

# 5TH INTERNATIONAL STUDENT CONFERENCE ON LOCAL SAFETY AND SECURITY



UNIVERZITET CRNE GORE  
PRAVNI FAKULTET



University of Maribor

---

Faculty of  
Criminal Justice and Security



**ARRS**

SLOVENIAN RESEARCH AGENCY

## ACCESS TO SAFE LIVING SPACE AND SUPPRESSION OF THE CRIMINAL OFFENSE OF BUILDING A FACILITY WITHOUT A BUILDING PERMIT

---

Aleksandra Obradović, Andrej Čurčić, Teodora Čorac,  
Staša Čolović, Ana Šišević, Mara Stanić

Sustainable Development Goal 11: Sustainable Cities and Communities

# Introductory considerations

- People have always had a need for both improvement and advancement in technological terms. They have been developing various styles and forms of construction. From primitive communities, when they used various holes, openings, caves, through the period of clay, reeds and mud, through wooden buildings to modern housing units built of solid and durable materials. However, along with this progress, there has been the need for criminal protection of these very structures from unscrupulous and dishonest construction also developed. As the contemporary society evolving more and more, so there has been the awareness of the environment, of various materials that will suit the climate of construction, of prohibited materials, as well as respect for permits and approvals by the competent institutions.<sup>1</sup>

<sup>1</sup> Stanković M. i dr., Građenje – krivičnopravna zaštita u republici srbiji i zemljama u okruženju, Pravni fakultet za privredu i pravosuđe, Novi Sad, 2016., str. 468

# Security housing

- The design of buildings is regulated by the Law on Planning and Construction of Facilities, and a series of bylaws, recognized rules of technical practice and norms.
- Fire safety of buildings ensures the correct choice of fire protection measures
- The basic requirements for the facility are the requirements that the facility, depending on its purpose, must meet during construction and use, and which ensures its safety as a whole, as well as the safety of each of its individual parts. The basic requirements are: mechanical resistance and stability; protection in case of fire, hygiene, human health and environmental protection; safety and accessibility in use; protection against noise; economical use of energy and storage of heat; sustainable use of natural resources.<sup>2</sup>

<sup>2</sup> Zakon o planiranju i izgradnji objekata, "Sl. list CG", br. 64/2017, 44/2018, 63/2018, 11/2019 - ispr. i 82/2020, Član 68

# Construction-related offences

- From 2018, there has been the new criminal offences introducing - construction of facilities without registration and construction documentation, construction of a complex engineering facility without a building permit, as well as illegal connection to infrastructure. <sup>3</sup>
- Also, this year there have been changes related to the persons liable for a design, revision of technical documentation, execution of works and professional supervision over the construction of the facility, as well as recognition of environmental disturbances due to actions of responsible persons contrary to regulations or generally accepted technical rules. Until this year in Montenegro, such acts were provided for in the Law on Spatial Planning and Construction as Misdemeanors, and from this year they are criminal acts, because Montenegro has encountered a large number of these illegal acts in the past and due to the degree of a social danger.

<sup>3</sup> Građena objekta bez dozvole - <https://www.standard.co.me/ekonomija/nova-krivicna-djela-gradenje-objekata-bez-prijave-i-dokumentacije/> - pristupljeno 20.03.2022. godine

# Construction of facilities without registration and construction documentation

- Executor - the person who starts the construction of the facility, the contractor or the responsible person in the legal entity who is the contractor.<sup>4</sup>
- Execution action - the term construction is considered to be the performance of construction and construction-craft works, installation of construction products, plants and equipment, and in this case the construction is performed without previously submitted application and documentation or contrary to the project or decision of the competent authority
- Guilt - The relevant form of guilt is intent, which includes the characteristic that a building is being built without a building permit. Awareness of illegality is also necessary (construction outside the legally prescribed procedure).<sup>5</sup>
- Proposed sentence - a-six –month to five years imprisonment.

<sup>4</sup> Krivični zakonik Crne Gore

<sup>5</sup> Banović J., Ultima ratio karakter krivičnog prava u svetlu krivičnog dela građenje bez građevinske dozvole, Pravni fakultet, Univerzitet u Beogradu, Crimen, 2018., str. 77

# Construction of a complex engineering facility without a building permit

- Contractor - the contractor or the responsible person in the legal entity that is the contractor.
- Execution action - construction of a complex engineering facility without a permit, or contrary to the permit, the main project or the decision of the competent authority. Complex engineering facilities are: highways, expressways, highways and regional roads, tunnels, bridges, railways, airports, distribution and transmission power facilities and many others in accordance with the Law on Spatial Planning and Construction, more precisely Article 172.<sup>6</sup>
- Guilt - intent that includes the feature that the building is built without a building permit.
- Proposed sentence - imprisonment from one to eight years.



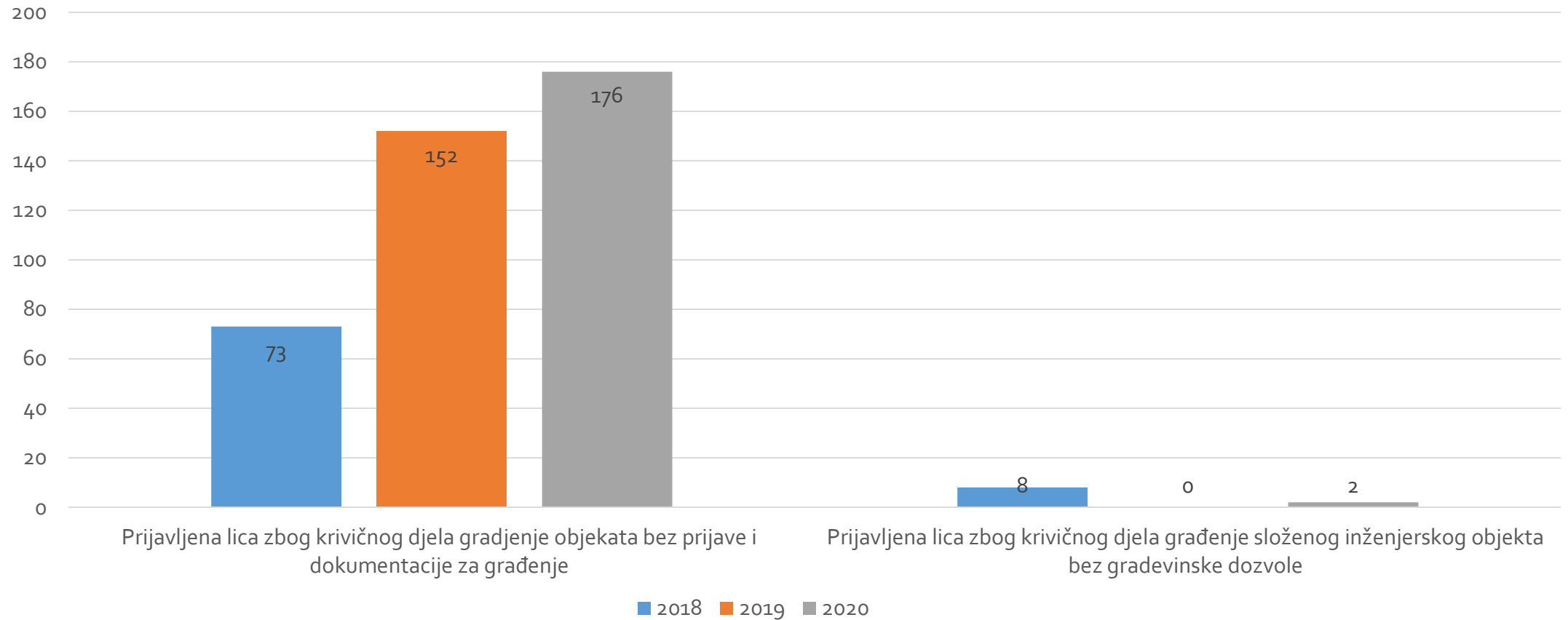
# Illegal connection to infrastructure

**Article 326c of the Criminal Code of Montenegro prescribes - Who, contrary to the regulations on spatial planning and construction of facilities, connects or allows to connect to the infrastructure construction site, facility under construction or constructed facility, for which no construction application and documentation, i.e. construction permit and construction documentation complex engineering facility, shall be punished by imprisonment for a term between three months and three years.**

- Executor - the person who connects the facility or the responsible person in the legal entity.
- Action - permit for connection or connection of a facility, which is built without a building permit to the electricity, thermal or telecommunication network, water supply and sewerage.<sup>10</sup>
- Guilt – intent.
- Envisage - imprisonment from three months to three years.



## Statistics from the report on the work of the Prosecutorial Council





## **Construction of facilities without registration and documentation for construction**

- 2018. - A conviction was handed down against 8 persons, a suspended sentence was pronounced against 7 persons, a court reprimand was imposed against 1 person, a refusal was issued against 6 persons, charges were transferred against 1 person, while 5 persons were suspended.
- 2019. - A conviction was passed against 42 persons, imprisonment against 1 person, a suspended sentence was imposed against 40 persons, and work in the public interest against 1 person, against 1 person refusing, while against 2 persons suspended.
- 2020. - Convictions were handed down against 73 persons, imprisonment against 1 person, suspended sentence against 67 persons, work in the public interest against 5 persons, acquittal against 2 persons and rejection verdict against 1 person, while the indictment was transferred against 1 person.

## Construction of a complex engineering facility without a construction permit

- 2018 - The state prosecutors rejected the criminal charges against 6 persons, filed an indictment against 1 person, while at the end of the reporting period, the report against 2 persons remained unresolved. At the court, there was an indictment against 1 person, which was resolved by a conviction - sentencing to work in the public interest.
- 2019 - The state prosecutors rejected the criminal charges against 1 person, filed an indictment against 2 persons, while at the end of the reporting period, the report against 2 persons remained unresolved.
- 2020 - State prosecutors rejected the report against 1 person, while at the end of the reporting period, there were unresolved charges against 1 person.



## Illegal construction in Montenegro

- Data published by the Ministry of Sustainable Development and Tourism (MORT) show that most buildings without a building permit in Podgorica are as many as 17,142.
- 43 facilities do not have a use permit at the level of the capital, and the overrun was stated at 1,234. It is followed by Ulcinj with 4,754 buildings without a permit, two without a use permit and with 69 overdrafts.
- The third place in the number of "wild" buildings in the country is Bar, where 4,723 buildings do not have a building permit. Eight buildings do not have a usable one, while 69 have registered a violation of the permit.
- In Herceg Novi, 2,629 buildings do not have a building permit, 85 have a use permit, and 171 exceedances in the permitted construction have been registered. In Tivat, 2,363 buildings do not have a building permit, 170 use, and the overrun was found on 201 buildings. Bijelo Polje has 1,971 buildings built without a permit, and 124 without a use permit.<sup>7</sup>

## The case of Ada Bojana

- Inspectors of the Ministry of Tourism and Sustainable Development issued a total of 45 decisions on the demolition of illegally built buildings on the banks of Ada Bojana in 2018.
- On October 9, 2008, MANS filed its first criminal complaint against the director of Ulcinj's Elektro distribucija and an official of the Democratic Party of Socialists, Ljora Nrekić.
- The report was filed due to a well-founded suspicion that the director of Elektro distribucija Ulcinj, by his inaction, enabled illegal connection of illegal facilities and allowed unauthorized use of electricity, which caused damage to Elektro distribucija Ulcinj in the amount of uncollected compensation for consumed electricity.<sup>8</sup>
- Nrekić is also suspected of having committed the criminal offence of illegal occupation of land for the purpose of acquiring illegal property gain, as well as the criminal offence of illegal construction of several buildings on the territory of Ada Bojana.

## The case of the CRBC company

- The Basic State Prosecutor's Office in Kolašin filed an indictment with the Basic Court in Kolašin against the company C.R.B.C. and the responsible person H.S.
- The company CRBC is the main contractor for the construction of the priority section of the Bar-Boljare highway, which the non-governmental sector has repeatedly accused of devastating the Tara riverbed during construction.
- The Network for the Affirmation of the Non-Governmental Sector (MANS) was the first to draw attention to the events in the Tara riverbed, and in 2018 it published footage of a drone with a changed course of the river in one of the parts where the highway is being built.
- Due to the devastation of the Tara riverbed, UNESCO also reacted, whose representatives at the summit in the capital of Azerbaijan, Baku in 2019, expressed concern over the impact of the construction of the highway on the Tara riverbed.



## The Mitrović case

- Matija Mitrović, son of the current Minister of Ecology, Spatial Planning and Urbanism Ratko Mitrović, again submitted to the Budva Secretariat for Urbanism a request for legalization of a wildly built two-storey house in Komoševina at the foot of Spas Hill, built by his father without permission.
- With the latest request, the younger Mitrović practically admitted that the house was illegally extended in the past two years, and that it is four times bigger than the one whose legalization was originally reported three years ago.
- On January 15 this year, the Secretariat for Urbanism and Sustainable Development of the Municipality of Budva rejected Matija Mitrović's first request for the legalization of a house in Komoševina, as untidy.
- By sending submission, Matija Mitrović admitted to committing the criminal offence of illegal construction.

# Concluding remarks

Carrying out inspections in the field of construction, spatial planning and urbanism, and especially determining the time of construction of buildings without a building permit, or illegal connection of buildings to technical infrastructure, significantly hampers the lack of continuous supervision for a long time and lack of valid documentation illegally erected facilities at certain locations when taking over responsibilities from inspections at the local level. Such problems are especially pronounced at the site of Ada Bojana - Municipality of Ulcinj.

Thank you for your attention.