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Meeting: 1150 DH meeting (24-26 September 2012)

Item reference: Communication from the authorities (02/08/12)

Communication from Albania concerning the case of Driza against Albania (Application No. 33771/02)

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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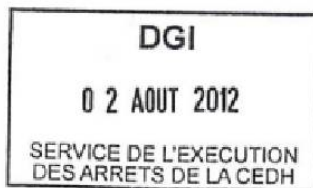
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Réunion : 1150 réunion DH (24-26 septembre 2012)

Référence du point : Communication des autorités

Communication de l'Albanie relative à l'affaire Driza contre Albanie (requête n° 33771/02) (**anglais uniquement**).

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



REPUBLIC OF ALBANIA
MINISTRY OF JUSTICE
STATE ADVOCACY
GENERAL STATE ADVOCATE

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No. 627 / Prot.
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Tirana, on 31.07.2012

IN ATT. TO:

Ms. Geneviève Mayer
Head of the Department
for the Execution of Judgments
of the European Court of Human Rights

STRASBOURG
COUNCIL OF EUROPE
67075 Cedex
FRANCE

SUBJECT-MATTER: Concerning the reforms on the properties issues in Albania

Dear Ms. Mayer,

With regard to the continuous measures taken by the Albanian Government regarding the properties problematic in Albania, we would like to let you know that the Council of Ministers of Republic of Albania has recently adopted (*in June 2012*) by the National Inter-Sectorial Strategy on the Properties. This is a comprehensive and integral document aiming to address the property issues in Albania.

We would like to underline that the problematic of the property rights in Albania is much wider than just the compensation process of final property decisions. The later process

represents only a small portion of the wider reforms in the property area. The compensation process, in its turn, must rely on other forerunning processes and measures which are conceived to be taken in the Strategy and Plan 2 that implements it. The later documents, besides tackling a series of other processes not directly linked to the compensation process as such, play a crucial role since they lay the foundations to a well-functioning compensation process in the near future and beyond.

We would like to stress, concerning both Strategy and the two Action Plans that the measures laid down in them fully concur. Plan 2 (*which implements the Strategy*) fully incorporates the measures previously foreseen in Plan 1 which covers only the compensation of final compensation decisions delivered by the Agency for Restitution and Compensation of the Properties (ARCP) as identified in Driza group cases. The later plan does not tackle other property problems/issues. Therefore, it does not constitute a comprehensive document. On the contrary the Strategy and Plan 2 do. Plan 1 was approved in 2011 to the scope to serve as temporary solution until the comprehensive National Inter-Sectorial Strategy on Properties was approved recently (*in June 2012*).

The Strategy structurally sets out the vision at the very outset. Then, the strategic purposes are laid down. There are in total 5 of them, namely: (i) complete conclusion of the process of systematic first registration process within 2013 and the creation of a digitalized immovable properties system, as well as well-functioning of the Immoveable Properties Registration Offices (IPROs), (ii) complete conclusion at national level of the processes of recognition of properties to the ex-owners, of legalization of informal constructions, of verification of property titles on the agricultural land and of freeing the houses of ex-owners from tenants settled there during the previous regime, (iii) creation of a unique compensation scheme at national level and the start of its implementation by 2013 based on the consolidated fund for in kind and monetary compensation which relies on the revised methodology and the value map of properties, (iv) the strengthen of the system of property rights and of their protection based on the standards of ECtHR and in compliance with the Inter-sectorial Strategy of the Justice, in the scope of enhancing the certainty of the property titles and of the investments over it, as well as of the land market within 2020 and (v) the modernization and improvement of the information, through the complete digitalization of the systems who keep information on immovable properties, including the maps, based on the standards of Directive INSPIRE, within 2020.

Each of the strategic purposes is subdivided in several strategic objectives. The latter are further subdivided in concrete implementation measures. Such measures fully absorb the measures foreseen in the Plan 1 already submitted to ECtHR.

In concrete terms, we try to briefly present below some correspondences between the two plans:

1. Both the action plans embody the goal for 100 % compensation;
2. Both the action plans foresee the establishment within Ministry of Justice of the Coordination Directorate, which is already established by law 55/2012 (*see point 1.1.3 of Plan 2 and point 2.1 of Plan 1*).

The scope of this directorate is mainly to coordinate the process of property reforms. It is also in charge that altogether with other state institutions identifies the financial bill for the compensation process. In order to achieve an accurate outcome as to this bill, forerunning processes are necessary. All this processes are clearly described in the Strategy and Plan 2.

For instance, the files of ARCP must be updated with all the decisions delivered in time, up to their final legal status, either such decision being challenged administratively, or judicially. Without knowing with acceptable certainty the legal status of every single decision is impossible to calculate an accurate financial bill. This update, on his turn, besides the physical gathering of all decisions (*process that is undergoing*) delivered in time from the courts, must rely on a digitalized database of ARCP. Such digitalization is part of the comprehensive process of digitalization of properties system foreseen in the Strategy. The digitalization process is complex. It includes digitalization of the archives and transactions of various state institutions such as ARCP itself, IPROs, etc., digitalization of services offered to the individuals, etc.

Another example concerns the identification and consolidation of the fund for in kind compensation. The latter is to a certain extent preceded by the completion of the verification process of the validity of property titles on the agricultural land (*distributed gratuitously as per law 7501/91*). The plots of land whose property titles will result invalid during the verification process, will revert to the state and will then be used for compensation of ex-owners.

3. Both the action plans foresee establishment of a state authority which shall prepare standardized maps to be thereafter used by various state agencies involved in the properties' issues (*see point 1.1.3 of Plan 2 and point 2.2 of Plan 1*), as well as the preparation of such standardized map. In this way the cartographic data will be exchangeable among various institution involved in the property rights reforms.

4. Both the action-plans foresee measures to enable the implementation of the definitive compensation scheme starting from 2013 (*see point 3.1.1 of Plan 2 and point 1.2 of Plan 1*).
5. Both the action plans (*albeit Plan 2 in much more detail*) foresee a series of measures to be taken in the scope of identifying and consolidating the fund for compensation in kind, process which as prescribed by law 55/2012 is to be completed by April 30, 2014.
6. Both the action plans, foresee a deep analysis of the legal framework on properties with final aim to consolidate it as much as possible and to foresee transparent and streamlined procedures (*see point 4.1.1 of the Action Plan 2 and points 3.1 and 3.2 of Plan 1*); to be mentioned herein that Plan 2 elaborates more thoroughly accordingly (*see especially point 4.1.2 of Plan 2*);
7. Both the action plans, put a particular emphasis on the need to strengthen the bailiff service (state and private one) in what concerns the execution of final decisions (*see objective 4.2 of Plan 2 and Part B of Plan 1*)

To conclude, it is evident from the above that, basically, the Action Plan dealing with Driza group cases has been fully absorbed in the Inter-Sectorial Strategy on Properties (*and the Action Plan implementing it*) which is a comprehensive and multidimensional national document.

Please find attached the National Inter-Sectorial Strategy on the Properties and the Action Plan implementing it (*in Albanian and English*). Please note that the English translation is not an official one.

Sincerely,


GENERAL STATE ADVOCATE
LEDINA MANDIA
