C O - P L A N

Co-PLAN GAZETTE

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CHALLENGE 10119

On the new concepts introduced by the Law no. 10119 'On Territorial Planning' and new possibilities for an improved territorial management.

THE REVISITED LAW

Of Solid Waste Management, amendments of previous legislation and the problematics surrounding the revised law.

[IM]POSSIBILITY OF LG BORROWING

An informative report on the law on local government borrowing in Albania, and the 'tangible' opportunities it offers to LGUs.

NEWS FROM PUBLIC FINANCES

Mid-term Budget Program approved in the Municipality of Vau i Dejës, and in the Commune of Daiç.

ACKNOWLEDGMENTS

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A year of activities, hard work, meetings, seminars, planning, changes, efforts, discourses, support, research, training, analysis













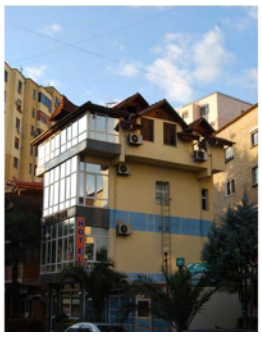
URBAN FACTS





















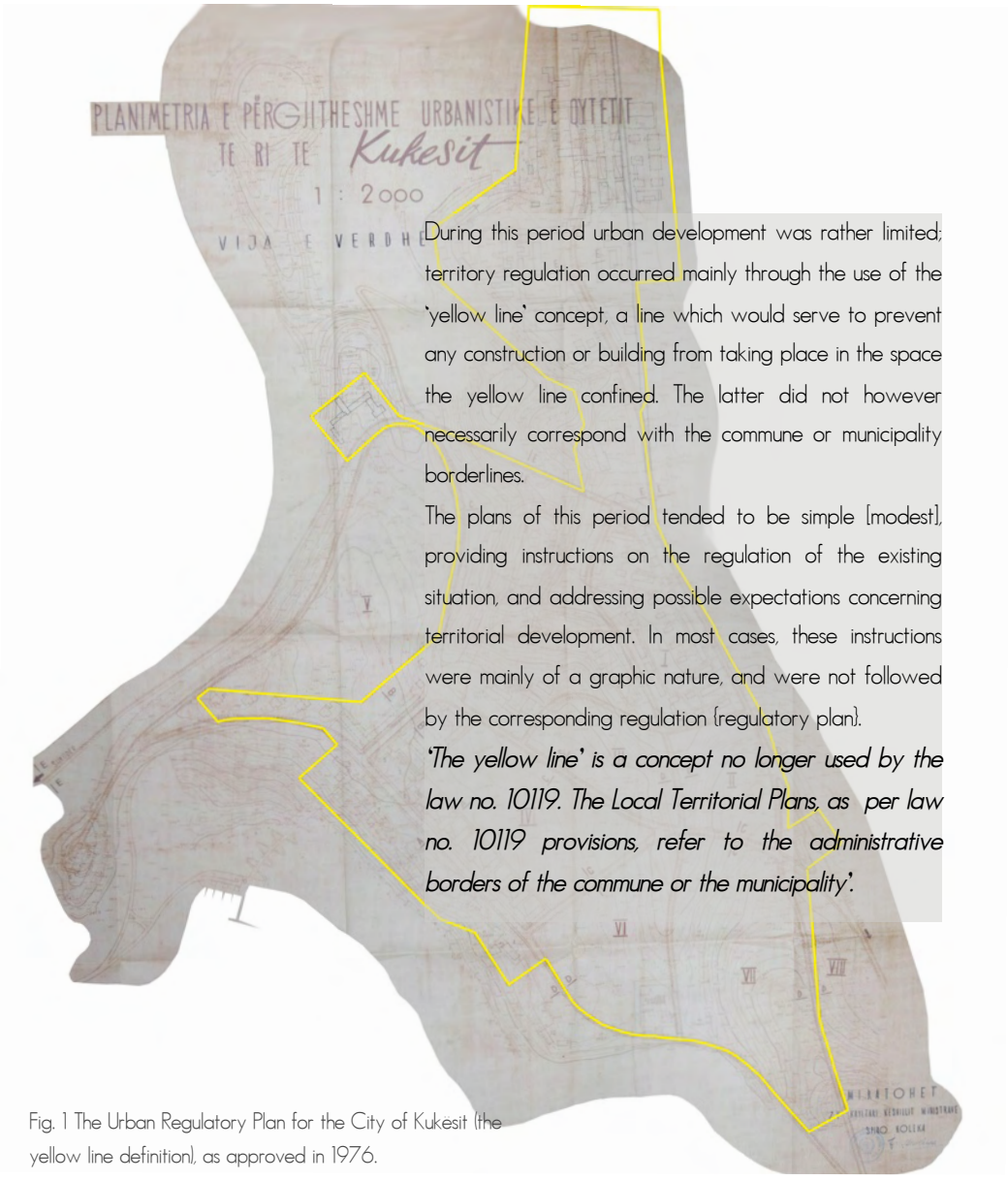
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the 10119 CHALLENGE



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2006 marks the start of the legislative and institutional reform of territorial planning, which peaked in 2009 with the approval of the new law, no.10119 ' On Territorial Planning' – amended. This law constitutes a crucial moment and a significant step in the territorial planning reform in Albania, enabling the transition from a law on 'urban planning' – which took into account only construction in urban areas, into a law on territorial planning, which considers the territory in its entirety. The latter addresses planning, rather than dealing solely with the regulation of how objects are built. In frame of this law secondary legislation was also produced – three regulations, namely: DCM no. 480, date 22.06.2011 'For the approval of the Model Planning Regulation', DCM no. 481, date 22.06.2011, 'For the approval of the Uniform Planning Regulation', and DCM no. 502, date 13.07.2011, 'For the approval of the Uniform Development Control Regulation'. All three regulations come with two instructing manuals prepared by the National Territorial Planning Agency at the end of 2011, namely: the Technical Manual targeting developers, decision makers and specialists, and the Manual for Citizens, which provides information in a citizen-friendly way concerning the application of these regulations.



During this period urban development was rather limited; territory regulation occurred mainly through the use of the 'yellow line' concept, a line which would serve to prevent any construction or building from taking place in the space the yellow line confined. The latter did not however necessarily correspond with the commune or municipality borderlines.

The plans of this period tended to be simple (modest), providing instructions on the regulation of the existing situation, and addressing possible expectations concerning territorial development. In most cases, these instructions were mainly of a graphic nature, and were not followed by the corresponding regulation (regulatory plan).

'The yellow line' is a concept no longer used by the law no. 10119. The Local Territorial Plans, as per law no. 10119 provisions, refer to the administrative borders of the commune or the municipality'.

Fig. 1 The Urban Regulatory Plan for the City of Kukesit (the yellow line definition), as approved in 1976.

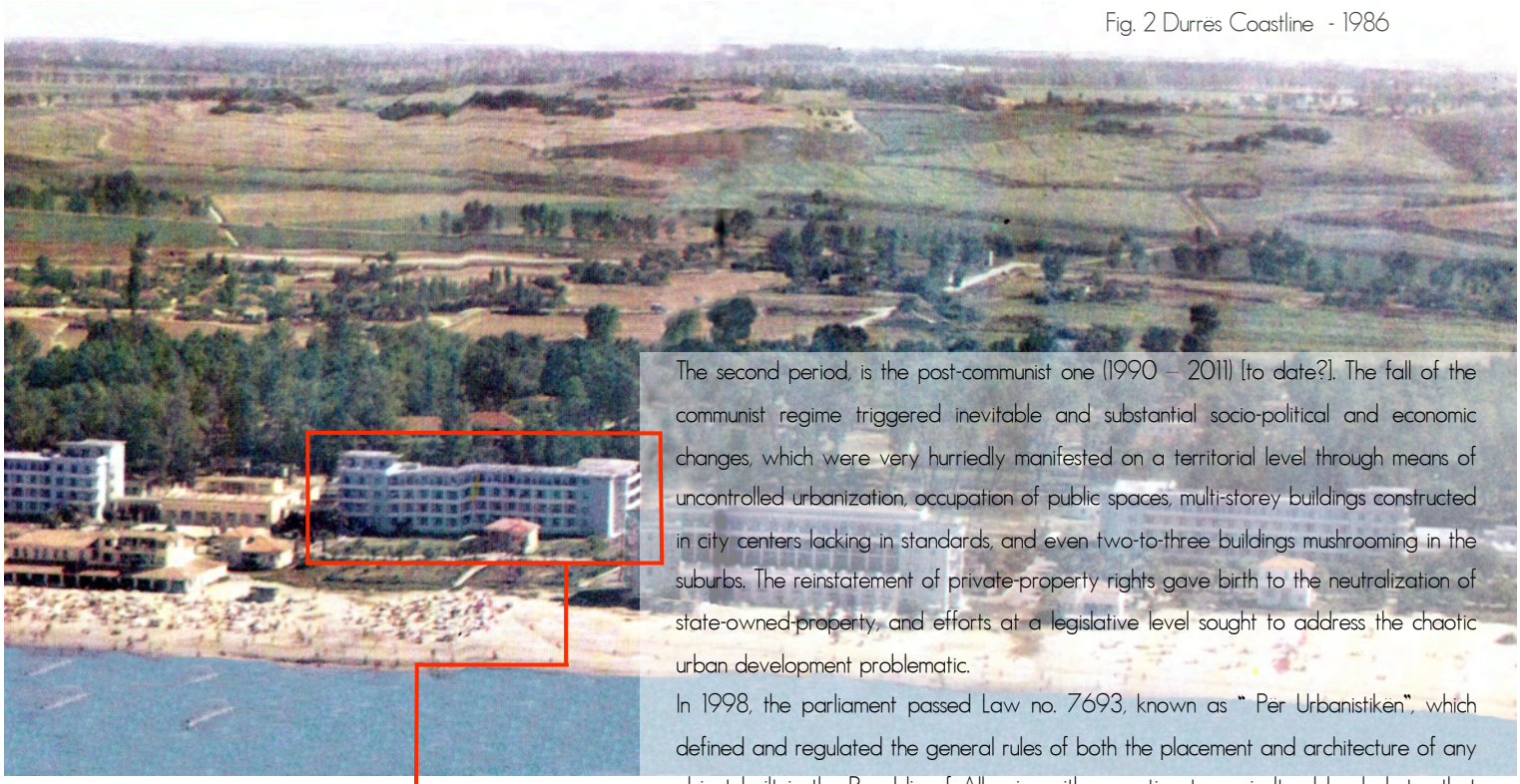
The aim of the new law, as is cited in act 1, is to promote sustainable territorial development through land use rationalization, and also, to encourage an interactive approach between planning authorities at a 'qark', municipal and commune level for improved and harmonized planning.

The right comprehension and application of this new law constitutes a challenge in itself, for all interest groups and stakeholders involved.

The urban planning developments in Albania can be viewed as two separate, equally important phases, which have determined the course of the urban planning developments to date: the communist regime period and the post-communist period.

During the communist regime (1944 – 1990), a time when all was state-owned and state-run, architecture was dominated by the eastern-soviet style, and there was a tendency to equip each town and village with a regulator plan.

Fig. 2 Durres Coastline - 1986



The second period, is the post-communist one (1990 – 2011) [to date?]. The fall of the communist regime triggered inevitable and substantial socio-political and economic changes, which were very hurriedly manifested on a territorial level through means of uncontrolled urbanization, occupation of public spaces, multi-storey buildings constructed in city centers lacking in standards, and even two-to-three buildings mushrooming in the suburbs. The reinstatement of private-property rights gave birth to the neutralization of state-owned-property, and efforts at a legislative level sought to address the chaotic urban development problematic.

In 1998, the parliament passed Law no. 7693, known as " Per Urbanistiken", which defined and regulated the general rules of both the placement and architecture of any object built in the Republic of Albania, with exception to agricultural lands. Later that year the law was amended, resulting in the new law, no. 8405 becoming effective, which relied on the same urban concepts and failed to take into account the rapid territorial changes occurring at the time.[2].

Fig. 3 Hotel Adriatik, Durres



The continuous socio-political and economic changes, the uncontrolled urban development and the inability of the 8405 law to address this problematic, resulted in a new law being passed by the parliament, law no. 10119 "On Territorial Planning", which introduced a number of new concepts if compared to the existing body of laws.

The new law views the territory as a composed by a number of components, which cannot function separately in their own right. For the first time, Law no. 10 119 introduces the concept of "the planner - professional" and its importance in the wake of such developments. The Planner-Professional, unlike the Architect, deals with the territory and not the 'object', and unlike the Engineer, does not deal with the 'immediate implementation of the project', but provides a series of recommendations for a better development and functioning of the territory [seen as an entity]. As a result, it is imperative that this professional liaises and communicates with experts of various fields in order to incorporate their 'expectations' and 'points of view', and to ensure that other actors, i.e. residents, business entities and civil society are made part of the development, hence sharing costs and benefits proportionally. Another fundamental change in the new law is the inclusion of planning and development instruments which are based on the private property system. Again, the right application of such instruments by the respective authorities constitutes a challenging task.

Fig. 4 Durres Coastline Today



The 90' marked a few efforts in terms of territorial planning, that only went as far as strategies on paper and were never materialized. During the 90s, immigration and informal urbanization of the suburbia escalated into an uncontrollable matter. The philosophy behind such phenomenon was something along the lines: *I occupied this land first, it is mine, and I can do what I wish with it*[2]. Such philosophy lead to the usurpation of public spaces and its irregular fragmentation and parcelisation, resulting in the emergence of the 'peri-urban' areas of our cities, lacking appropriate infrastructure, basic utilities services (water supply, sanitation and sewage) and any architectural or urban quality. The current territorial panorama we are being offered today is not one of the best practices; there is a complete lack of public spaces (squares, green spaces for entertainment) which have always played a vital role in the social life of our community. An average of 270,000 informal settlements have mushroomed across Albania over the past two decades, but since the figure only reflects the 'self-declared' settler, the figure is thought to be significantly higher. Figures in a 'diagnosing' report prepared by the Albanian government, assisted by the Institute for Liberty and Democracy, Peru (ILD)[3] exceed 350,000 informal settlements for the period 2007-2008.



Fig. 5 A panoramic view of the buildings close to Durrës Port.

The secondary legislation clearly defines a number of instruments, the application of which can lead to: a halt to the chaotic interventions in territory; protection of natural, agricultural land; a fair share of the costs and benefits among all actors involved – developers, municipalities and land owners who

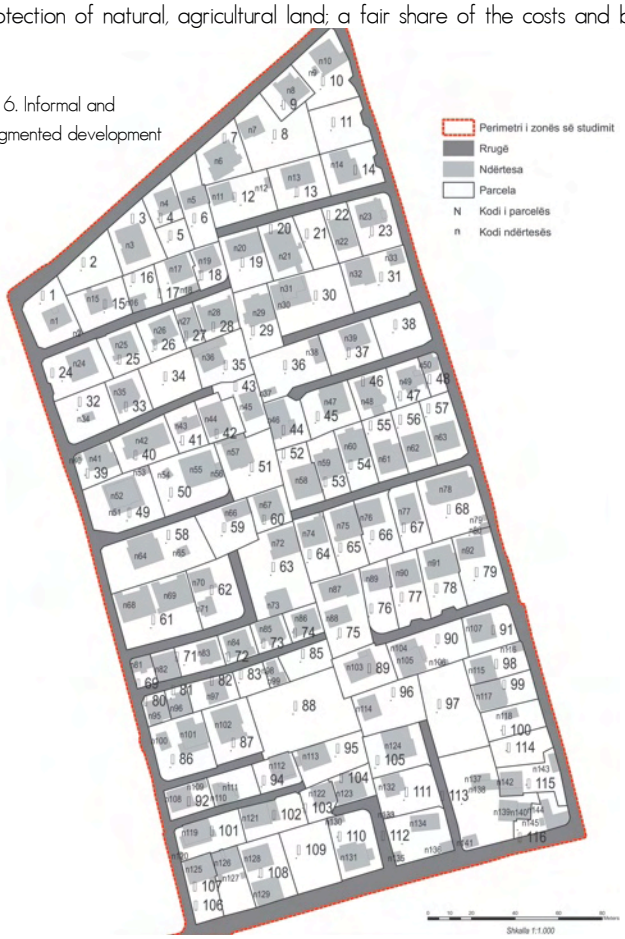


Fig 6. Informal and fragmented development



Fig 7. Planned and consolidated development

Fig. 8 The Amphitheater in the city of Durres.



participate in the development process; to promote economic development though means of 'a revised distribution' of construction potential – currently focused on residential buildings alone. These instruments are: Transfer of Development Right (TDR), Conditional Building Intensity (CBI), and the compilation of a Detailed Local Plan (DLP). The latter is addressed by the Law no. 10119 'On Territorial Planning' comprises of a number of planning instruments in the effort to both solve the chaotic urban situation and at the same time to spread the cost – benefits through all the actors participating in the development process. These instruments are namely: Transferring the Right of Development[4], and the Compilation of a Detailed Local Plan[5] within the local instrument of territorial planning[6].

In addition, the chaotic urban situation of the past 20 years, irrational land occupation, has also resulted in the depreciation of the historical and landscape values. Further, more landscapes have been distorted and have as a result lost their initial identity. The rational use of land and the protection of natural and historical resources constitute one of the main objectives of the new law on territorial planning.

The abusive suburbia establishment process has lead to the emergence of 'new' social groups. In most cases, whole homogeneous suburban neighborhoods have been established by people who have come from the same village or region. The demographic change, whereby the locals are confined to the center, and the 'new settlers' confined to the suburbia, has resulted in economic and social changes. Urban centers tend to be multi-functional, while the suburbia has acquired a purely 'residential' nature. In most cases, the city features a notable 'social mix', but the prospect of a future possible division seems very close. One of the objectives of the new law is to ensure to all social groups equal residential rights and equal access to economic and social opportunities.

Fig. 8 Kukes Lake.





Fig. 9 Abandoned foundation sites in the coastal area of Currila, Durrës.



A NEW [-LY REVISED] LAW *for* AN OLD PROBLEM

Where did it all start?

The assignment of Association and Stabilisation Agreement in June 2006[2] assigned one of the most important developments in our post communist history. Now already Albania is a potential candidate to enter EU, and as such it should accomplish some standards and criteria to comply our legislation with "acquis communautaire, including also the environmental aspect. In this context, the latter one gains a considerable importance as the European family is well-known in the world for its high environmental standards. Priorities today are: efficient use of natural resources and protection of species and endangered habitats – objectives which will help our economy in the field of tourism development and free enterprise.

In the framework of law no. 8652 (article 3, point 3, letter f), local governments units are responsible to provide municipal solid waste management service inside their administrative territory, by implementing respective laws and regulations as, law no. 9010, date 13.02.2003 "On public removal of waste"[3]; law no. 8934, date 05.09.2002 "On environmental protection" etc.

Actually this process is estimated to be not at the required levels, covering most of the administrative territories of the cities and in a small percentage those in rural areas. In most of the time this service runs through the following processes: (i) waste collection in common waste collection points; (ii) waste transport at the city or communal dumpsite (or landfill); or waste deposit in open field without any sanitary control measures. Waste recycling methods are being applied rarely, mainly by big or small businesses and less by households (pilot schemes).

Actual waste collections dumpsites (except the Sharra and Bushat landfill) are out of any hygiene and sanitary control and do not comply with EU Directive requirements for landfills. If we have a general look in our territory, we will understand that these dumpsites are not at all plan as they should be.

In most of the time they are allocated nearby dwelling areas, near river valleys, being a source of pollution for the environment around and human health. In some of the communes, both banks of the rivers valley have become sort of waste dumpsites, where the river flow transports them in other areas by polluting water and ground where they are being deposited.

The last released report from the government estimated that: (i) waste collection and removal services are not sufficient to fulfil the country requirements and are not at all effective; (ii) lack of necessary information has been an obstacle on making the right decisions; (iii) lack of knowledge and of a consolidated tradition in regard to final waste treatment has led, that even nowadays while other developing countries had made several progress, to final disposal in open dumpsites without any treatment; (iv) other obstacles come due to lack of financial and technical resources, which have become today the subject of every local government units, impacting directly on service provision quality and in the inability to accomplish the required European standards; (v) community, as a consumer and main producer of waste, is less or not at all aware of the potential risks that may face from the not well waste management, or for methods to improve this service, where he is the main actor on succeeding or failing the system.

Another problem are the hazardous waste, which in most of the times are mixed collected with municipal solid waste and are being deposited in open dumpsites; and on the other hand is the increase of inert waste amount from constructions or demolitions.

Waste recycling methods, even that have started at a very low percentage from private companies, face several problems, as: (i) high price of energy and their transport; (ii) low economic power of waste recycle collectors (today are counted almost 12,000 individuals that collect metals, who are not being trained at all, not being equipped right, and above all they have not signed any legal contract to develop this activity).

In the framework of the country's efforts to approximate the environmental legislation with the "aquis communautaire", as a priority condition to enter EU and fulfilment of government program priorities 2009-2013 in adopting EU legal standards, Albanian parliament, by the end of 2011, approved the new on waste[4]. This law is in compliance with EU waste directive (2008/98/EC) and in complete harmony with "National Strategy on Development and Integration" and "Environmental Cross-cutting Strategy". The approval of this law led to the repeal of the previous ones, as: law no. 9010, date 13.2.2003 "On solid waste administration", law no. 9537, date 18.5.2006 "On hazardous waste administration" and any other regulations that are contrary to it.

If we will analyse simply the terminology of the new law (Integrated Waste Management), we will understand it constitutes the semantic or substantial change in the approach it brings. It aims to protect the environment and human health. Ensuring an integrated waste management service means optimisation of all its activities, by taking in consideration groups of interest, system elements, and the aspects of sustainable management to promote best available techniques, financially

Fig. 10 Municipal Solid Waste deposited on river Kir banks, Kukes Lake, and the Currila coastal area in Durrës.



affordable and to be accepted by the community without degrading the environment.

Comparing to the previous legal basis, the new law brings several innovation in the field of waste management, as well as introducing new concepts and notions. For example, the law introduced the concept of "extended producer responsibility", aiming to increase reuse, recycling and recovery of waste from the producers themselves. On the other hand the law forecasts the introduction of the concept "waste transferring document", which will accompany waste through their transport. In the framework of creating a controlling and monitoring system, this document will be available to the National Waste Agency and Environmental Inspectorate.

The law in its following articles introduces other new concepts as waste hierarchy and orientation toward waste minimisation through implementing processes of waste prevention, reuse, recycling, recovery and disposal. Also the law introduces the principle of "polluter pays", analysing waste costs that should be provided by the primary producers or by the actual or previous owner.

If service of waste management will be developed according to EU Directives, it will result too expensive. For this reason, development of regional/ local plans parallel with respective strategic environmental assessments should be followed with the development of necessary instruments and financial support mechanisms to provide its implementation.

One of the articles, which have led to public reaction, is one which indicates import of non hazardous waste (article 49). If we will analyse the article, it aims to support and consolidate further the recycling companies, by ensuring them access to necessary amount of first raw material and quality, especially in conditions, where waste massive separation is not being applied in Albania. Also, in principal, this article does not bring a totally new practice, because Albania has been importing waste previously (ex. Plastic), and it was legal – law no. 9010, date 13.02.2003 "On environmental administration of solid waste" (article 8, point c and article 26), which determining that import of waste is not allowed for final disposal, storage, without pointing out its import. Also in this law, article 28 determining that waste transit is allowed (of course respecting the certain conditions), representing in any case a possible negative risk for Albania. The same definition of act no. 26 of the law no. 9010, is adopted under act no. 48 of the law no. 10463. The difference is obvious in act no. 49 of the law no. 10463, which unlike the existing legislation, is more explicit on 'what is allowed'. What remains unclear however is how this objective will be accomplished; the way the risk of 'uninformed imports' will be monitored and prevented (Albania remains vulnerable in this aspect), and the way the recycling industry in the role of a strategic partner will contribute to the waste minimisation process in the country. Hence, the focus is not (and not ought be) the empowerment of the recycling industry, more than the encouragement of waste separation at source, waste minimisation and recycling in Albania. For this reason, Ministry of Environment Forestry and Water Administration should intensify its efforts to empower further the recycling companies. This could be achieved by providing schemes and several concrete measures on how these companies will specially contribute in reducing waste in country.

The approval of this law brought also public reaction in regard to article 49 (on import of waste); resistance to waste import (non hazardous), which is not something completely new in the Albanian actual context, and the protest of activists was escalated till the establishment of an alliance known as Alliance Against the Import of Waste. Essentially this alliance is contrary to waste import in the Republic of Albania, because as it estimates, our country lacks the necessary infrastructure and human resources to monitor the process of non hazardous waste import.

Based on the existing legislation, our country has been importing 484 waste categories previously, and the government has stopped importing uncontrolled waste categories times ago[5]. Now waste list allowed to enter our country is reduced in 55 waste categories, which belong to the waste green list.

This alliance has deposited in the Central Election Commission (CEC) a signed requirement, where it is required to be developed a referendum to repeal the article on waste import. By the end of 2011, CEC (Central Election Commission) approved the request subject to terms and conditions to develop the referendum.

STEPS TOWARDS A SANITARY LANDFILL *practice*



OPEN WASTE DUMPSITE

Uncontrolled waste-disposal endangering quality of life and environment.

CONTROLLED LANDFILL

Waste disposal further covered by soil layers. (The case of Fieri Municipality)





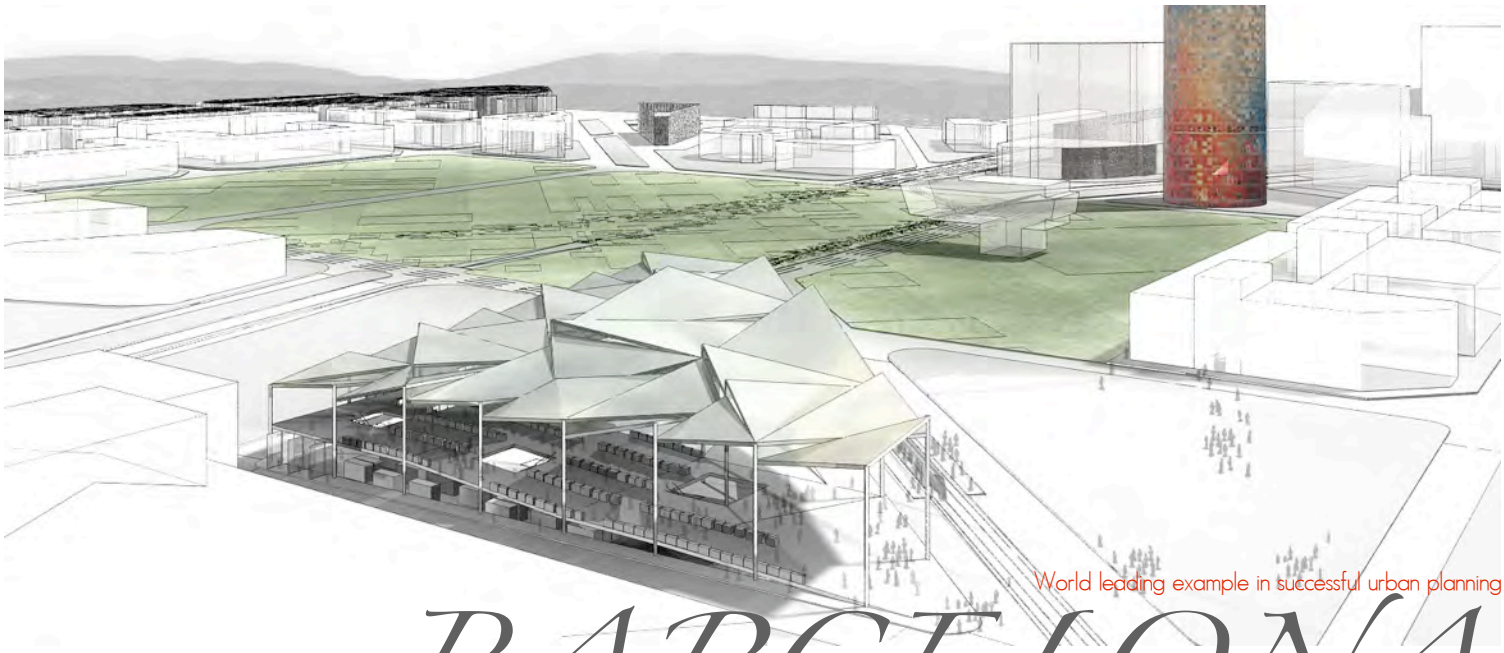
ENGINEERED LANDFILL

Controlled landfill -appropriate measures in place to reduce waste environmental impact - Currently being applied in Bushat and Sharrë.

SANITARY LANDFILL *covered**

Engineered landfill + gas collection system + leakage monitoring system + water treatment plant + well-trained staff.





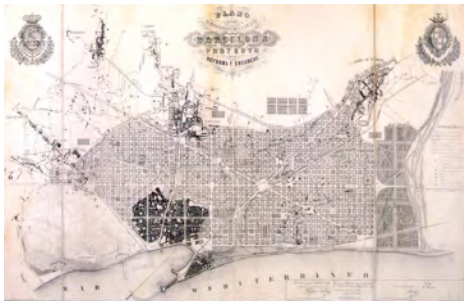
World leading example in successful urban planning

BARCELONA



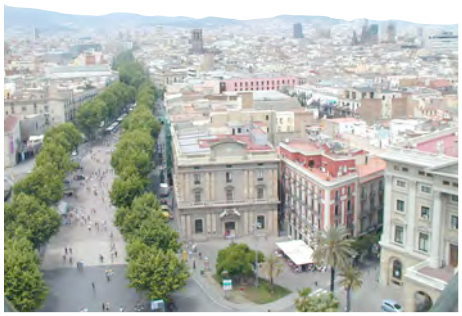
A study tour of Albanian Local Government Authorities in Barcelona

Between the dates of 17 and 22 October 2011, Co-Plan, Institute for Habitat Development participated in a study trip to Barcelona. The study trip was part of the "Program on Medium-term Budget and Innovative Use of Municipal Finance" which is financed by Program for Local Government and Reform in Public Services/ Open Society Institute.



The study trip gave a chance to Albanian officials to become acquainted with the governing practices of one of the most successful examples of economic development, Barcelona. Moreover, the meetings of Albanian officials with representatives of the Municipality of Barcelona will serve to create local partnerships, with the potential to be further developed in joint projects.

Cluster Development (www.cluster-development.com), a local partner of Co-Plan made this visit possible.



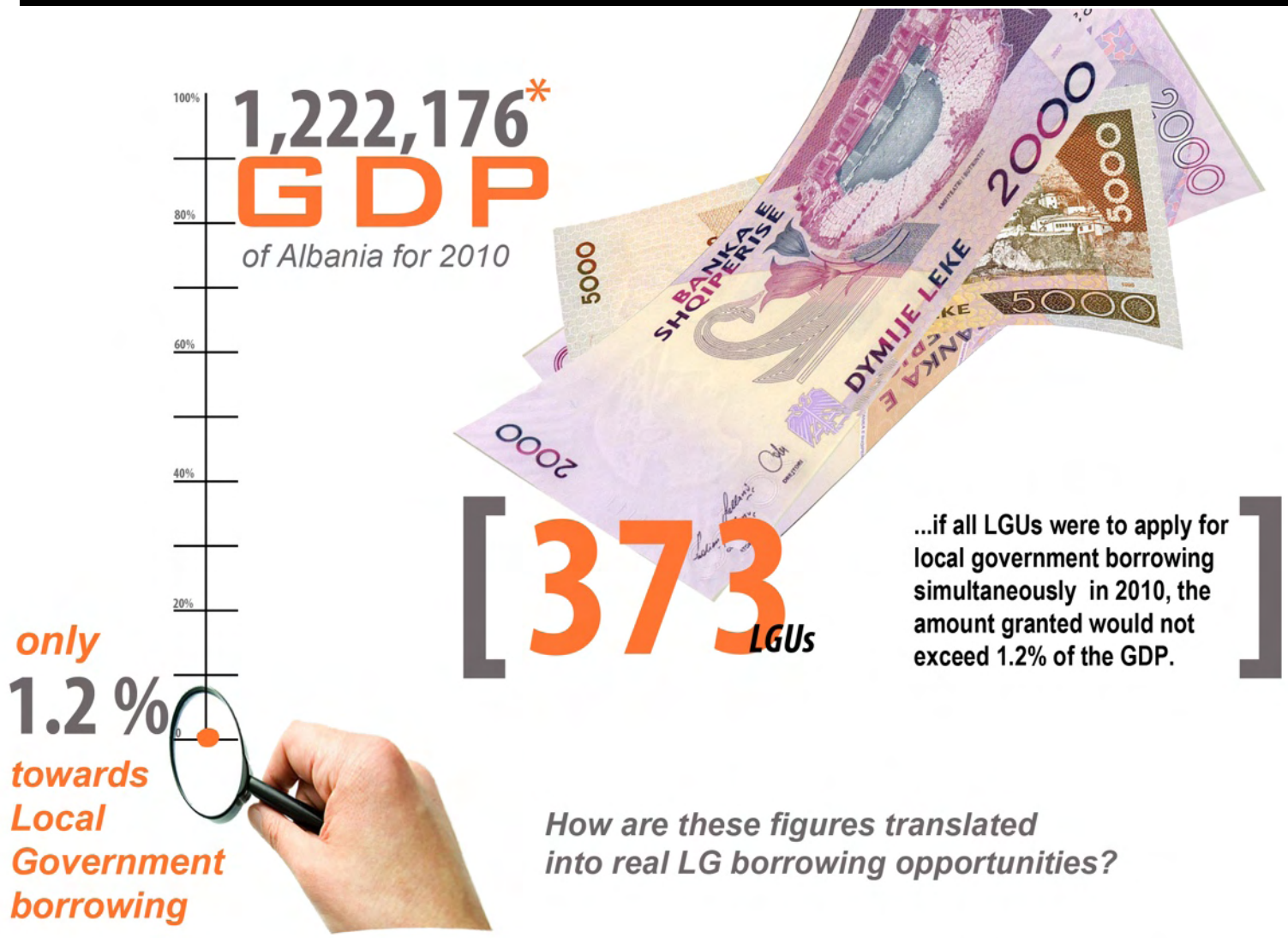












ON LOCAL GOVERNMENT BORROWING

* The value is expressed in Albanian Lek.

On February 2008, the law "On Local Government Borrowing" was approved. After being supplemented with secondary legislation, the law enabled LGUs to apply for long-term credit in order to finance capital investments, mainly infrastructural projects.

The first LGUs to prepare capital projects that could be financed by commercial banks were Fushe Kruj, Elbasan, Korce, Lezhe and Prograde under the support of the Program for Local Government (LGPA/USAID). This process paved the way for other 12 LGUs that have applied for funding to the Ministry of Finance (MoF). The ministries approved seven of these applications for financial credit. The total amount of the approved loans is 1.668 billion lek, however, only 100 million lek have been issued by the banks. The amount of debt issued is low because of the MoF requirements. During 2010, the maximal limit of debt a LGU can borrow was at 5% of the operating budget and in 2011, the limit was lowered to 2.5 % of the operating budget. These criteria limit considerably the ability of LGUs to attract such funding. In most cases, LGUs due to limited funding apply for credit in order to finance infrastructural projects. For this reason, the questions regarding LGU borrowing are closely related to the approach they take on economic development. The question facing LGUs is whether to focus on projects that stimulate economic development or projects related to infrastructure and services.



Co-PLAN, has been working closely with numerous LGUs (Kukes, Shkoder, Lezhe, Vau I Dejes, Gur I Zi, Fushe Arrez, Fushe Kruje, Durres, Fier, Korce, Berat etc), assisting them on issues of financial management such as; capital investment plans, medium-term budgets and feasibility studies. Building upon this experience, and with the support of Open Society Institute, Co-Plan is assessing the status of LGU borrowing in Albania. The focus of this assessment is on the use of the borrowed capital, its effect on economic development. Moreover, Co-PLAN plans to assist local official in drafting borrowing proposals.

This project is titled "Local Government Borrowing – The Challenge of LGUs toward Economic Development", and in its first phase, it will make a general assessment of the borrowing purposes and their effect on

economic development whilst assessing the needs of the LGUs regarding the borrowing process. Moreover, we will gather information on the perspective of other actors such as the Ministry of Finance and the banking sector. The final phase will identify the needs of the LGUS regarding the technical aspects of borrowing such as the legal framework for LG borrowing and their capacities in identifying procjets that can b funded by the banking sector.

Main Findings of Assessment Report on Local Government Borrowing in Albania

The main findings presented below offer information on LGUs that have completed a specific borrowing process and for LGUs that are not yet involved in such a process yet:

Purpose of Borrowing: The LGUs that have attempted to borrow funds from private banks have done so in order to address the problem of limited funds for infrastructural investments. The only exception being the Municipality of Korca, which besides for infrastructural projects, is trying to access funds in order to undertake a modest project in energy efficiency.

Project Selection: However, it is not yet clear if the projects selected for funding were part of strategic priorities or were chosen simply because of the funding possibility through borrowing. Moreover, considering that borrowing is the costlier alternative, it has not been determined yet if the LGUs applying for loans exhausted other funding possibilities. Point in case the Municipality of Fushe-Kruje, which has not cashed out yet the approved loan on and infrastructural projects because it is waiting for alternative funding sources e.g. government grant.

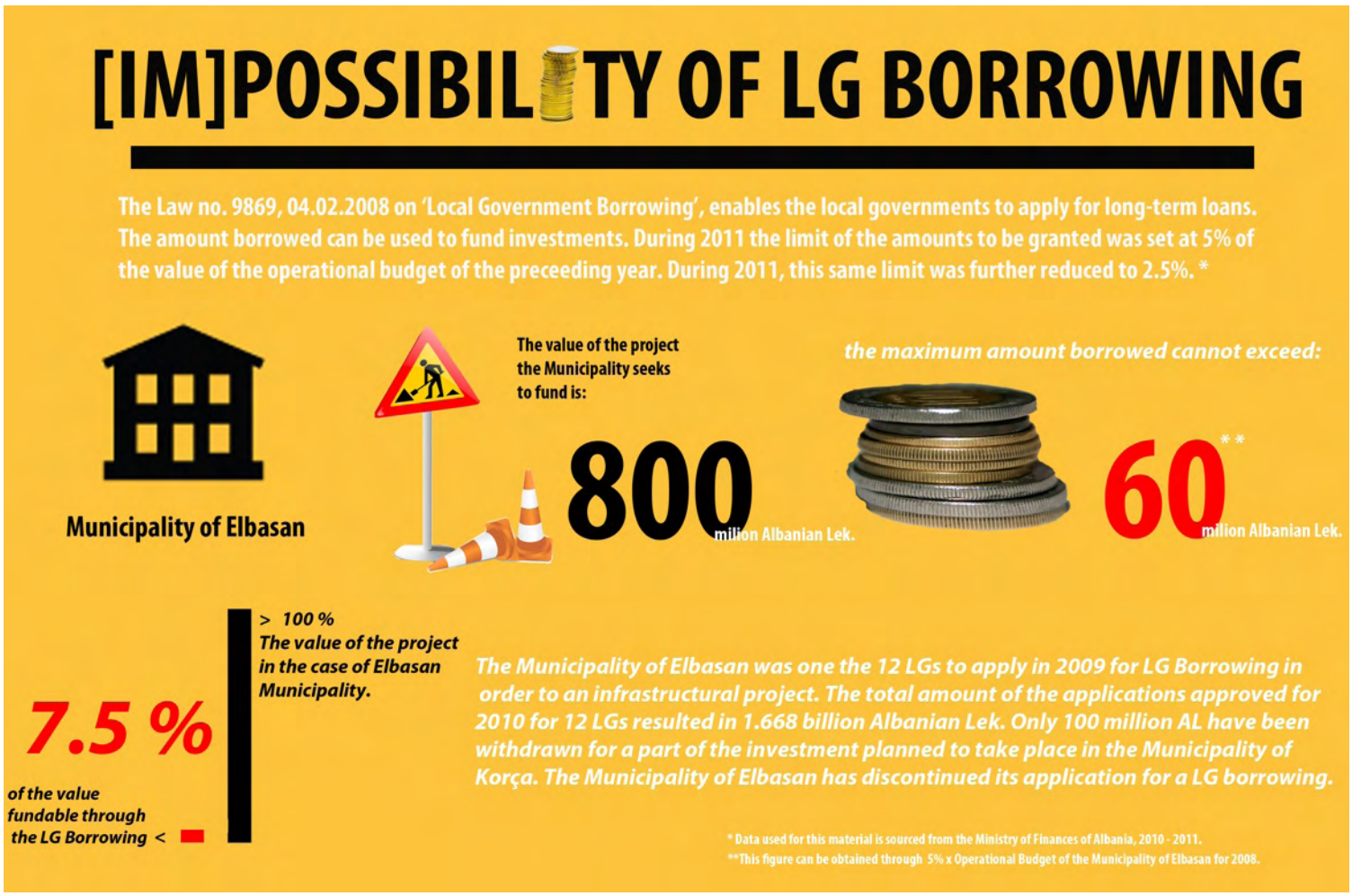
Communication with Stakeholders: There are still considerable improvements that can be in including relevant stakeholders in the borrowing process. The LGU's decision to take bank loans is not simply a financial issue since it will restrict overall capital for other endeavors in the region and focus them in infrastructural projects.

Extra-legal boundaries: One of the problems encountered by LGUs applying for commercial loans are the delays faced waiting for approvals by the Ministry of finance. According to the law "On Local Government Borrowing" loans are given to LGUs upon approval by the Ministry of Finance within 20 days of submission. The Ministry of Finance is supposed to verify that the loan meets the law requirements. In case the Ministry of finance does not give an answer withing 20 days the approval of the loan is implied. However, the loan limits imposed by the Ministry of Finance severely hamper the ability of LGUs to apply for loans. The limit of 5% of total yearly expenses was a considerably small amount of money for most LGUS and it the subsequent decrease to 2.5% of yearly expenses has made this financial instrument even less attractive. Moreover, now that the loan limits have changed the MoF has yet to specify what will happen to loans that have been approved within the previous 5% limits but have not yet been issued yet. We should mention that this limitation do not actually help in containing the overall government debt since their borrowing capabilities are small even without the limitations.

In addition, these limitations pose questions on local and national sovereignty. We should remember that when the MoF imposed the lower borrowing limit of 2.5% in January, its issued Euro Bonds with a value of 300 million Euros (which represents 3.2% of GDP).

LGUs that have not started and/or finished the loan process: These are the main findings from the interviews with LGUS that have not considered borrowing as a funding alternative:

Planning Process: Most LGUs either do not posses strategic planning documents or in cases where they do the documents are not consulted when budgeting decisions are made. Strategic planning documents are important because in their initial drafting phase they engage the community with its different stakeholders and upon completion provides an instrument that



structures the finances of the LGU. On the other hand, LGUs lack instruments for monitoring and reviewing existing planning documents.

Planning documents should not be approached as wish lists. In fact, they are a synthesis of the local development vision and their financial and human capital and should be coupled with specific financial performance indicators. From a borrowing perspective, the financial indicators specified in these documents serve as a collateral to the private banking sector.

Local Capacities: According to the interviews the needs of the LGUs regarding borrowing can be meet by informational material and direct assistance with training programs. These needs include:

Information – Including training activities that would enable LGUs to become acquainted with the relevant legislation such as the law "On Local Government Borrowing" and MoF directives. An important role in this process could be played by association representing LGU;

Local staff training – We would include in these step training on planning, financial analysis, projects drafting, loan application standards.

Direct assistance – Direct assistance will be provided on loan applications. This assistance will include: drafting of standard documents, organizing the process of bank selection, negotiating the terms of the loan contract etc.

APPROVED MID-TERM BUDGETS

For the Municipality of Vaut të Dejës and the Commune of Dajç

During 2011, four local government units were assisted by Co-Plan in drafting the MTBs for the period of 2012-214. This assistance was provided within the framework of the program "Local Financial Management focused on Medium-term Budgeting", financed by DLDP II. The approval of these MTBs by the local councils of Vau Dejes, Dajc, Bregu I bunes, conclude the first round of Co-Plan's contribution and assistance. The MTB approach enables municipalities to better plan, implement and monitor their strategic priorities, and it enables the central government to better assess the performance of these LGUs in the medium-term.









