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Defining hindering factors of the informal settlements in the general regulatory plan of Shkodra municipality

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This research dates back to the beginning of the first phase of drafting the General Regulatory Plan (GLP) of Shkodër Municipality, January 2016.

As stated by the Albanian law 'On Territorial Planning', the drafting phase of a GLP follows three processes: deep analysis of the territory, vision and development plan. The most consistent of all three processes is the first. It requires the involvement of different actors in data collection and the ability to merge specific thematic maps. For these reasons, and due to the complexity of the objectives that an actor might have, this research focuses on one specific theme: informal settlements and the role that two actors has during the first process of plan drafting.

Many studies have been conducted on the second and third phases, such as critiques of the zoning or political processes that are brought to strategic visions and their applicability. From this perspective, this research is the first attempt to highlight emerging problems that the GLP could solve if it begins with the first process, the deep analysis of territory.

The two actors studied are the Regional Agency of the Legalization, Urbanization and Integration of Informal Areas (ALUIZNI) and its agenda and the municipality and its territorial instruments, such as the General Local Plan, (GLP).

The hindering process¹ to acquire formal housing from informal housing is mostly a hidden and neglected issue. The classic way to deal with these practices is the last process of the GLP, the development plan. This phase does not include the hindering factors in the analytical data, and it treats

them as a unique area to be combined later with the structural units of the zoning tool. By doing this, we lose the main principle of the GLP, that of wealth redistribution and social justice, defined by law 107/2014 "On Planning and Territory Development". The research explains why it is important to integrate the information of both the actors in the first phase of plan drafting with what can be generated later if revenues and public investments are made in a different political decision making process. By integrating in consecutive layers the various housing emergencies the research calls in action various professionals and decision makers in a planning instrument based on informal area.

Introduction

Shkodër Municipality has historically been the most important demographic, administrative and economic centre of the Shkodër region. With the new administrative division², Shkodër Municipality includes within its administrative jurisdiction the city of Shkodër and ten other administrative units.

The urban planning laws in Albania have undergone several changes in the last 27 years, but the most significant was a 2009 addition that changed municipalities' perspectives on their territories, changing the interpretation from 'On Urbanism'³ to 'On Territorial Planning'⁴. This period also signifies the expansion of the competences of the municipalities to manage the rural area outside the yellow line⁵, defined since the communist regime to maintain the centralization of the cities.



Fig1 / Mar' Lulaj Neighborhood, close to the Train Station in the south east of Shkoder city.
source / the author

This planning instrument, the yellow line, has also represented the inability and limits of the municipalities to manage the urban sprawl that has characterized the Albanian territory for more than 27 years. Informal settlements have been raised outside the yellow lines of the biggest cities in Albania, such as Shkodër, Durrës, Tiranë and Elbasan. However, in 2004, the main government created a new regional agency to deal with informal settlements, ALUIZNI. Since then, these two territorial actors, ALUIZNI and the municipality, have been challenging the same competences with different resources and policies. A previous research⁶ on the public urban agenda and the public policy evaluation on legalization, urbanization and integration of informal areas shows that public resources⁷ has been given to the first actor, ALUIZNI. The research conducted in two given timelines, 2006-2016, explains how the this urban agenda has been centralized to the higher administrative levels. The Urban Agenda have shifted toward a centralized actor's network with a focus on efficiency (cost-benefit) and

public revenues rather than effectiveness, by creating a deeper fragmentation of the network, limiting the cognitive⁸, political⁹ and economical¹⁰ resources of the lower administrative levels, such as the new born municipalities.

This separation and conflicting conditions between these two actors has importance not only to the administrative point of view but also to the implementation and coordination of the future (GLP) of Shkodër Municipality.

The main objective of this research is to integrate in consecutive layers the various housing emergencies¹¹ related to these two different actors in order to create one planning instrument that deals with the work of both actors.

ALUIZNI deals only with informal settlements, and the municipality is the main actor to release building permissions. The fact that these roles and competences are separated leads to a situation in which public revenues are divided between the two actors: this creates political instability regarding wealth distribution.

1 / "Hindering Process" or "Hindering Factors" are all the legal, physical and environmental constraints that persist on the territory.

2 / On August 2014, a new Reform on the Territorial Division was approved in the Albanian Parliament.

3 / 'On Urbanism' was the Albanian law regarding urban planning.

4 / 'On Territorial Planning' is the actual law with new changes regarding territorial planning beyond the yellow line.

5 / The yellow line was defined by 'On Urbanism' in 1998 and before tracing the urban borders and competences of the municipality.

6 / For previous research from the institutional decisional arena, see 'Opening Future Scenarios for the Urbanization, Integration of Informal Settlements in Albania'.

7 / Public resources, cognitive, legal, economical.

8 / Cognitive resources are those related to the information that each actor, in this case ALUIZNI and the municipality, has on the actual condition of housing. This is verifiable on actors' maps.

9 / Political resources are the political veto that the municipal council has to gather survey on informal settlements.

10 / Economic resources are the revenue that public authorities use to invest in informal areas.

11 / Housing emergencies are activities related to informal practices for housing purposes. In the Albanian context are all the informal settlements that for one reason or another can't be legalized. They have legal and environmental constraints. Inhabitants in a such conditions are legally, economically in high risk. In some cases they are in hazardous environments or close the highways, railways and other physical elements.



Fig2 / Looking for the hindering factors in three phases for a legalization.
source / the author

The separation of roles also may influence social justice and opportunities offered by the city. This underlines that ALUIZNI is at the first administrative level¹², while the municipality is at the last.

The main agenda of ALUIZNI has three objectives: legalization, urbanization and integration. The first objective results in public revenue from the legalization fee, and the last two in public expenditure, such as infrastructure. Given such financial measurements we can have the investment for a single informal area¹³ as follows:

$$\text{Investment} = (\text{Legalization Revenues}) - (\text{Urbanization Costs}) - (\text{Integration Costs})$$

Formula A: Measuring the Investment for Each Informal Area

The last objective is not defined by the agenda and comprises the competences and duties of the municipality, depending on how the General Regulatory Plan defines it. Therefore, revenues might appear on the side of ALUIZNI while costs are charged to the municipality, as it has the duty to make investments. This underlines that an investment related to informal areas is not a local priority agenda, the more they are legalized more are the costs of the municipalities. Some of these cases are with the expansion of the urban area to bring public transport or waste management facilities. On the other hand, municipal planning instruments, such as the GLP, do not permit the development of informal settlements on unclear territorial conditions, such as hazardous areas. This

last hindering factor also influences the public revenues that should come from the legalization process to ALUIZNI and, later, the investment for each informal area¹⁴. By defining the hindering factors in consecutive layers, we can have a more sensitive and clear formula to calculate the necessary NET investment for each informal area, which could lead to a fair distribution of wealth and social justice.

Methodology

Based on the introduction, the assumption is that there is an incompatibility in cognitive resources¹⁵ between the two actors: the map that the municipality works with is different from the one that ALUIZNI uses. To understand the diversity of the two maps, it is important to underline that ALUIZNI has the political and economic resources to update and take surveys on cartography. The cartography of the municipality is less updated. Only by the approval of ALUIZNI the process of legalization can go to the municipality and then to the Cadastral Office. Picture 1 illustrates this process (Fig.2).

For this reason, in this research, I will follow a consecutive analysis of the hindering factors, passing from the first actor involved in the decision making, ALUIZNI, to the municipality and the Cadastral Office. By the decisions that actors make as gatekeepers, they also define who receives regular housing conditions and who remains in informal conditions, for legal and environmental constraints. For a better understanding of the hindering factors, this research focuses on different

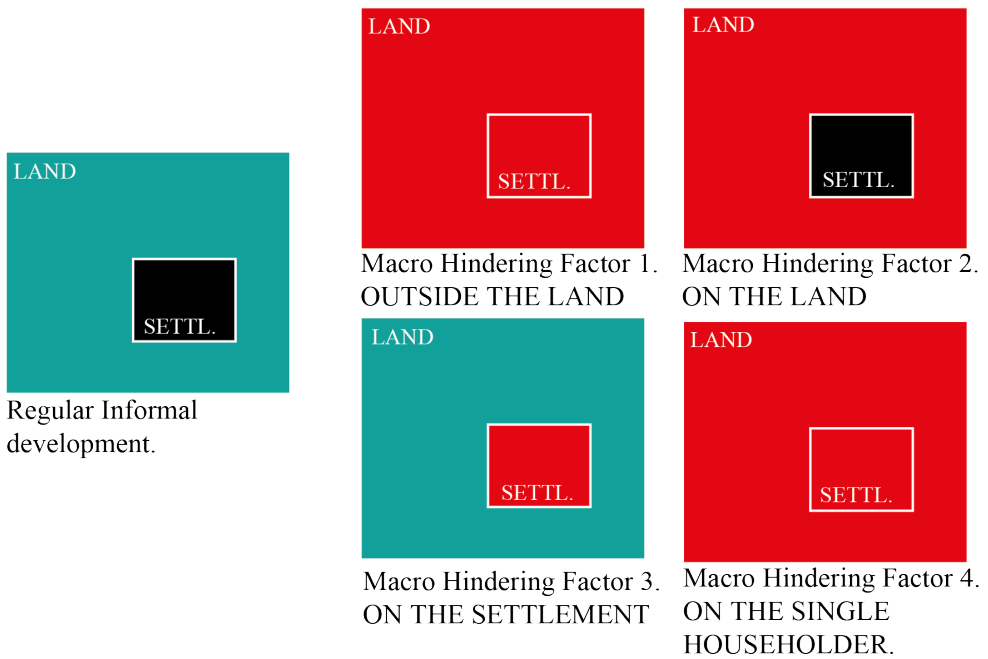


Fig3 / Land and Settlement in four macro hindering factors. source / the author

surveys and studies.

A first analysis of the hindering factors comes relies on Aliaj's(2008) The Sixth Mystery: What Is the Trap That Hinders Development and the Integration of the Albanian Economy with the Modern World?:

The first lesson is that informal constructions are not simply a legal problem, even when it is recognized that this phenomenon has considerable implications and takes different legal forms. Constructions may be illegal for a number of reasons: they are built on land public or property belonging to someone else, having problems of marking or registration, having inheritance, marriage, property claims or compensation, disregarding urban norms, or having obtained construction permits, the latter may not comply with de facto implementation: the constructions do not respect the environmental conditions or are built in the protected historical area, they are located in areas of low durability and pose a danger to the safety of people, are built on agricultural land etc.(Aliaj, 2008, p. 70)

This statement identifies six different hindering factors, listed in Table 1 and

regrouped in 4 macro hindering factors¹⁶. The other document that has been used to illustrate the hindering factors in consecutive layers relies a survey made on the laws and decisions of the National Territory Council¹⁷. One of these is the council's last decision regarding the criteria that a settlement needed in 2015 (National Territory Council Decision Nr. 280, 2015), and lists a total of sixteen articles. In the Table shown in Figure 4, these criteria are listed a factors that the ALUIZNI agenda takes into consideration; however, for a better understanding, they are not translated verbatim from the Albanian language with all legal articulations. For the municipality and the GLP, many of the criteria listed by the ALUIZNI are included as well, along with the adjunctive aspects that the plan may prescribe. The research relies mostly on Law 107, 2014, 'For Territorial Planning and Development', which guides the GLP and how it should be drafted, and Article 33,'Development Suspensions', which gives more than ten reasons why a settlement cannot have a building permission. For a better reading, many-sub articles are not included (if they were, there would be between 50 and 60 regulations and various decisions at the lowest administrative level, the municipality).Four macro hindering have

12 / First administrative level actors are all those public actors working based on the agenda of the national government.

13 / Informal areas are homogenous legal statements of settlements and neighborhoods. In 2016, there were reported to be 277 informal settlements on a total of 205 ha spread around the outskirts of big cities such as Tirana, Durrës and Shkodër, including around 300.000 families. For more details on informal areas and their legal status, see Law 9482 (03.4.2006)Article Nr. 13.

14 / In some cases it's possible the municipalities can candidate to the central government for urbanization investments in informal areas. This cases are ad hoc and do not reflects many local issues.

15 / Cognitive resources in this case are information, such as maps, that different actors have on informal areas.

16 / Macro hindering factors is the methodology used to regroup the hindering factors based on settlement condition.

17 / The National Territory Council comprises five ministries and makes decisions on territorial matters every month.

been listed in consecutive layers that regroups the hindering factors of each actor mentioned above: 'Outside the Land', 'On the Land', 'On the Building' and 'On Single Family'. The macro hindering factors has been regrouped thanks to the two crucial territorial resources that constitutes the access or not to legalization process, the land and settlement. Each hindering factor lays on one of this two resources and the combination of the both creates 4 probabilistic situations. As the prisoner's dilemma¹⁸ suggests when one or another factor fails these probabilities are going to be four, as follows;

- If Land (L) and Settlement (S) fails, both. (and vice versa)
- If (L) fails and (S) does not fail to legalization, (and vice versa).

In our case this theoretical law, the prisoner's dilemma, creates the main methodology to classify each hindering factor, for the legalization process, in four macro hindering factors in planning and territorial matter.

Results

The four macro hindering factors are a series of grouped restrictions and regulations that derive actors, described in the three phases of the methodology. The results are the summary of macro hindering factors, described as follows.

Outside the Land / This group of hindering factors represents the biggest portion of prescriptions in all three phases. The contents of these prescriptions, laws and regulations are strictly related to the protection of land status and destination of use. Usually, these are hazardous areas, close to river basins, highways or other unspecified locations, and violated laws. The hindering factors in such a condition will persist if nothing is done to re-establish the natural condition or what is prescribed by the GLP. To understand the housing emergency of this condition, we look to the consequences of land flooding, unhealthy air and water and un stable terrain. Investments should focus on large-scale, natural systems, land expropriation, health conditions and alternative housing solutions. The emergency costs for this group are the highest of all four.

On the Land / This group of hindering factors represents one of the most intersected problems that housing faces, as described by Aliaj (2008):the conflicting and imprecise cartography used by different actors. Inhabitants that have raised settlements in such conditions face a continuous institutional barrier. The cost that solves this process transitions may vary from a technical solving programme

to land price. Unlike the first group, the needed investment is lower. For the Albanian context it can be estimated from 30 Euro per square meter of land to 100 Euro¹⁹.

On the Building / This group of hindering factors is less prescribed by the regulations and may vary based on municipality and GLP laws. It is related to the physical and architectonic incompatibility with the law or the (GLP) where in some they have surpassed the limiting indicator for development in the zoning area. This macro hindering factor relies on the

<p><i><u>Hindering Factors from "</u></i> <i><u>The Sixth Mystery survey: What Is the Trap That Hinders Development and the Integration of the Albanian Economy with the Modern World?"</u></i></p>
<p>Hindering Factors from the ALUIZNI Agenda, Law and Regulations. Phase one in Picture 1.</p>
<p>Hindering Factors from the General Regulatory Plan. Phase two in Picture 1.</p>
<p>Hindering Factors Cadastral Office Phase three in Picture 1.</p>





 <p>Macro Hindering Factor, group1 "Outside the Land"</p>	 <p>Macro Hindering Factor, group2 "On the Land"</p>	 <p>Macro Hindering Factor, group 3 "On the Building"</p>	 <p>Macro Hindering Factor, group 4 "On Single Family"</p>
<p>These Settlements are built on agricultural land.</p>	<p>These are built on public land or property belonging to someone else. Having obtained construction permits, but may not comply with de facto implementation.</p>	<p>Having obtained construction permits, but may not comply with de facto implementation.</p>	<p>Having inheritance, marriage, property claims or compensation, this group has no income for the legalization fee.</p>
<p>This group violates the strict zone of protection for seas, rivers, canals and other natural water systems; main water supplies and networks, airports, ports and dams; pipelines, oil wells and their infrastructure; and energy power stations or interconnection zones.</p>	<p>This violates the category Integrity of the Monuments of Culture, I, II and archaeological areas, as well as requirements for distance from the main streets.</p>	<p>This violates the category of the Monuments of Culture, I, II and archaeological areas, as well as requirements for distance from the main streets.</p>	<p>n/a</p>
<p>This violates proposed or existing protected natural areas in various categories.</p>	<p>The Urban Planning Office of the municipality can express public interest.</p>	<p>This group has no building permission. The municipality's Urban Planning Office can express public interest, or may change the development indicators.</p>	<p>n/a</p>
<p>n/a</p>	<p>n/a</p>	<p>n/a</p>	<p>This group has no income for registration fees.</p>

Fig4 / Four Macro Hindering Factors to regroup each single hindering factor, or legal constraints based on settlement and land conditions. source / the author

single investment for the building and it may vary from partial reconstruction, in unsafe conditions to live in, to entire investment. For the Albanian context it can be estimated from 200 Euro per square meter of building to 300 Euro²⁰.

On Single Family / In this group of hindering factors are all those families who cannot pay the legalization fees or the registration

to the Cadastral Office. Other taxes may be included in the hindering factors to the legalization and formalization processes. The cost for future investment for this group is the lowest if confronted with other macro hindering factors and it may vary from 250 euro for a single building to 1000 euro in case of socio-economic activities²¹.

18 / The prisoner's dilemma is a standard example of a game analyzed in game theory to study 'cooperation' and 'failings' possibilities.

19 / The price per meter square of land is referred to the free market price in Albania.

20 / The price per meter square of building construction is referred to the free market price in Albania.

21 / The price for the cadastral registration of building is referred to the price of public services that the institutions delivers.

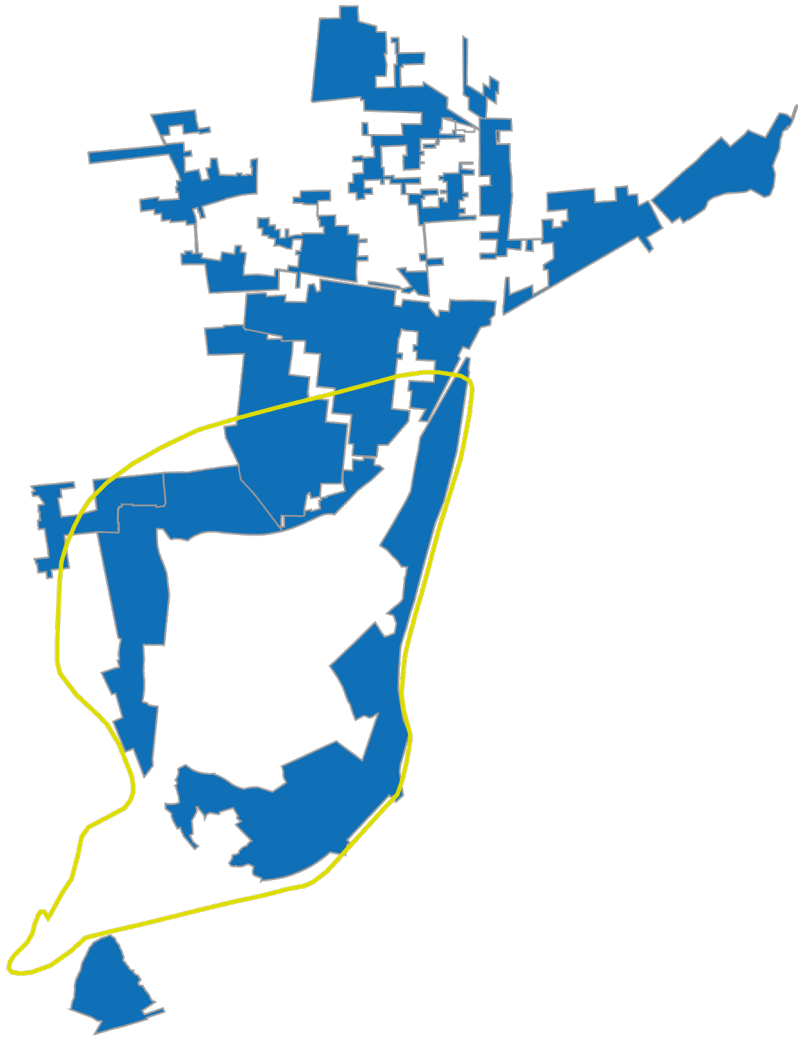


Fig5 / Bounded rationality on decision making for future investments.
source / the author

Summary / While the macro hindering factors of groups one and two are maintained, informality will prevail, and the hindering factors of groups three and four will consequently increase. The first two hindering factors risk the creation of an 'oil stain' of the last hindering factors. A single example is when a settlement can't get a building permission for a reconstruction if lays close to the river basin. This condition would have consequences in a short or long timeline to unsafe situations to live in. For this reason, it is necessary to involve different technicians from different fields, such as environmentalists, landscapers, urban planners and architects, in the problem solution phase since the first macro hindering factor. Investment in these new technicians may be from the public and private sectors as well.

As technicians, we cannot change and control the informal practices. However, technically and politically, there is much to do, and it is up to the new planners and architects to understand this relationship between the social city and the physical

city in order to fill the vacuum that Aliaj, Shutina and Dharmo (2010) explain in their book *Between Vacuum and Energy*. For Ludovico Quaroni, and Italian architect, urban planner and essayist, this interrelation is described as a symbiotic process that persists through time and space:

the social city and the physical city lives together according to a form of symbiosis: how certain species of the plant world have a structure resulting from the coexistence of an alga and a fungus, of two very different things, therefore, which nevertheless find possibilities, realities of life only in an indissoluble union, just as a social city and a physical city can't exist in complete autonomy. Each of them claims its autonomy: but the social city can never be if not in a space ... the physical, spatial city can never be anything but for a human reality ... (Quaroni, 1982)

Importance of the Research

While summary rises the need to involve public and private actors to action

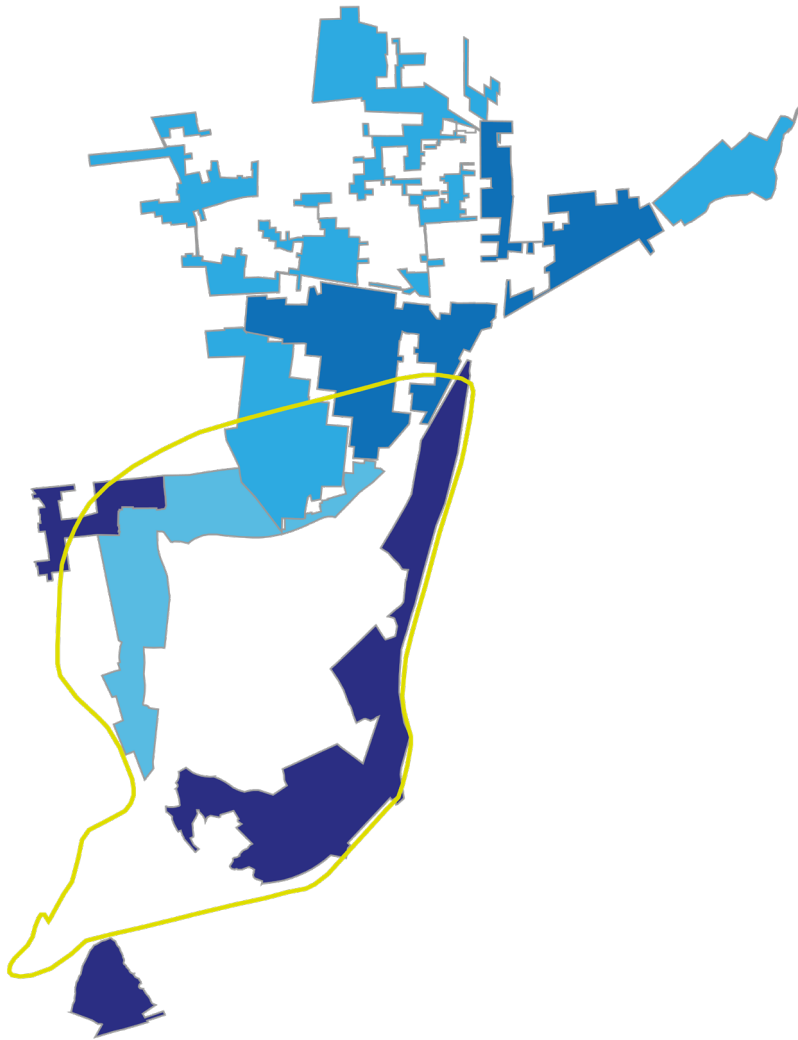


Fig6 / Synoptic planning on decision making for future investments (with blue dark the informal areas where the investment is negative) / source: the author

for problem solving, and definitions, it's important to get to the planning instrument such is the Shkodër GLP.

As mentioned in the beginning of the research the deep analysis of the territory is the first step to the GLP draft and it mainly consists in the data collection and elaboration.

Even if the two actors, as mentioned above, have different cognitive resources on the informal settlements, and areas, the information that they shares is unhelpful to a wealth redistribution and social justice. As we know from the survey for the methodology there are macro hindering factors that blocks the legalization process, and this means less revenues for ALUIZNI. The inability to show this public deficits on revenues of this last actor to the municipality creates unhelpful cooperation for future investments on urbanization.

Picture two show the eight informal areas, in blue colour, around Shkodër municipality, and with the yellow the old yellow line.

The nature of the decision making that the municipality follows on this circumstances can be defined as a bounded rationality.

According to Dente (2014), professor in public policies at Polytechnic University of Milan, we know there are four decision making models. The bounded rationality belongs to the second model after the rational and before the incremental model.

"...the rational decision maker looks for satisfying courses of actions, or actions that are "good enough" on the basis of the information he has, avoiding any pretence of optimization, i.e. of maximisation of the effectiveness of the solution". Dente (2014)

Differently from the bounded rationality the rational model appears to be more sensitive on data, means and goals. This would need a different map from picture two, in order to show the policy effectiveness. And as we know from the survey the macro hindering factors are different for each informal area or settlement. To change the lens of problem



*Fig7/ Qafe Koder, Ajasem Neighborhood, view from the Shkoder Castle. in the southern part of the city
source / the author*

detection, a synoptic criteria planning²² would be needed to read the hindering factors since the drafting of the GLP by providing evidence for the importance on housing emergencies, urbanization and other priorities in informal areas and settlements. Picture three illustrates an example if policy efficiency, revenues and public investments, are taken in consideration on informal area scale.

Public revenue from ALUIZNI can be directed for future investments to specific macro hindering factors by cooperating with the actors involved in the problem solving, such is the municipality. The integration cost, not defined by law, can be translated as a hindering cost in order to give territorial evidence for wealth distribution and social justice. Below is the integrated formula to take into consideration the hindering factors on the final investment of the policy efficiency for each informal area.

$$\text{Investment} = (\text{Legalization Revenues}) - (\text{Urbanization Costs}) - (\text{Integration Costs})$$

$$\text{Investment} = (\text{Legalization Revenues}) - (\text{Urbanization Costs}) - [\text{Hindering Cost ("Outside the Land" + "On the Land" + "On the Building" + "On the Single Family")}]$$

Formula B: The Integrated Formula for the NET Investment in Each Informal Area.

The final investment for each informal area in this case creates sensitive data to manage the decision making and picture three shows its value on the map. In some cases it may be negative and in others positive, such means the public interest to invest on specific area is greater and to others less. The methodology used for the survey permits us to have clear values for each informal area and it is relevant not only for the wealth redistribution and social justice, but also for the GLP drafting, latter translated in costs for the municipalities.

A horizontal political debate can rise among municipal administrative units to foster the future investments by reclaiming the political interest, or disinterest, on specific informal areas based on macro hindering factors.

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22 / Synoptic planning typically looks at problems from a systems viewpoint, using conceptual or mathematical models relating ends (objectives) to means (resources and constraints) with heavy reliance on numbers and quantitative analysis. Despite its capacity for great methodological refinement and elaboration, the real power of the synoptic approach is its basic simplicity. The fundamental issues addressed-ends, means, tradeoffs, action-taking-enter into virtually any planning endeavour. (Hudson, 1979).