www.eea.europa.eu/data-and-map>.

³ Republic Geodesic Authority of Serbia (2013) <http://katastar.rgz.gov.rs/KnWebPublic/>.

IIC from the socialist period multiplied during the post-socialist period (i.e., the weakening of the role of planning, increasing market pressures, and rent-seeking), in fact, with the support of the government and additionally triggered by innumerable refugees¹⁵ after the break-up of Yugoslavia. A new wave of IIC was launched as a spontaneous response to the privatization of urban construction land, tenancy rights, and tenure under conditions of low economic recovery and rampant corruption. The Constitution of the Republic of Serbia (2006) laid down the legal basis for the abolition of social property and the introduction of private property over the urban construction land.

Simultaneously, with the process of the privatization of state and socially-owned apartments (1990–1995), Serbia passed a “set of building laws” in 1995 to create favorable conditions for building and attracting foreign investors. Interestingly, IIC had the tacit support of the local and central governments even after the passing of the Law on Building of Objects in Serbia in 2001, according to which IIC was considered a criminal act. The crux of this contradictory phenomenon lies in the state's systemic impossibility of meeting housing demands, a lack of affordable housing policy, underdeveloped social housing, explosive progression in real estate, and real estate speculation.

After 2000, the legislation on building land was incorporated in the spatial-urban planning legislation (Planning and Construction Act/PCA, 2003). There was a radical change in the system of land disposition at the local level; private property on other types of building land, sale and transfer of undeveloped land use rights were permitted, and the lease of state land up to 99 years was introduced instead of the land use right. This law introduced measures for the legalization of buildings.

From 2004 to 2015, the state realized the Project of Real Estate Management in Serbia. The aim of the project was improving the efficiency, transparency, availability, and reliability of the real estate management system in Serbia. The new PCA (2009) regulated the process of establishing private property on building land. According to the PCA, building land can have many forms of ownership. It is commercial, and the conversion of building land use rights into property rights is regulated with or without tax.

By adopting the amendments to the PCA (2014 and 2015), the controversial provisions on the conversion of access rights to construction land into the right of property were excluded with a fee. The Land Conversion Law that allows the conversion of land use rights into property rights on construction land with a fee was passed in 2015. All construction land in public ownership can be subjected to this conversion procedure unless it is designated for public use or is a subject of

¹⁵ The estimated number of refugees and internally displaced persons in Serbia is between 800,000 and 1,000,000 (Milić et al., 2004).

Table 3
Structure of illegally constructed buildings in Serbia and Belgrade.

Category of illegally constructed buildings	Serbia	Structure (in %)	Belgrade	Structure (in %)	Share of Belgrade in Serbia (in %)
Residential	975,822	47.58	203,298	76.2	20.8
Office/business	38,954	1.89	14,513	5.4	37.2
Residential-office	19,346	0.94	17,140	6.4	88.6
Commercial	17,520	0.85	4218	1.6	24.1
Auxiliary ^a	721,941	35.20	18,057	6.8	2.5
Economic	244,573	11.92	2323	0.9	0.9
Industrial	9491	0.46	4049	1.5	42.7
Infrastructure lines	1392	0.06	0	0	0
Others	21,575	1.05	3057	1.1	14.2
Total	2,050,614	100.0	266,655	100.0	13.0

Source: Primary database of illegally constructed buildings of the MBTIS (2017).

^a This refers to the utility and other objects that are linked to the primary building (garages, storage, septic tanks, swimming pools, water tanks, wells, etc.). Also, we do not have information as to which category slums belong (and if they are even included at all) regarding the available data MBTIS (2017) according to the purpose of objects.

a restitution claim. The by-law facilitates the conversion of public land lease into private ownership free of charge or at a lower than market price.

There was a paradox during the period 1990–2015 in Serbia: a dynamic growth of the total number of apartments, especially in ICBs, in spite of a negative economic growth (from 1991 to 2000, the GDP was -6.3%). The trend of rapid IIC growth continued from 2000 to 2015 with an average GDP growth from 5.4% (2000–2008) and a GDP growth of 0.6% (2008–2015). Simultaneously, the average share of land development fees and contributions for construction land was reduced in the local budgets (Zeković, Vujošević, & Maričić, 2015).

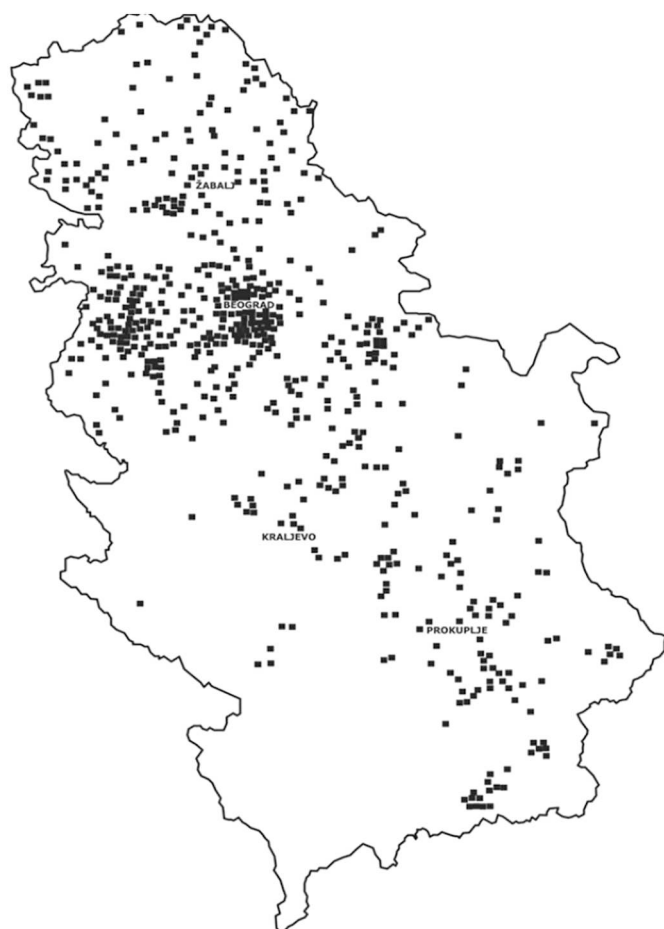


Fig. 1. Spatial distribution of Roma settlements in Serbia (Vuksanović-Macura, 2012).

Similar developments were realized in Belgrade but with a higher level of GDP growth (see Table 2 below). Urban construction land increased three times from 1991 to 2013. The new institutional framework discontinued the financing of socially-owned apartments (in 1990) and “solidarity flats”; the socially-owned housing stock and solidarity housing stock were privatized at a crash price (1990–1996). The “real-estate bubble” was manifested in the increase of ICBs in Serbia. The MBTIS prepared the first database of ICBs (2.05 million in 2017) without any specifications of the type of building intervention. In Serbia, residential and other buildings dominate in the total number of ICBs (Table 3).

In Belgrade, there were 266,655 ICBs, i.e., 13.0% of all ICBs in Serbia. Approximately one-half of the residential buildings were illegally constructed. Because there are no data on the types of building interventions or on the number of apartments in ICBs, the registered data can be considered as insufficient for reliable assessment. At the same time, a significant increase of IIC in Serbia and Belgrade (Table 3) substantiates the genuine credibility of these arrangements.

In Serbia, there were 583 Roma settlements and 1062 Roma communities (with 123,000 inhabitants) of which 43% were slums (Fig. 1).¹⁶ There were 23,895 substandard buildings inhabited by 56,276 individuals (Đorđević, 2017). In Belgrade, there were 98 Roma settlements and 207 Roma communes/slums with a total population of 24,000 (GUP Belgrade, 2016). The informal settlements (i.e., IIC) in Belgrade comprise 5430 ha (22% of building land), occupying 43% of the surface of residential areas in compact settlements in 34 urban zones, 18 informal settlements of low density, and in slums. Members of the least advantaged social classes constructed only 18% of the illegal buildings which indicates that the builders predominantly belong to the middle or upper classes (Fig. 2). Due to the phenomenon of IIC proliferation, Belgrade, as a European metropolis, is more similar to cities of the “Global South”.

3.2.1. Empirical analysis of the tenure security and credibility of IIC

The importance of the three key elements of the credibility of IIC in Serbia's urban development process in both the socialist and post-socialist periods is preliminarily estimated. In the absence of measurable data about IIC credibility, we applied an interpretative approach in our analysis that involves hypothetical relations and “scenery” (*mise-en-scène*) coupling of socially powerful and politically influential actors, development, and urban path-dependence processes. IIC is a consequential process of historical and socio-economic conditions and not only of legal, planning, or “institutional error”. The evolutionary path-

¹⁶ See <https://rm.coe.int/16801e8e4b> in Ad hoc Committee of experts on Roma issues (CAHROM), *Thematic report on (re-)housing solutions for Roma and alternative measures to (forced) evictions*, Strasbourg, 5 October 2014.



Fig. 2. Informal areas in Belgrade (black), UN-HABITAT (2006).

dependence of IIC development as an endogenously generated phenomenon points to the strong ability of IIC to adapt and function. The larger part of total construction is realized outside of formal channels. It shows that IIC dominates as an informal concept of urban development in the post-socialist context. It also shows that a substantial part of the total investment was directed to IIC in informal economic assets and business activities of the “grey” economy despite the challenges and risks of the legal security of property rights. An analysis of IIC in Serbia, in relation to the three main elements of the credibility thesis suggests the following:

- Juxtaposition of IIC, the coexistence of two modified IIC forms (informal and illegal), and the fragmented functionality of all of the forms in a space-time dimension;
- Mass IIC functions by providing residential needs for those who do not have access to the formal real estate market or for those who construct facilities for the market. The role of IIC is essential considering that it comprises 44% of the housing stock in Serbia;
- Wide diversification of different credibility levels among stakeholders;
- The attraction and accumulation of credible effects to most players as the result of endogenous changes;
- High fragmentation and ramification of IIC forms and their diversified credibility levels related to relatively high tenure security;
- Highlighted spontaneous development and territorial imbalance of IIC in Serbia with a domination of the metropolitan areas (Belgrade and Novi Sad);
- Unexplored positive and negative economic aspects of IIC that substantially reflect the economic and legal concepts of property rights.

The analysis of IIC credibility has confirmed that institutional forms do not converge but, at the same time, IIC persistently co-exists in various combinations regardless of the development level. It is

estimated that the formal instruments (e.g., private ownership of construction land, lease, and a varieties of property rights) did not have a more significant contribution to urban development in comparison to IIC. Additionally, in the post-socialist context, there is often the practice of alienating or leasing free-of-charge public construction land to strategic investors, allocating free plots for business purposes in the suburban area (without charging land development fees), marginal investment in social housing, and minimal investment in infrastructure and utilities.

The key features of the IIC are as follows: various forms (heterogeneous structures in terms of legal, social, technical, and other issues); different zones of IIC (urban, suburban, rural settlements, protected areas, industrial zones, infrastructure corridors, etc.); the owners of ICBs belong to all income groups (low-income to high income); no access to finance, credit, and home-insurance; relatively high level of self-construction; and de facto tenure security of IIC regardless of the level illegality/legality.

The “zero-point” in the timeline of the evolution of property rights and land tenure security as essential, important instruments in the urban growth process can be regarded as having begun with the adoption of the Law on Nationalization of Rentals and Construction Land, Nationalizing Built and Non-Built Construction Land in Urban Areas and Urban Settlements in 1958. The changes in land occupancy, tenure security, property rights, and the right to convert construction land into ownership all comprise the third element that makes the credibility thesis particularly relevant to the issues of informal urban development in Serbia.

The preliminary assessment of the tenure security and credibility level of IIC in Serbia is based on the modified typology of informal building, which was established by Milić et al. (2004), and on the applied criteria (legal status of land tenure and property, level of infrastructure standards, and access of social services). The criteria of the accessibility to finances, credit, and building-insurance are excluded because of their formal unavailability to all IIC. A preliminary

Table 4
Preliminary assessment of tenure security and credibility level of IIC (de facto).

Spatial form IIC	Legal status of land tenure and property/occupancy	Features of IIC	Infrastructure standards and access of services	Degree of tenure security (de facto)	Credibility level
1. Slums	No legal title - squatting, tolerated occupation	Homes, shacks built on public or private land, by poorest and marginalized social groups, no income	No or low	Low	Low
2. Legal collective housing premises for refugees, IDPs and immigrants	Legal title, public rental	Temporary/emergency accommodation (collective)	Low-medium	Low	High
3. Substandard old settlements (previously villages)	Legal title to land- ICBs	Additional construction, single-story buildings, different social structure, low-income group	Low	Medium	Medium
4. Old residential districts in cities with added/ housing premises	Legal title to land - unauthorized construction, ICBs	Added or reconstructed by the owners without permits, single/ two-to-three story buildings, lower & middle social groups	Medium	High	High
5. Areas of several dwellings in only one common yard ("partaže")	Legal title to land - numerous room/kitchen apartments without toilet at one plot, ICBs	Specific form of multi-family dwellings in single-story and multi-story buildings; built for renting before II World war, poor quality of construction	Low	Medium	Medium
6. Areas of unplanned construction on state-owned agricultural land in suburbs	No legal title to land – often illegal suburban land subdivisions, occupation legitimized by customary practices, ICBs	Buildings have two or more stories; local authorities divided into plots the municipal land or land belonging to other owners; converted agriculture land, previously purchased from the owner	Medium	Medium-high	High
7. Compact, newly-built illegal settlements	No legal title to land – illegal suburban land subdivisions, freehold, non-formal tenure, tolerated occupation, ICBs	In suburbs and urban zones; multi-story and others ICBs with floor surfaces above the housing standards; commerce, manufacturing ICBs for the market; lower to higher social classes	Low - Medium	High	High
8. Illegal construction in protected areas	No legal title - ICBs, usurpation of state-owned land designated by plans	Residential; ICBs for rent in tourism, catering and commercial services	Medium	Low	Low
9. Addition on the existing multi-story residential buildings	Legal title, unauthorized additions, ICBs	Additions of floors on the existing buildings; minor adaptations (added rooms, closed balconies, attic)	High	High	High
10. Land occupancy of other owners	No legal title to land- squatting, ICBs (often luxury)	Illegally occupied land of other owners; tolerated occupation; ICBs	Medium	Low-medium	Low

Source: Authors' assessment based on the modified typology of illegal construction and informal settlements (Milić et al., 2004).

evaluation of the institutional function of IIC through credibility was provided in Table 4. The empirical analysis has ascertained a high or relatively high level of de facto tenure security of the majority IIC¹⁷ forms (Table 4). Insecure tenure encompasses different cases from illegality to some forms of tolerated occupation and occupation legitimized by endogenous practices but not accepted as legal.

The relevance of the credibility theory in relationship to the Serbian experience with IIC is reflected by: a) the confirmation of the postulates being reallocated from institutional forms to institutional functions; b) the confirmation of the postulate of its endogenous origin resulting from spontaneous development due to the inconsistencies of the institutional framework and the impossibility of meeting the housing demands in the (post)socialist context as well as due to considerable deliberate IIC development to satisfy market demand; c) a conflict with the concept of structural functionalism (i.e., the framework of meeting the housing needs by massive construction of dwellings in public ownership) based on an idealized social balance. IIC is the consequence of a dynamic imbalance in terms of persistent systemic weaknesses in solving the housing demand proclaimed through the institutional framework; and d) its applicability in (post)socialism, especially in the protection of social interests (in terms of the inconsistencies of the institutional and financial frameworks) and tenure security.

4. State policy against IIC in socialist and post-socialist contexts

The state policy for preventing IIC is different in the socialist and post-socialist context. The socialist period included many restrictive measures. The applied measures did not provide any results because they did not address the causes of IIC but only the consequences. There are no data on the volume and effectiveness of the intervention measures. In the empirical analysis, the measures of state policy were preliminarily interpreted, assessed, and summarized in accordance with the CSI checklist (Table 5).

Despite the fact that later decisions facilitated the demolition of buildings, this was not a frequent practice. According to Saveljić (1988), 26% of the illegal buildings in Belgrade were demolished due to the Program of Measures and Actions for Curbing Illegal Construction in the socialist period. The urban planning and housing policies were extremely restrictive regarding private initiative and the different options for solving the housing issue outside socially-owned apartment development.

The silent treatment of IIC by the government due to its incapacity to prevent it and the impossibility of institutions to function because of a lack of finances for legalization are evident. Illegal construction was legalized by numerous urban plans and by a number of programs of reconstruction and redevelopment. A restrictive urban planning policy was reflected in strict urban standards and rules. Legalization of IIC during the greater part of the post-socialist period was stimulated by relatively credible policies of exemptions and acceptances, without strategic guidelines or limitations, and with the implementation of semi-restrictive policies and plans. During the post-socialist period, there were several unsuccessful attempts at regulating this phenomenon.¹⁸ After passing the Planning and Construction Act or PCA, a less

¹⁷ In Serbia, there were several types of (land) tenure: freehold (provides a high degree of security), leasehold (secure), public rental of public land (high degree of security), and informal tenure systems (varying degrees of legality or illegality; unauthorized subdivisions on legally owned land); and various forms of unofficial arrangements. Several forms of tenure may co-exist in IIC or even on the same plot.

¹⁸ E.g., law on special conditions for issuing building permits (1997), the so-called “Legalization Law”; decision on temporary rules and conditions for issuing building permits and use permits for buildings constructed and reconstructed without a building permit (2003); Law on Property Legalization (2015); decision on the legalization of illegally and informally constructed buildings in Belgrade (1993).

Table 5
Matrix of measures of state intervention against IIC in Serbia.

Type	Credibility level	Character of desired effects of intervention	Socialist context	Post-socialist context
Direction	Low	Command, ordained	Demolition programs; prison threats; forced expropriation of private apartments and houses so collective dwellings could be built; hygienic reconstruction; strict urban zoning	Status of ICB as a criminal act; selective taxing of illegal builders (so-called “extra-profiteers”)
Prohibition, ban	Medium-low	Prohibitive, dictatorial, banned	Measures of banning individual construction in urban areas; banning private developers from developing building land; guilty status; one-off tax payment for building land; limited access to finance for individual residential construction	Disabled connections to utility installations of the public utility enterprises for all buildings without a building permit;
Facilitation/mitigation	Neutral	Facilitative, supportive	Reconstruction program (rarely); “temporary” building permit; enabled connections to the utility infrastructure for IIC; very small fines for IIC; minimal documentation; municipality gathers all information on conditions from local institutions; exemptions as big as the fee; local planning commissions	Simple registration of buildings; improved system of real estate management; public calls for legalization (“it is worth more if registered”); construction of one part of infrastructure
Co-option, formalization	Medium-high	Supportive, Prescribed	Mandatory urban plan for legalization; Program for settlement reconstruction; Program for developing building land; strategy of social services; legalization commissions	Institutional acceptance; innovations in the real estate registry; legalization based on one document;
Acceptation, condonation	High	Out of intervention	No reaction from institutions; silent acceptance; weak institutional capacity for curbing ICC; financial support for the hired construction firms	Symbolic legalization tax or free legalization; “fiscal and financial condoning”; postponement

Source: Interpretation of the CSI checklist (Ho, 2017b: 245) by authors.

restrictive approach to legalization (examining the urban and spatial plans, creating temporary building rules in every municipality, reducing the conditions and documents for obtaining permits, financial exemptions, and setting local legalization fees) was created. Based on this law, 3% of the structures were legalized (Milić et al., 2004). The key reasons are an existing scepticism towards the authorities, unwillingness to accept financial obligations, and others.

During the socialist and post-socialist periods, Serbia applied various ad hoc interventions against IIC (Table 5) without linking them to the level of credibility of these arrangements. Although illegal construction is considered a criminal act, legalization of IIC and its acceptance and formalization dominated. In the practices of the urban development in Serbia, there was a paradox in the policy of collaboration between public utility enterprises and IIC. Regulations from the 1990s forbade the provision of utility connections to ICBs, thus discriminating IIC and affording many opportunities for corruption, manipulation, and illegal connections into the infrastructure.

The primary limitations to the realization of the legalization policy stem from the complexities of IIC; insufficient institutional support; lack of housing, utilities and public services policies; insufficiently qualified institutions and inadequate cooperation between them; and the lack of finances for improving the utility infrastructure, reconstruction, and provision of social services. The numerous state interventions were directed through different institutional patterns, mostly urban planning, urban land policy, and utility infrastructure. According to the Law on Property Legalization (2015, 2018¹⁹), legalization is free of charge, and there is a lack of human resources in institutions that carry out the formalization of property.

In the period from 1990 to 2015, six laws on legalization were passed in Serbia. Their contributions were deficient considering that a very small percentage of property was legalized. Mojović and Ferenčak (2011) assessed that the interventions produced insignificant results. Every law postponed the deadline for legalization. According to the Law on Special Conditions for Registering Property Rights on Buildings Constructed without a Building Permit (2013), the registration of property rights enables legal security in the real estate trade. The Law on the Legalization of Illegal Buildings (2013), Law on Property Legalization (2015), and the Regulation on the Criteria for Fee Reduction for Construction Land in the Process of Legalization (2009) prescribe the payment of fees for development, which is 99% less than the standard value determined by local decisions (as a benefit for IIC).

This indicates: 1) the limitation of the local authorities because the central government prescribes the reduction of taxes for building land for which the local government is in charge; 2) discrimination against owners who constructed their buildings legally and paid the taxes, and 3) the reduction of the city budgets. The Anti-Corruption Agency of Serbia (ACAS, 2011) pointed to the possibility of corruption because of the legalization regulations. Based on the Law on Property Legalization (2015), only 2.3% of ICBs were legalized (MBTIS, 2017). The policy of legalizing property in Serbia is based on less expensive solutions along with insufficient readiness of the institutions to complete the process.

IIC is characterized by widespread tax and fee evasions. Generally, it can be concluded that the free-of-charge national legalization policy is unsuccessful and non-credible, and it influences a socially accepted growth of IIC. Additionally, IIC presents a potential risk for the owners and the surroundings. Numerous cases of IIC did not respect the technical standards and building norms which makes these buildings safety hazards for their users and for the environment (e.g., more than

hundreds of holiday houses are in the I zone of water storage protection for water supply).

The Law on Property Legalization has allowed the owner, i.e., the manager of a public good, to carry out legalization in protected natural goods or to legalize everything that interest groups and influential individuals decide should be legalized despite the harm to the public interest and rights of other citizens. In this context, these laws have become a means of manipulation with non-credible overall effects.

To summarize, what is credible for one part of the actors, at the same time, causes public damage because those individuals involved in IIC do not pay a land development fee; do not construct projects of public interest that are financed from local budgets; do not pay property tax; and often threaten the achieved standards and quality of life that is funded by legal builders. Moreover, a high share of IIC in the overall number of buildings in Serbia (42%) can be an indicator of corruption and trade of interests at all levels of government. The preliminary assessment of the credibility of IIC for different actors is shown in Table 6.

IIC is credible for the owners of these buildings, i.e., for those who live in them, and is conditionally credible for the legal builders who allowed “piggy-back building”. Prohibited turnover of construction land has contributed to significant revenues for the users of it. IIC is credible for investors who build without permission or exceed the requirements established in the license as well as for investors who do not pay land development fees. IIC is not credible for the local revenue budgets (e.g., absence of IIC taxation and development fees) and for legal builders who were required to pay all of the taxes and development fees. The assessment of the IIC credibility level may appear to be a counterfactual analysis, but it is only an illustration of the juxtaposition of IIC with contrasting effects.

5. Conclusions and recommendations

The current system and practice of IIC in Serbia has not been harmonized with the main trajectory of structural reform and transitional changes, especially related to the legal status of tenure security and property rights in the post-socialist period. For Serbian IIC, the juxtaposition and relatively high tenure security are inherent which resulted in their credibility. IIC can be interpreted as an endogenously created social response to institutional inefficiency, the inconsistency of the legal system, the absence of the supply and demand mechanism for apartments, the lack of urban plans, and restrictive urban policies.

The normative dissonance in the socialist and post-socialist contextual frameworks has contributed to the emergence of a new non-institutional form of construction – mass IIC – in a combination of two concepts: illegal and informal. It is also a result of inefficient public institutions, economic conditions, governance and planning deficiency, and immigration pressure on Serbian cities.

Urban development in Serbia is determined by complex causality, non-credible policies, imbalance, and relative credibility of IIC as an inherent systemic and social “product”. IIC, at the same time, has received positive feedback as well as negative (e.g., “lock-in”). It has a spatially visible imbalance resulting from the unsustainable institutional frameworks and the socio-economic patterns, on one side, and the dynamic endogenous, uncontrolled, and spontaneous social and individual response on the other.

IIC would not be possible without the active role of the political and professional actors in the transfer of institutional power according to their interests such as rent-seeking (read: corruption) and influence peddling. Due to the “ineffectiveness” of the existing institutions, a lack of strategic policies, weakness of planning systems, and a lack of urban plans, IIC has grown to massive proportions. It is concluded that several modes of legalization policies have been unsuccessful and non-credible; they have influenced the increase of IIC credibility. It is necessary to point out that the consolidation of IIC should be endogenously formed rather than exogenously designed on the institutional credibility analysis and the combination of appropriate CSI.

¹⁹ Due to the significant share of speculation in illegal construction, this law prescribes the division of responsibilities between investors, plot owners, and contractors. Illegal construction is considered a criminal act (against life, health, personal safety, property, security of infrastructure and settlements, and the environment) because of the involved money laundering, fiscal evasion, trading of influence, and bribery (Law on Criminal Procedure, 2014).

Table 6

Preliminary assessment of IIC credibility level in Serbia.

Source: by authors.

Actor	Credibility level	Description of benefits or costs
1. IIC owners	High	Providing the dwellings or offices at affordable prices; non-payment of development fees and property tax
2. Investors and developers of IIC who sell these buildings on the market	High	High profit due to non-payment of taxes and fees; the low quality of a part of IIC; lack of control and verification of technical standards
3. Users of urban construction land	High	Profit from (previously prohibited) transfers;
4. Legal owners of buildings in "piggy-back building"	Conditionally high and medium high	Renovation of the facade, roof, painting, decorating the staircase, the introduction intercom, one-time services
5. Legal owners	Low, None	Discrimination of the legal owners in relation to the property taxation and payment of development fees; often endangering the achieved standards and quality of life
6. New legal owners	Low, None	They pay much higher development fees
7. Local community	Low and medium low	Loss of budget (tax) revenues; loss of revenues from fees from land development fees; pressures for the provision of public services and utilities; lower the quality of the environment
8. State	Low and medium low	Loss of budgetary fiscal revenues; lack of registers on assets; "care" for the poorest without the public funds; tolerating IIC
9. Creditors (banks, etc.)	High	Profit

Recommendations for the improvement of the institutional credibility of IIC include: 1) developing and implementing an effective housing policy and affordable housing model; 2) the rehabilitation of illegal construction (one of the six national urban development programs, defined by the *Strategy of Sustainable and Integrated Urban Development of Serbia until 2030 (2019)*), which would directly influence the causes of illegal and informal construction of residential housing; 3) the stimulation of positive and the discouragement of the negative effects of IIC to overcome "lock-in"; 4) better approaches to social services and technical infrastructure; 5) sustainable improvement of finance in addressing the challenges of IIC (necessary resources are high which is the main reason for the delay in the process of completing social and technical services); 6) principles of social justice for all and the protection of property rights and civil rights, especially for the weaker and less capable; 7) an analysis of the main stakeholders' positions in the implementation of the CSI; 8) coordination of planning, urban land policy, and city governance (e.g., matching the mid-term programs of building land, public utility enterprises, and infrastructural projects with the mid-term local budget projections); and 9) prevention of IIC, which implies the definition of social and political "agendas", better strategic policies, and the innovation of the institutional framework. It is clear that the acceptance of the positive and negative experiences of IIC arise from its juxtaposition.

It is also concluded that the IIC in Serbia cannot and perhaps also should not be totally prevented. It is estimated that it will be difficult to change the status of IIC because of the resistance of various institutional actors and due to corruption. IIC has numerous benefits for the influential interest groups that are most frequently its generators and drivers. We suggest the study of the equalization of attributes of laws (*law and non-law*), i.e., parallel functioning of IIC until the establishment of a unified system can occur. Therefore, it appears to be probable that IIC would remain a parallel and autonomous form of urban development in Serbia.

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References

- 2011 Census of Population, Households and Dwellings in the Republic of Serbia, Statistical Office of the Republic of Serbia, Belgrade (2012). <http://data.stat.gov.rs/Home/Result/31020301?languageCode=sr-Cyrl>.
- Bromley, D. W. (2009). Formalising property relations in the developing world: The wrong prescription for the wrong malady. *Land Use Policy*, 26(1), 20–27. <https://doi.org/10.1016/j.landusepol.2008.02.003>.
- Chang, H. J. (2002). Breaking the mould: An institutionalist political economy alternative to the neo-liberal theory of the market and the state. *Cambridge Journal of Economics*, 539–559. <https://www.jstor.org/stable/23600312>.
- Chang, H. J. (2007). *Institutional Change and Economic Development*. United Nations University press http://i.unu.edu/media/unu.edu/publication/2263/institutional_change_and_economic_development_web.pdf.
- Davis, J. B. (2006). Heterodox economics, the fragmentation of the mainstream, and embedded individual analysis. *Future directions in heterodox economics*. Ann Arbor: University of Michigan Press.
- De Biase, C., & Losco, S. (2017). Upgrading illegal building settlements: An urban planning methodology. *Procedia Environmental Sciences*, 37, 454–465.
- Dollimore, D., & Hodgson, G. (2014). Four essays on economic evolution: An introduction. *Journal of Evolutionary Economics*, 24(1), 1–10. <http://hdl.handle.net/10.1007/s00191-013-0315-7>.
- Đorđević, A. (2017). *Substandard Roma settlements in Serbia/ Podstandardna romska naselja u Srbiji, Pregled podataka iz Geografskog Informacionog Sistema za 2016*. Beograd: OSCE.
- European Environment Agency (EEA) (2013). Corine land cover e-CLC raster/vector data sets (for 1990). URL <http://www.eea.europa.eu/data-and-map>, Accessed date: 10 July 2014.
- Gabel, I. (2000). The political economy of 'policy credibility': The new-classical macroeconomics and the remaking of emerging economies. *Cambridge Journal of Economics*, 24(1), 1–19. <https://doi.org/10.1093/cje/24.1.1>.
- Grubovic, L. (2006). *Belgrade in transition: An analysis of illegal building in a post-socialist city*. PhD. Thesis London: London School of Economics and Political Science. <http://etheses.lse.ac.uk/1883/1/U213438.pdf>.
- GUP Belgrade (2016). *Službeni glasnik Grada Beograda*. (No.11/2016).
- Ho, P. (2014). The 'credibility thesis' and its application to property rights: (in)secure land tenure, conflict and social welfare in China. *Land Use Policy*, 40, 13–27. <https://doi.org/10.1016/j.landusepol.2013.09.019>.
- Ho, P. (2016). An endogenous theory of property rights: Opening the black box of institutions. *The Journal of Peasant Studies*, 43(6), 1121–1144. <https://doi.org/10.1080/03066150.2016.1253560>.
- Ho, P. (2017a). Who owns China's housing? Endogeneity as a Lens to understand ambiguities of urban and rural property. *Cities*, 65, 66–77. <https://doi.org/10.1016/j.cities.2017.02.004>.
- Ho, P. (2017b). *Unmaking China's development: The function and credibility of institutions*. Cambridge: Cambridge University Press.
- Hodgson, G. M. (2006). What are institutions? *Journal of Economic Issues*, 40(1), 1–25. <https://doi.org/10.1080/00213624.2006.11506879>.
- Hodgson, G. M. (2008). How Veblen generalized Darwinism. *Journal of Economic Issues*, 42(2), 399–405. <https://doi.org/10.1080/00213624.2008.11507148>.
- Lang, T. (2012). How do cities and regions adapt to socio-economic crisis? Towards an institutionalist approach to urban and regional resilience. *Raumforschung und Raumordnung/Spatial Research and Planning*, 70, 285–291. <https://doi.org/10.1007/s13147-012-0170-2>.
- Lawson, T. (2005). The nature of heterodox economics. *Cambridge Journal of Economics*, 30(4), 483–505. <https://doi.org/10.1093/cje/bei093>.
- Lazić, M. (2005). *Changes and resistances: Serbia in transformation processes*. Beograd: Filip Višnjić.
- Lazić, M., & Cvejić, S. (2007). Class and values in post-socialist transformation in Serbia.

- International Journal of Sociology*, 37(3), 54–74. <https://doi.org/10.2753/IJS0020-7659370303>.
- Liebowitz, S., & Margolis, S. (1999). *Path dependence*. 981–998. <https://reference.findlaw.com/lawandeconomics/0770-path-dependence.pdf>.
- MBTIS (2017). *Database of illegally constructed buildings*. Belgrade: Ministry of Building, Transportation and Infrastructure of Serbia. <http://www.mgsi.gov.rs/cir/dokumenti/baza-nezakonito-izgradjenih-objekata>.
- Milić, V., Petovar, K., & Čolić, R. (2004). National Perspective on informal settlements. *Ministerial conference on informal settlements in SEE, Vienna, 28 September – 01 October 2004*.
- Mitrović, M. (2015). Villages in Serbia. *Structural changes and sustainable development problems* (pp. 41). Beograd: Republički zavod za statistiku.
- Mojović, D., & Ferenčak, M. (2011). *Challenges of regularization of informal settlements in South East Europe. Overview of the relevant urban planning and legalization laws and practice*. Skopje: NALAS. <http://www.pur.rs/materials/publication/403%20Executive%20Summary%20ENGJzKe.pdf>.
- Oxford English Dictionary (2017). Oxford English dictionary. Oxford: Oxford University Press <https://en.oxforddictionaries.com/definition/illegal>.
- Petovar, K. (1992). Illegal construction and gray economy - one parallel. *Sociologija*, 19(4), 525–538.
- Republic Geodesic Authority of Serbia (2013). <http://katastar.rgz.gov.rs/KnWebPublic/>.
- Saveljić, B. (1988). *Belgrade Favela - Emergence and development of Kaludjerica as a result of illegal housing building in Belgrade*. Beograd: Kultura.
- Statistical Office of the Republic of Serbia (2014). <http://publikacije.stat.gov.rs/G2014/Pdf/G20142013.pdf>.
- Strategy of sustainable and integrated urban development of Serbia until 2030*. Službeni glasnik Republike Srbije. 47/2019 <https://www.paragraf.rs/glasila/rs/službeni-glasnik-republike-srbije-47-2019.html>.
- The Merriam-Webster.com Dictionary*. Merriam-Webster Inc.. <https://www.merriam-webster.com/dictionary/pdf> <https://www.merriam-webster.com/dictionary/illegal>, Accessed date: 26 November 2019.
- UNECE (2017). Informal settlements in countries with economies in transition in the UNECE Region. https://www.unece.org/fileadmin/DAM/hlm/documents/Publications/Literature_Review_on_Informal_Settlements.pdf.
- UN-HABITAT (2006). *Four strategic themes for the housing policy in Serbia*. Belgrade: UN-HABITAT Settlement and Integration of Refugees Programme in Serbia26.
- UN-Habitat. *International guidelines on urban and territorial planning*. (2015). <https://unhabitat.org/books/international-guidelines-on-urban-and-territorial-planning/> (Accessed 1 June 2017).
- Van Gelder, J. L. (2010). What tenure security? The case for a tripartite view. *Land Use Policy*, 27(2), 449–456.
- Veblen, T. (1994). *The theory of the leisure class*. New York: Penguin Books USA Inc. <https://www.penguinrandomhouse.com/books/328375/the-theory-of-the-leisure-class-by-thorstein-veblen/9780140187953/>.
- Vienna Declaration on Informal Settlements in South Eastern Europe (2004). <https://www.stabilitypact.org/humi/041001-conference.html>.
- Vuksanović-Macura, Z. (2012). The mapping and enumeration of Informal Roma Settlements in Serbia. *Environment and Urbanization*, 24(2), 685–705. <https://doi.org/10.1177/0956247812451809>.
- Žegarac, Z. (1999). Illegal construction in Belgrade and the prospects for urban development planning. *Cities*, 16(5), 365–370. [https://doi.org/10.1016/S0264-2751\(99\)00033-5](https://doi.org/10.1016/S0264-2751(99)00033-5).
- Zeković, S., Maričić, T., & Cvetinović, M. (2016). Transformation of housing policy in a post-socialist city: The example of Belgrade. In J. Sidoli, M. Vols, & M. Kiehl (Eds.). *Regulating the city: Contemporary urban housing law* (pp. 47–74). Den Haag: Eleven publishing. <https://www.elevenpub.com/law/catalogus/regulating-the-city-contemporary-urban-housing-law-1#>.
- Zeković, S., Vujošević, M., & Maričić, T. (2015). Spatial regularization, planning instruments and urban land market in a post-socialist society: The case of Belgrade. *Habitat International*, 48, 65–78. <https://DOI>. <https://doi.org/10.1016/j.habitatint.2015.03.010>.
- Zheng, B., Gu, Y., & Zhu, H. (2019). Land tenure arrangements and rural-to-urban migration: Evidence from implementation of China's rural land contracting law. *Journal of Chinese Governance*. <https://doi.org/10.1080/23812346.2019.1638687>.
- Živković, M. (1981). *Addendum to Yugoslav urban sociology*. Beograd: Zavod za organizaciju poslovanja.

Regulation

- Basic regulation on general urban planning (1949). *Službeni list FNRJ*, 68/1949.
- Basic regulations on design and construction (1948). *Službeni list FNRJ*. 46/48, 48/48.
- Constitution of the Republic of Serbia (2006). *Službeni glasnik RS*, 98/2006.
- Constitution of the Socialist Federative Republic of Yugoslavia (1974). *Službeni list SFRJ*, 9/1974.
- Decision on temporary rules and conditions for issuing building permits and use permits for buildings constructed and reconstructed without a building permit until May30/2003*. *Službeni list Beograda*.
- Law on building land, *Službeni glasnik SRS*, 32/75, 20/79, 16/83, 27/1986, 23/90, 53/93, 44/95, 16/1997.
- Law on building of objects, *Službeni glasnik RS*, 44/95; 24/96; 16/97, 43/2001.
- Law on converting the land-use right into the right on property of construction land with a fee compensation (2015). *Službeni glasnik RS*, 64/2015.
- Law on Criminal Procedure, Official Gazette of Republic Serbia, 72/11, 55/14.
- Law on determining the construction land in cities and urban settlements (1968). *Službeni glasnik SRS*, 31/68, 17/69, 29/69, 19/71, 16/72, 24/73, 39/74.
- Law on legalisation of buildings (2018). *Službeni glasnik RS*, 83/2018.
- Law on nationalization of rentals and construction land, nationalizing built and non-built construction land in urban areas and urban settlements (1958). *Službeni list FNRJ*, 52/1958, 3/1959.
- Law on planning and arranging of the space and settlements in the Republic of Serbia (1995). *Službeni glasnik RS*, 44/95,16/97,46/98.
- Law on property legalisation (2015). *Službeni glasnik RS*, 96/2015.
- Law on special conditions for issuing building and use permits for certain buildings, *Sl.glasnik RS*, 16/97.
- Law on special conditions for registering property rights on buildings constructed without a building permit (2013). *Službeni glasnik RS*, 25/2013.
- Law on the legalization of illegal buildings (2013). *Službeni glasnik RS*, 95/2013, 117/2014.
- Law on urban and regional spatial planning, *Službeni glasnik Narodne Republike Srbije*, 47/61, 30/65.
- Law on vertical enlargement and adapting common rooms into dwellings (1988). *Službeni glasnik RS*, 24/1988, 46/1994.
- Ordinance regarding the registration of state-owned real estate property rights (1947). *Službeni list FNRJ*, 64/47.
- PCA (2003). *Planning and Construction Act*, *Službeni glasnik RS*, 47/2003, 34/2006.
- Planning and Construction Act (2009). *Službeni glasnik RS*, 72/2009, 81/2009, 64/2010, 24/2011, 121/2012, 42/2013, 50/2013, 98/2013, 132/2014, 145/2014, 83/2018.
- Regulation on the criteria for reduction of the fee for construction land in the process of legalization and on the conditions and the manner of legalization (2009). *Službeni glasnik RS*, 89/09, 5/10, 26/2011.