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**TECHNICAL PAPER**

**RISK ASSESSMENT:  
CORRUPTION IN THE ALBANIAN SYSTEM FOR THE REGISTRATION OF  
IMMOVABLE PROPERTY**

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## Acronyms and Definitions

AITPP	Agency for Inventory and Transfer of Public Immovable property
AKKP	Agency for Immovable property Restitution and Compensation ( <i>Agjencia e Kthimit dhe Kompensimit të Pronave</i> )
ALUIZNI	Agency for the Legalization, Urbanization and Integration of Informal Areas/Constructions
CoM	Council of Ministers
CoE	Council of Europe
ECHR	European Court of Human Rights
EU	European Union
<i>Hipoteka</i>	The former deeds registry for registration of urban documents
IDRA	Institute for Development and Research Alternatives
IPRO	Immovable Property Registration Office
<i>Kartela</i>	The page in the legal Register Book which is kept for each immovable property in the IPRO
KQT	Government Land Commission ( <i>Komisioni Qeveritar i Tokës</i> ) on Verification of Titles to Agricultural Land
LAMP	Land Administration and Management Project (World Bank)
OSCE	Organization for Security and Cooperation in Europe
PACA	Project Against Corruption in Albania
SIDA	Swedish International Development Agency
USAID	United States Agency for International Development
WB	World Bank

## 1 Executive Summary

The purpose of this paper is to carry out a risk assessment related to immovable property rights and immovable property registration within the framework of the Council of Europe/EU (CoE) Project Against Corruption in Albania (PACA), and to identify corresponding measures to improve the security of land rights and the transparency, accountability, and effectiveness of immovable property registration.

There have been numerous studies on corruption and perception of corruption in Albania and the Government of Albania (GoA) has implemented anti-corruption initiatives. Several reports show improvements in the fight against corruption, including the Transparency International CPI from 2.5 in 2005 to 3.4 in 2008. However, the perception of corruption has remained high for institutions and professionals that deal with immovable property. The Immovable Property Registration Office (IPRO) was added as a specific category to the National Survey on Perception of Corruption in the 2009 survey. In addition, a SIDA survey found that the frequency of bribe paying was highest in sectors where the public has direct contact with public sector employees. Other studies also reflect the public distrust in the system.

Albania has gone through a significant transition over the past two decades especially related to land reform and land administration. Law 7843, dated 13.07.1994, On Registration of Immovable Property, created an integrated mapping and registration system under the Immovable Property Registration Office. The IPRO combined immovable property related maps and documents previously held by several other agencies and institutions including the cadastre offices and the *Hipoteka*.

One of the main impediments to more efficient and effective land administration in Albania is the overall institutional responsibility for immovable property. There are several institutions responsible for issuing immovable property documentation and no overall oversight authority for the main institutions involved. Another impediment is the fact that there is no strategic land policy or strategy for the country. Since IPRO, through the First Registration process, is the institution that filters the various documents associated with immovable property privatization and market transactions it is often blamed for the problems when it identifies a discrepancy and refuses registration. The IPRO must reject inaccurate, incomplete or conflicting immovable property documents and the fault lies more with the institutions and commissions issuing the documents.

The basic set of legislation for property privatization and the underlying land administration system has been adopted. Law 7843 follows international standards and addresses all the matters that are necessary. There are, however, some items that could be improved or clarified.

Solving the many problems related to immovable property ownership and land administration that increase the risk of corruption requires a holistic and comprehensive

range of interventions at the policy, legal, regulatory and institutional level. Most of all, it requires **political will**. The current GoA has shown it is capable of reforms that reduce the tendencies for corruption such as the recent reforms in procurement, business registration and tax collection. The same commitment and leadership should be aimed at property issues.

Second, it is of the utmost importance for the GoA to address and resolve the **institutional and land policy/strategy** issues. Without a clearly defined vision or an institutional structure that has effective coordination and oversight, the many issues related to property will remain unresolved. At a minimum, the relationship between IPRO, ALUIZNI and AKKP needs to be better defined and carefully monitored. Third, the **legal and regulatory framework** needs improvement. Although Law 7843 generally meets international standards for a registration system, the law should be revised to improve provisions related to the structure and status of IPRO, facilitating First Registration, improving title security and introducing new technology. Related to this issue is the need to improve the relationship and communication between MoJ and IPRO, with the MoJ facilitating the resolution of some important questions such as the approval of the pending Regulations and assisting in solutions to the problems for First Registration such as the annulment of parts of CoM Instructions 1 and 4. Fourth, **increasing transparency** in IPRO functions and data will help reduce the opportunities for corruption. The single most important action toward an open and transparent system is to complete First Registration. The IPRO is leading completion of First Registration in urban and coastal areas through World Bank and EU funded projects and more focus and commitment to implementing the projects in a timely and effective manner would improve the results. Fifth, both the GoA and IPRO need to review, adopt and adhere to the **IPRO Business Plan**. In conjunction with an overall land strategy, an IPRO Business Plan will provide more specific and targeted guidance for the development and investment in IPRO. It addresses issues such as (self) financing, IT needs and investment, future service provision and staff capacity building. Sixth, **increasing the professionalism and capacity of staff** should be a priority for IPRO and MoJ directors. Risks for corruption, or the perception of corruption, that comes from arbitrary decision making are reduced when state employees are recruited under open and transparent conditions and provided with adequate salaries, training and a reason to have pride in the work they do and the institution they represent. The consequences must be equally clear and severe for those who do not meet expectations or follow the rules and regulations. Specific needs for the IPRO include:

- Implement a comprehensive and on-going Training program
- Initiate open and competitive recruitment for all staff, including registrars
- Define status of IPRO employees and review the salary structure
- Define qualifications and introduce a certification process for key positions
- Introduce and enforce a Code of Ethics

Seventh, in addition to focusing on IPRO staff, **improving customer service** is another necessary step for reducing the risks of corruption. Serious implementation of the IPRO Modernization Strategy is far behind schedule.

- Make Data Quality improvement a priority
- Upgrade IT infrastructure
- Increase accessibility of data: on-line access to scanned *hipoteka* books and documents, direct access to IPRO data for key intuitions such as prosecutors, bailiffs, courts, urban planning offices, etc.
- Improve communication with the public, government officials and state institutions
- Provide training and awareness raising programs for land market professionals and other users of the system, including government officials and state institutions and agencies

## 2 Introduction

### 2.1 Objectives and Methodology

The purpose of this paper is to carry out a risk assessment related to immovable property rights and registration within the framework of the Council of Europe's Project Against Corruption in Albania (PACA) and to identify corresponding measures to improve the security of land rights and the transparency, accountability, and effectiveness of immovable property registration. This assessment builds on the "Preliminary Study on Risks of Corruption in the Albanian System for Registration of Immovable Property"<sup>1</sup> and is not intended to be a complete or specific analysis on corruption related to the Immovable Property Registration Offices (IPRO). The assessment will, however, attempt to identify legal, institutional and structural gaps/overlaps that lead to inefficient and inconsistent land administration<sup>2</sup> that could allow corrupt practices. The report will also make concrete recommendations on how to improve the situation.

The Terms of Reference for this assignment require the author to conduct a risk assessment to identify corruption risks in the procedures and system for registration of immovable property, including the following areas:

- IPRO's ability to coordinate with other agencies that deal with different facets of immovable property registration such as the Restitution Agency and ALUIZNI;

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<sup>1</sup> Jazaj, Sonila: Preliminary Study on Risks of Corruption in the Albanian System for Registration of Immovable Property, Council of Europe PACA Project, July, 2010.

<sup>2</sup> 'Land administration' is a standard term used by land professionals and for the purposes of this report will be used to cover the spheres of immovable property privatization, registration and management.

- The provision by other agencies of documentation needed by applicants in order to make applications for immovable property registration
- The procedures and methods used by IPRO for the processing of requests for registration;
- The operation of other institutions including the courts in the case of appeals against immovable property registration decisions or disputes over registration
- The handling by IPRO of execution orders coming from the Bailiff Office;
- The role played by notaries in immovable property registration, and the handling by IPRO of the relations with public notaries;

The methodology used for this assessment was i) a desk study of laws, statistics, and reports relevant to the immovable property privatization and registration process in Albania, ii) a review of studies and statistics related to corruption and anti-corruption initiatives in Albania, and iii) interviews with representatives of institutions that deal with immovable property issues and other relevant stakeholders.

## **2.2 Corruption and Perception of Corruption with Immovable property**

There have been numerous studies on corruption and perception of corruption in Albania that include information related to land administration. The Government of Albania (GoA) has implemented several anti-corruption initiatives and some reports show improvements in the fight against corruption, including:

- Transparency International CPI from 2.5 in 2005 to 3.4 in 2008
- IDRA/USAID Survey victimization from corruption decreased from 1.7 in 2005 to 1.29<sup>3</sup>.

However, the perception of corruption remains high for institutions and professionals that deal with immovable property. Significantly, the IPRO was added as a specific category to the National Survey on Perception of Corruption in the 2009 survey<sup>4</sup> where, on a scale of 1 (very honest) to 100 (very corrupt), the IPRO scored 69.3. In the same survey, judges scored 74.6. In addition, a SIDA survey found that the frequency of bribe paying was highest in sectors where the public has direct contact with public sector employees including the IPRO.<sup>5</sup> The EU cites that “the lack of transparency and the unclear legal basis in the area of property rights has favoured corrupt practices in this sector.”<sup>6</sup> Another specific analysis of

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<sup>3</sup> Helena Papa, Government of Albania- Fight Corruption and Govern Transparently, presentation from Department of Internal Administrative Control and Anti-corruption. 2010.

<sup>4</sup> Corruption in Albania: Perception and Experience Survey 2009, prepared by IDRA Albania.

<sup>5</sup> SIDA Albania Anti-Corruption Study, December, 2007, page 56.

<sup>6</sup> Commission of the European Communities, Albania 2009 Progress Report, Brussels, 2009, page 12.

corruption related to immovable property highlights the lack of institutional transparency and other legal and regulatory problems.<sup>7</sup>

The Internal Administrative Control and Anti-corruption Unit under the Council of Ministers reports that approximately 70% of the complaints presented to its office relate to immovable property issues from the Agency for Immoveable Property Restitution and Compensation (AKKP)<sup>8</sup>, the Agency for the Legalization, Urbanization and Integration of Informal Areas/Constructions (ALUIZNI) and the IPRO.<sup>9</sup>

Thus, while the GoA has made progress in combating corruption and the perception of corruption, especially under initiatives for procurement, business registration and tax collection there needs to be more focus and remedial action taken on immovable property related issues. The failure to do so leads to lack of trust in the system, despite efforts to improve IPRO function and image.

### **2.3 Overview of Immoveable Property Rights and Registration**

Over the past two decades Albania has made significant steps toward the introduction and development of a market economy by embarking on reforms throughout all sectors and institutions. One of the basic building blocks of the new economy has been the land reform process that has resulted in extensive private ownership and a vibrant land market, supported by the IPRO.

#### **2.3.1 Legal Framework for Immoveable Property Privatization**

The historical context for land reform provides important information for the situation property owners face today. In 1944 the government started campaigns of agricultural land consolidation into cooperatives and state farms as well as nationalization of other private immovable property. These campaigns culminated with the 1976 Constitution which declared all immovable property under state ownership. After the death of Enver Hoxha in 1985, the strict socialist doctrine began to decline and new elections were announced in 1991. Subsequently, the privatization of immovable property began. The privatization process proceeded at a rapid pace with the passage and implementation of several substantive laws:

- Law 7501, dated 19.07.1991, On Land: The first step in privatization was Law 7501 which distributed agricultural land free of charge to families living on the ex-

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<sup>7</sup> Transparency International- Albania-CAO: Corruption with Immoveable Property, an Impediment to Sustainable Development, March, 2009.

<sup>8</sup> For the purposes of this report the Albanian acronym will be used for the *Agjencia e Kthimit dhe Kompensimit të Pronave*.

<sup>9</sup> Interview with Mr. Ivi Kaso, December 2010.



cooperatives and state farms. Thus, agricultural land was not restituted to the former (pre-1946) owners. Today, Law 7501 remains one of the most controversial pieces of legislation in Albania and continues to undermine social stability and economic development due to the continued failure of the government to resolve the restitution/compensation issue.

- Law 7652, dated 23.12.1992, On Privatization of State Owned Housing: The second step in the privatization process, Law 7652, allowed adult occupants of state-owned housing to privatize their flats for a nominal price. Although the occupants were under no obligation to privatize their residences more than 95% chose to do so.
- Law 7512, dated 10.08.1991, On Sanctioning and Protection of Private Immovable property, Free Initiative and Independent Private Activities: This law facilitated the sale of business sites in 1991-92 and has subsequently been devolved to municipalities/regions that have the right to privatize certain categories of land. The law also covers the privatization of state owned enterprises.
- Laws 7698, dated 15.04.1993, On Restitution and Compensation of Properties to Former Owners and 7699, On Compensation of Former Owners of Agricultural land, replaced by Law 9235, dated 29.07.2004, On Restitution and Compensation of Immovable property, as amended: The third main component in the privatization process was the restitution and compensation of immovable property confiscated by the state after 1945. The various laws for restitution and compensation are complex and at times ambiguous. The most important aspect of the laws is that they pertain to urban land or 'land within the yellow line' expropriated after 29 November, 1944. Due to the early policy decision to privatize agricultural land to the workers of the cooperatives and state farms under Law 7501, there is no right to restitution of agricultural land; rather former owners are to receive compensation. Under the 1998 Constitution, November, 2001 was set as the deadline for resolving the issue. However, the deadline expired and new legislation in 2004 failed to settle the issue. The new law has actually increased the burden on the state by defining that compensation will be calculated at the "current market value". No other country in the region has set this standard for compensation and the failure to set a realistic and affordable program has allowed the issue to continue to disrupt society, hinder economic development and invade politics.
- Law 9482, dated 3 April 2006, On Legalization, Urbanization and Integration of Illegal Constructions, as amended: Law 9482 was adopted in order to legalize illegal constructions that meet the defined criteria, to transfer ownership of the land on which illegal constructions are built and to develop urban plans for informal

settlements. Law 9482 has been subject to several Constitutional Court challenges, including the concept of legalization itself. The Constitutional Court declared that the process of legalization meets the standard of 'in the public interest' and the policy decision to legally transfer land to the illegal occupants is permissible.<sup>10</sup>

The brief summary above does not cover the complexities and nuances of the privatization legislation and is used simply to provide basic background for this assessment. There are numerous reports available that offer more detail and analysis of land reform legislation.<sup>11</sup>

### 2.3.2 Legal Framework for IPRO

Law 7843, dated 13.07.1994, On Immovable Property Registration created an integrated mapping and registration system under the IPRO. The IPRO combined immovable property related maps and documents previously held by several other agencies and institutions including the cadastre offices and the *Hipoteka*.<sup>12</sup> The theory behind an integrated system, also known as a 'title registration system', differs from the old *Hipoteka* system and follows five basic principles:

- The "mirror" principle: the information about a immovable property which is contained in the IPRO should be a reflection of what really exists;
- The "curtain" principle: the immovable property registers (kartelas) should show information about ownership and other interests that does not require further verification. Anyone searching the title should therefore be able to rely solely on the information held by the IPRO;
- The "certainty" principle: there is a guarantee that the information on the kartela is correct and if someone is damaged by incorrect information, he/she can be compensated by the State;
- The "accessibility" principle: the costs of access to information in the district IPRO should be minimized so that any person regardless of their wealth or location, can have easy access to the registration system; and

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<sup>10</sup> Constitutional Court Decision 35, dated 10.10.2007.

<sup>11</sup> World Bank, Status of Land Reform and Property Markets in Albania, World Bank, Tirana, 2006; Harold Lemel (ed), Rural Property and Economy in Post-Communist Albania, Berghan Books, 2000; Clarissa de Waal "Post-socialist Property Rights and Wrongs in Albania: An Ethnography of Agrarian Change", *Conservation and Society*, 2004; COHRE (Centre on Housing Rights and Evictions) *Albania: Resolving the Question of Land and Property Restitution and Compensation*, report to the World Bank and OSCE, 2002; and the series of Working Papers published by the University of Wisconsin- Land Tenure Centre under the USAID Land Reform and Market Development Project in Albania (1994-2001).

<sup>12</sup> The *Hipoteka* was a deeds based registry, mainly for urban housing, which was shut under Enver Hoxha but re-opened during the early privatization process. *Hipoteka* records were transferred to IPRO in 1999.

- The “comprehensive” principle: all immovable property, whether privately and publicly owned, urban and rural is reflected in the IPRO.

As noted in the Preliminary Study<sup>13</sup>, this model of registration system was selected for the following four reasons:

- It protects the rights of owners of immovable properties by providing a strong and reliable information on ownership titles and other interests relating to immovable property;
- It is simple and inexpensive to maintain and administer;
- The public is provided with the necessary information on buying, selling and other real rights over immovable property thus providing the basis for a market oriented economy; and
- It allows the creation of a Geographic Information System (GIS) with information on the immovable property as an integral and essential part.

Albania has more than 4.5 million properties divided into 36 districts and roughly 3,000 cadastral zones. Each district has a registration office and registrar who oversees the registry for his/her zone. The IPRO is headed by the Chief Registrar who is appointed by the Minister of Justice.

The IPRO register consists of two legal documents for each immovable property: the Registration Index Map (RIM) and the *kartela* (legal register). All immovable properties have a *kartela* that indicates the name of the owner, type of ownership, physical location and size of the immovable property and also indicates any encumbrances or limitations on transfer such as easements, mortgages, leases or court disputes. The RIM shows the boundaries and relative location of the property within a cadastral zone.

As with the summary provided for land reform legislation above, there are several other reports that can provide the reader with more detail on the development and principles of the IPRO.<sup>14</sup>

### 2.3.3 Institutional Framework for Immovable Property Rights and Registration

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<sup>13</sup> Jazaj, Sonila: Preliminary Study on Risks of Corruption in the Albanian System for Registration of Immovable Property, page 3.

<sup>14</sup> J. David Stanfield. and Sonila Jazo, “The Evolution of Immovable Property Registration in Albania”, paper prepared for the International Conference on the Real Estate Development in Albania, 2008; J. David Stanfield, “The Creation of an Immovable Property Registration System in Albania”, paper prepared for the Symposium on Land Administration in Post Conflict Areas organised by the International Federation of Surveyors FIG and UN-Habitat, 2004; and the series of Working Papers published by the University of Wisconsin- Land Tenure Center under the USAID Land Reform and Market Development Project in Albania (1994-2001).

Privatization, registration and administration of immovable property are affected by numerous ministries and subordinate institutions and commissions, local government units and courts. Of particular importance for the current issues surrounding immovable property ownership and registration are the interactions and relationships between five institutions:

- IPRO: supplies mapping and legal information to other institutions and registers title and other rights issued by other institutions;
- ALUIZNI: responsible for the nation-wide legalization process and carries out survey, mapping and legal documentation functions to produce the documents necessary for transfer of title and registration in IPRO;
- AKKP: responsible for issuing decisions on restitution/compensation of immovable property and administering the compensation fund; and
- KQT (Commission on Verification of Titles to Agricultural Land): responsible under certain conditions to review agricultural land allocations with the power to overturn land commission decisions that, in many cases, are already legally registered in the IPRO; and
- Courts: review property related claims and appeals against institutions and private individuals with the power to compel changes to IPRO data.

### **3 Risks of Corruption in Immovable Property Registration**

#### **3.1 Lack of Overall Institutional Responsibility for Immovable Property issues**

One of the main impediments to more efficient and effective land administration in Albania is the overall institutional responsibility for immovable property. As noted in section 3.6 above there are several institutions responsible for issuing immovable property documentation. The diagram on page 14 shows the complexity of this institutional division.<sup>15</sup> These various institutions and agencies work independently from each other, often in parallel and sometimes in outright conflict. There is no central oversight authority to lead policy development, coordination or communication. Each institution is responsible for signing agreements with other institutions in order to define working relationships. The problems are particularly true for IPRO, ALUIZNI and AKKP because each institution has various levels and formats for legal and mapping information, with incompatible technology to easily transfer and use each other's data.

Without a better mechanism for coordinating and harmonizing the work of the various institutions dealing with immovable property, the current situation will continue to generate

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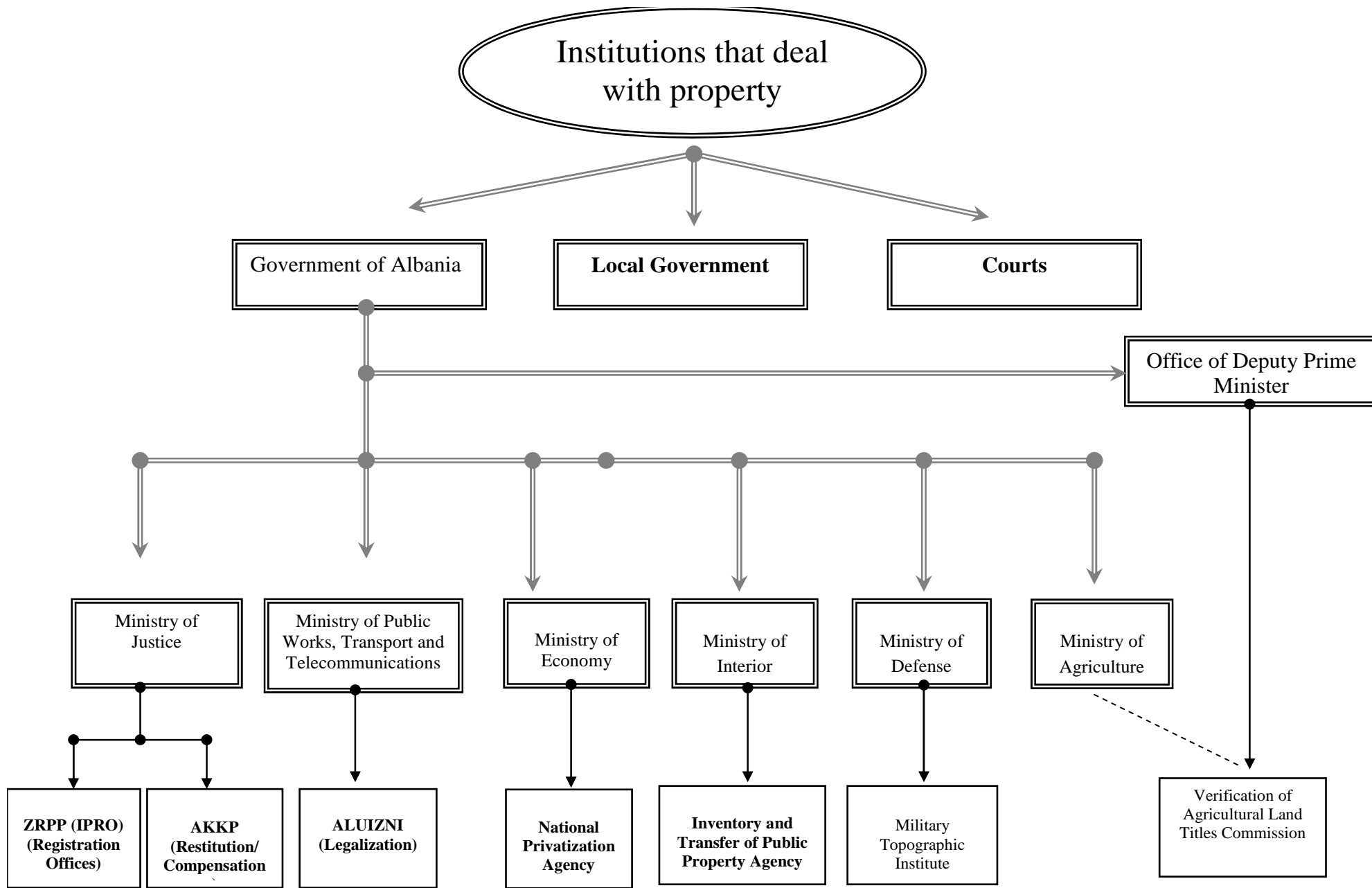
<sup>15</sup> Kelm, Kathrine, Security of Land Titles Study, World Bank LAMP, 2009, page 20.

a large number of immovable property conflicts, to increase costs for market functions and to erode the already sceptical public perception of the IPRO.

### **3.2 Lack of Strategy or Vision**

Another impediment to effective land administration is the fact that there is no overall land policy or strategy for the country. A land policy vision for the country and the resolution of problems facing property owners should be a priority. Making property issues a priority will be necessary for interactions with the European Court of Human Rights (ECHR) and for EU accession discussions.

In 2008, the government began an initial discussion of immovable property related issues in its draft Inter-Sectoral Strategy Reform in the Field of Property Rights. However, this document treats the various issues with each institution independently and fails to define how improvements will be made in overall coordination, harmonization and cooperation. A seminar to discuss the draft strategy was held with the relevant government institutions and donor representatives in late 2008 where these issues were raised but no further action has been taken.



### 3.3 The provision by other agencies of documentation for immovable property registration

In addition to the institutional issues, lack of strategy and problems with data quality noted above, there are problems with data sharing and documentation between institutions. For example, both IPRO and AKKP have trouble accepting and integrating the high quality geographic data that ALUIZNI produces, either due to lack of capacity, appropriate procedures or differences in technology. AKKP has to rely on legal and mapping data submitted by the claimants whereas ALUIZNI was equipped with the latest technology and uses it to produce the information for its clients. In many cases, when documents from institutions and agencies are submitted to IPRO, they do not meet registration requirements or they conflict with documents issued by other agencies for the same immovable property.

Since IPRO, through the First Registration process<sup>16</sup>, is the institution that filters the various documents associated with immovable property privatization and market transactions it is often blamed for the problems when it identifies a discrepancy and refuses registration. The IPRO becomes the messenger of bad news for inaccurate, incomplete or conflicting immovable property documents when the fault actually lies more with the various institutions and commissions issuing the documents. This problem is particularly true for early AKKP decisions due to missing information such as a map for the property, boundary information, defined area etc. that are needed for registration. It is also not unusual for courts to issue decisions that do not meet registration requirements (see section 3.8 for more detail on court decisions).

Also, the procedure for communication and interaction between IPRO and other agencies is problematic. While the Civil Code clearly states that institutions and courts are required to submit decisions and documents directly to the IPRO<sup>17</sup>, there is no procedure in place to implement this requirement. As a result, citizens must handle the documents, to make multiple trips between agencies and the IPRO, and to

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<sup>16</sup> First Registration is the process of legally registering immovable property in the IPRO. It includes the creation of the RIM and filling out a *kartela* for each immovable property, with a 45 day public display intended to serve as a public review process. First Registration happens in two ways: sporadic registration where the mapping and legal information is collected and analyzed as people present applications for registration or transfer of a immovable property, or systematic registration where the mapping and registration is done systematically in a defined area (generally by cadastral zone). The IPRO is actively engaging in the completion of systematic First Registration in urban and coastal areas with the assistance of the World Bank and the EU/OSCE.

<sup>17</sup> Civil Code Article 196 states: "Courts, notaries, court bailiffs and other state agencies are obliged to send for registration to the responsible registration office copies, of the decision or act which contain the acquisition, recognition, changing, or terminating of ownership of immovable property, or a real right over that property, or the declaration of invalidity of juridical actions for transferring of the ownership which is previously registered"

deal directly with IPRO staff. As noted in the SIDA survey referenced in section 3.2, risk of corruption increases in cases where the public has frequent personal interactions with state institutions.

Overall, while the various processes for immovable property privatization and registration are moving ahead, they do so inefficiently and non-transparently.

### 3.4 The procedures and methods used by IPRO for processing requests for registration;

In the 2009 World Bank Doing Business Report Albania ranks number 62 in the 'registration of property' category<sup>18</sup>. In 2010, Albania drops to number 70, as shown in the chart below<sup>19</sup>.

Country	Ranking 2009	Ranking 2010
Hungary	57	61
Macedonia	88	63
<b>Albania</b>	<b>62</b>	<b>70</b>
Croatia	109	109
Montenegro	123	131
Bosnia-Herzegovina	144	139

Also, in the 2010 survey Albania was excluded from the list of top 20 performers in registering property while 9 other countries from the region made it into the list.<sup>20</sup> Albania is dropping in rankings as other registration agencies in the region improve the efficiency and reliability of their systems. For example, the Macedonian registration agency recently introduced payment by debit/credit card directly at the registry service window, thereby eliminating cash payments and reducing the time and inconvenience of making payments in a bank.

Unfortunately the IPRO development has remained relatively stagnant and planned reforms are slow in implementation. Some of the problems such as the institutional and strategy questions discussed in sections 4.1 and 4.2 are not under the direct responsibility of IPRO. Other reforms, however, are within IPRO purview or influence and, if implemented, would increase the efficiency and effectiveness of the institution with the follow-on effect of increasing the quality of the services provided

<sup>18</sup> World Bank, *Doing Business 2009*, Washington DC, 2008.

<sup>19</sup> World Bank, *Doing Business 2010*, Washington DC, 2009.

<sup>20</sup> *Ibid.* The list of countries that were included in the top 20 are: (2) Georgia, (4) Lithuania, (5) Armenia, (9) Azerbaijan, (10) Belarus, (11) Slovakia, (13) Estonia, (17) Moldova and (19) Kyrgyzstan.



and the public's perception. The next section will look at the internal workings of IPRO and highlight the impediments to improving the institution.

### 3.5 Legal and Regulatory Framework

The basic set of legislation for property privatization and the underlying land administration system has been adopted. Law 7843, "On Registration of Immovable Property", follows international standards and addresses all the matters that are necessary. There are, however, some items that could be improved or clarified, including:

- Status of IPRO

The status of IPRO and its role in overall land administration needs better clarification. As Albania moves toward EU accession details such as standards for geographic information and institutional responsibility will be required. For example, in most EU countries, the registration institution is a key player in the development and maintenance for the National Spatial Data Infrastructure (NSDI)<sup>21</sup> and meeting the requirements of the INSPIRE Directive<sup>22</sup>. In Albania, the IPRO is only a nominal player in these initiatives when it should be a leader.

In addition, serious consideration has to be given to the proposals set forth in the IPRO Business Plan to allow the institution to move toward self-financing, whether in whole or in part. The lack of investment in IT, data quality and professional staff development can be directly linked to the current constraints of state budget funding. While IPRO has been through several iterations of a Business Plan over the past decade, the Business Plan has not been a driving force for institutional management, planning or investment.

Finally, with the 2006 amendments to Law 7843 that placed the IPRO under the Ministry of Justice (it was previously under the Prime Minister's Office) the roles, relationships, competencies and subordination of the Prime Minister, the Minister of Justice, Chief Registrar and local registrars remain ambiguous or difficult to administer. Other issues within the law include:

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<sup>21</sup> EuroGeographics Vision Statement on Cadastre and Land Registration in Europe 2012 states: 'Cadastre and Land Registry organizations in Europe to 'provide state of the art services to the Real Property and land information market within the e-government framework by cooperating in the building of National and European Spatial Data Infrastructures'.

<sup>22</sup> The EU INSPIRE Directive provides a standard platform for collection, provision and maintenance of geographic data to be met by EU member states.

- Article 24 on First Registration:

First Registration is perhaps the single most important step in creating an efficient and transparent land administration system. Article 24 of Law 7843 provides the legal requirements and process for registering documents into the IPRO. In 2007, amendments were made to Article 24 in an attempt to clarify what documents are valid for registration and the procedures to use where post-1991 privatization documents are not available. While the changes improved some aspects of First Registration for others it has in fact unnecessarily increased the burden on owners, especially owners of old, established urban property such as 60+ year old villas in Korca and Tirana. The lack of clear legislation to prove (undisputed) ownership increases the frustration of owners and opens the door for subjective decision making by IPRO staff.

- Articles 49-59 for the Guarantee Fund

Law 7843 includes the principle of “certainty”, meaning there is (at least theoretically) a guarantee that the information registered in the IPRO is correct and if someone is damaged by incorrect information he/she will be compensated by the state. To date, no regulations for an indemnification fund have been approved, likely due to the uncertainty surrounding the reliability and quality of records held in the IPRO, the unknown number of potential claims, the funding source and the worry about the cost of setting up such a fund.

However, those concerns are not sufficient to avoid addressing a fundamental component of land tenure security, a well functioning property market and trust in the system. Another way to look at the issue is what are the implications of not establishing an indemnification fund? First, the public perception of IPRO and its staff are generally not favourable. Setting up the indemnification fund presents a positive public relations message about what steps are being taken to improve the system. Second, not clarifying the principles of the indemnification fund could allow claimants to file for damages usually excluded in more comprehensive title registration legislation such as first registration information and boundary/area problems. Third, claims adjudicated on an *ad hoc* basis and a strong defensive position from IPRO further reduces the public’s confidence in the IPRO and undermines its credibility. It is better to actively address the development of the assurance fund than to defend claims on a case by case basis without clear guidelines for the courts to follow (especially restrictions or limitations to indemnity) in adjudicating the claim.

- Status of digital data

As new technology is introduced, especially related to the use and maintenance of digital data, the provisions in Law 7843 need to be revised to reflect standards for e-government, digital signatures, data sharing, digital archiving etc.

- IPRO Regulations

Every government institution and agency requires standard regulations, instructions and manuals on how to provide services and process the work load. This requirement is especially true for land registries where there are complicated legal documents and complex survey/mapping technical requirements. The IPRO is currently operating under Regulations adopted in 1999. New and revised Regulations were drafted in 2008 yet approval by the Ministry of Justice remains pending.

Further impediments to the adoption of comprehensive and standard procedures for the 36 IPRO offices are the court decisions related to Council of Ministers (CoM) Instructions 1<sup>23</sup> and 4<sup>24</sup>. CoM Instructions 1 and 4 were adopted to provide guidance to IPRO on how to process complicated registrations such as overlapping claims and erasure of data on the *kartela*. For example, the instructions state that the registrar shall register ownership to the applicant who first presents legally valid documents for registration, as per the priority right under Law 7843, article 10 "Priority of Registration". Instruction 4 required the cancelling (un-registration) of any document that was not registered with the priority right. This is a standard rule in title registration systems and supports the principles outlined in section 3.2. Provisions in both Instructions have been struck down by lower courts and there has been no new guidance provided on how to deal with these difficult cases.<sup>25</sup> As a result, the registration process is negatively affected because IPRO staff and First Registration contractors have no clear procedures to follow, either outright preventing

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<sup>23</sup> Council of Ministers Instruction 1, dated 31.01.2007, 'Procedures for Registration in the Immovable Property Registration Offices'.

<sup>24</sup> Council of Ministers Instruction 4, dated 21.11.2007, "On Approval of Cancelling Registrations made against the Law, and those that Create Overlaps in the IPRO" was approved in order to provide legal guidance to registrars on how to address problematic registrations. The instruction states that the registrar shall order the cancelling (un-registration) of a document that was not registered as the priority right under Law 7843, article 10 "Priority of Registration".

<sup>25</sup> A case regarding the validity of Instruction 1 is before the Constitution Court while the High Council of Justice issued a decision striking down key provisions of Instruction 4.

registration of clear title or opening up the process to subjective decision making and ownership disputes. As an example, approximately 50% of new (post-1991) buildings cannot be legally registered due to unresolved problems with land allocation or ownership and urban planning documentation. This leaves tens of thousands of new apartment, home and business owners without legal title to their property. Since IPRO can only administer legally registered property, informal transactions are frequent. As it is well known, informal sector actions increase the likelihood of corruption or other illegal actions.

The current working relationship between IPRO and the MoJ that is necessary to discuss and resolve the critical registration issues appears to be hindered by limited communication, cooperation and capacity from both institutions.

### **3.6 Data Quality**

One of the major issues facing both state and private users of the IPRO is the quality of data, especially for the Registration Index Map (RIM). The geographic data is reported to be very poor in many parts of the country and it is common for maps to have significant errors. A large percentage of IPRO maps are considered unreliable; in many cases the map sheets do not match up, district offices use multiple paper maps for updating, the paper maps are severely degraded, updates are not kept in digital form, etc. Some legal data, too, is said to be questionable and the digital files have not been updated. In some offices, IPRO staff have reverted to using the old *hipoteka* files and books for registered areas thereby increasing insecurity of title and degrading the IPRO system.

In 2005 the IPRO approved a Modernization Strategy that includes IT, Completion of First Registration and data improvement components. The strategy outlines automation of services, digitalization of legal and mapping data, and related legal and regulatory amendments. The Modernization Strategy is supported by the World Bank- funded Land Administration and Management Project (LAMP). However, implementation of the strategy is behind schedule, resulting in further degradation of the services and quality of data provided by IPRO. In some cases the failure to implement the strategy in a timely manner has been a lack of capacity and initiative from IPRO, in other cases IPRO has to wait for other decisions or support from the government. One example is the IT system for IPRO where the GoA is still discussing the national policy whether to use open source or Oracle software for government systems. A decision must be made before the technical development can continue. Meanwhile, IPRO continues to operate using outdated and inaccurate manual data and processes.

### 3.7 Professionalism of Staff

Another problem preventing a well-functioning registration institution but which has received less attention or acknowledgement is the professionalism of staff. These problems can be attributed to opaque recruitment, ambiguous status of IPRO staff, no clear requirement for qualifications or certification of key staff, and lack of training.

There are limited guidelines or standards as to qualifications for the hiring process or a professional certification process for key positions. Furthermore, the exact status of IPRO staff is unclear; they are not civil servants but are hired within the limited government salary structure, a point which is particularly problematic as IPRO attempts to develop and use new technologies for mapping and registration. At one point, much of the staff was hired under 3 month contracts which undermined the integrity and professionalism of services and work products.

Since there are no clear hiring and firing guidelines, Code of Ethics or performance standards, IPRO employees lack a workplace environment where expectations and processes are clear and consistent. Employees need a positive atmosphere where honesty, efficiency and professionalism are rewarded. Conversely, the consequences must be equally clear and severe for those who do not meet expectations or who engage in dishonest practises. One prominent case led by the Tirana Prosecutor's office has set an important precedent for prosecution of IPRO staff. In 2008, three IPRO employees were investigated, arrested and found guilty of illegally selling information from the *hipoteka* archive.<sup>26</sup> The arrest and conviction is said to have had an effect throughout the IPRO although other cases brought against IPRO staff in other district offices have been dismissed because of a lack of understanding about how IPRO works or a failure to meet criminal procedure requirements.

There has been very limited training of IPRO staff since 2001. Due to the high turnover of staff, the majority has had no training or orientation whatsoever. An IPRO Training Strategy was developed in 2008 but has yet to be implemented. Training and awareness activities for government officials, state institutions and professional users of the system are also absent. One of the effects of the lack of training is the misunderstanding of staff, other land market professionals and state users about the difference between the old *hipoteka* (deeds) system and the IPRO (title system) and how registration services should work. The lack of communication and training increases the inefficiency and subjectivity in the services provided to clients as well as the clients' misunderstandings or confusion about the services IPRO can provide. Nevertheless, IPRO has an awareness raising activity and is trying to

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<sup>26</sup> Meeting with Mr Gantjan Osmani, Tirana Prosecutor's Office, November, 2010.

improve collaboration with the institution that are in charge of monitoring and control.

### **3.8 The operation of other institutions including the courts**

#### **3.8.1 Courts in Albania**

While there are undoubtedly cases where Registrars and IPRO staff have refused registration without apparent justification, there are several cases where IPRO is justified in its refusal.

One of the main problems identified by IPRO legal staff is that decisions from institutions and courts are often not based on current IPRO information. In adjudicating a case, the court should request a “refreshed property certificate” that provides up-to-date information from the *kartela* and RIM. However, judges often fail to make this necessary inquiry from IPRO. As a result, the court issues a decision that does not take into account all interested parties, as required by Civil Code article 223, or deals with property that is not defined on the RIM or *kartela*. When the decision is presented to IPRO for registration, the registrar has to refuse registration because it infringes on other people’s rights or involves an unidentifiable property.

Other examples of common problems with court decisions are summarized below:

- Ownership claims based on *Vertetim i Faktit*

A common and problematic document is the *Vertetim i Faktit* (ViF) court decision. A ViF is a declaratory judgment issued by a court, a simple declaration of ownership. A person who builds a house or building petitions the court to verify that he/she is the builder and therefore the owner. Originally, this declaration was used to confirm ownership after a person presented all legally required documents such as proof of ownership for the land, building permits and the final building completion certificate. It was a way to consolidate all of the various permits and documents to facilitate registration in the old *hipoteka*.

However, this court process was abused and ViF were issued without any of the other supporting documentation. The majority of ViF found in the *hipoteka* archives is the result of people occupying state land, building illegally, obtaining a ViF from the court and finally receiving a Certificate from the old *hipoteka* office. Article 193 of the 1994 Civil Code outlawed the use of ViF as a means of ownership registration. However, courts continued to issue ViF without the other necessary supporting documents and notaries then helped their clients circumvent the law by hiding a ViF origin behind gift contracts or multiple and confusing sales contracts.

The IPRO, following the Civil Code and registration law, has refused registration of these documents, leading to numerous court cases. The IPRO legal staff noted that the first case IPRO has won in a first instance court for ViF was (belatedly) in Durres in 2010.<sup>27</sup>

- Order to register when the institution that issued the ownership document was not authorized under the law to privatize the immovable property

There are over 40 cases in the city of Saranda where the Municipality 'sold' urban land to citizens when it did not have the legal authority to do so.<sup>28</sup> Thus, IPRO has refused registration because the origin of ownership is an illegal privatization. The claimants have taken the IPRO to court for refusal of registration and the courts have found in favour of the plaintiffs. IPRO continues to refuse registration, putting the registrar in conflict with citizens, the Bailiffs office and the courts. However, in this case, the registrar is following the law and protecting the integrity of the privatization process and the registration system. In other cities there are numerous examples of cases where claimants have claimed property against the Municipality/*Komuna* (called '*me pale kundershitare bashkine*') when the Municipality is not the owner and does not attend the court session resulting in a decision in favour of the plaintiff. These examples have led to a reduction in the state and public property inventory and also a reduction in the amount of property available for the compensation process led by AKKP.

- Order to register clearly infringes on public immovable property

There are cases where court decisions and subsequent execution orders and intervention from the Bailiffs office involve the IPRO refusal of registration due to the violation or illegal use of public property. A good example is a case in Mat where the registrar has refused registration because the claimant built an illegal building on school property.<sup>29</sup> The urban planning office confirmed the building is illegal, nevertheless the court ordered the IPRO to issue an ownership certificate for the building and land. In addition, the registrar was subject to penal action for the refusal, although he was later found not guilty. This case is an extreme and absurd example of incorrect court decisions but, more than 3 years later, the issue remains

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<sup>27</sup> Cankja v. IPRO, Durres District Court, Decision 11-2010-4901.

<sup>28</sup> An example of the Saranda case is Ngjeqari v. IPRO Saranda, Saranda District Court Decision 23-2010-1217, 13.07.2010.

<sup>29</sup> Abazi v. IPRO Mat, Mat District Court Decision 305, 28.06.2008.

unresolved and the registrar is still officially in violation of the court and Bailiff's office orders.

The IPRO has limited staff to deal with court cases. In 2009, the Central IPRO had 441 cases with only 3 lawyers to represent IPRO (and by extension, the state).<sup>30</sup> District offices have a similar case burden with limited legal staff and the Central IPRO is not able to assist or monitor the cases in the districts. Regular and updated statistics are not kept as to the number and type of cases in district but interviews with both central and district office lawyers indicate that the number is very high.

### **3.8.2 European Court of Human Rights (ECHR)**

There has been a significant increase in the number of cases presented to the European Court of Human Rights (ECHR) involving immovable property. Former owners find they are more likely to find success in Strasbourg than in Albania. Approximately 80% of the cases concern immovable property, mainly restitution/compensation cases with an estimated 30,000 former owners awaiting compensation.<sup>31</sup> A search of the ECHR web site from 2000 to 2010 shows 24 decisions in which Albania was the respondent, 14 of which concern immovable property issues. Most of those decision were about restitution and decisions are generally made in favour of the former owners, with the result that the government is facing large compensation bills and penalties.

In 2010, the rise in the number of property cases presented in Strasbourg prompted the court to require Albania to answer a series of questions related to ensuring execution of court decisions and compensation to former owners. The GoA must present an Action Plan within 2011 for resolution of the issues otherwise fines will be issued against it. The Ministry of Justice- Office of the State Advocate is responsible for responding to the questions and coordinates a working group, with IPRO as a member, to address the issues. The Secretariat of the working group has made recommendations and the working group should finalize the Action Plan in 2011. There is a significant risk that the government will face very large damages and penalties unless results become evident in 2011.

### **3.9 The handling by IPRO of execution orders coming from the Bailiff Office**

The issue of how IPRO handles execution of orders from the Bailiff's office is closely linked to the problems with court decisions noted in the preceding section. As the

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<sup>30</sup> Meeting with Ms. Mirella Kulaj, Chief of Legal Sector (court cases), Central IPRO, November, 2010.

<sup>31</sup> Interview with Ms. Enkeleda Hajro, *Avokat i Shtetit* office, November, 2010 .



General Director of the Bailiffs Office noted, a bailiff simply transmits court orders, he/she cannot interpret the decision.<sup>32</sup> At the moment, a registrar's unjustifiable refusal to register property must be addressed under current penal code rules, which has been employed in both past and current cases. A more problematic case is what can or should the Bailiff do when further investigation shows that the refusal is justifiable. Although there have been improved communications with IPRO, a process to address this particular problem has not been adopted.<sup>33</sup>

To further complicate the situation, the Bailiff's Office is undergoing a fundamental change with the introduction of private bailiffs. One of the questions that must be clarified is how the private bailiffs will interact with state institutions, especially the IPRO. In addition, the General Director noted that his staff does not have easy access to property information in the IPRO. They have direct access to other registers, such as the car and business registries, and they are introducing an electronic communication system with links to other institutions but access to IPRO information remains problematic.<sup>34</sup> Quick and reliable access to IPRO information is crucial in order to identify resources to pay off creditors and to sequester any relevant property. The lack of direct access to IPRO data is also noted for courts, causing poor communication and referencing of IPRO data for court cases resulting in incomplete or incorrect decisions which the bailiff's office must then try to execute.

### **3.10 The role played by notaries in immovable property registration and the IPRO relations with public notaries**

Another issue that affects an efficient land administration system are the professionals involved in immovable property transactions and the costs associated with registration. Notaries are a key player in immovable property transactions yet systematically fail to fulfil their role of ensuring a proper legal review of documents and providing the liaison and document submission services to the IPRO that are standard in other countries where notaries are used and which help to justify the high fees charged for notary services. In extreme cases, notaries are an integral part of fraud and corruption in the system as evidenced by the *Vertetim i Faktit* documents found in the *hipoteka* archives (see section 3.8). A 2001 study under the USAID immovable property project revealed that notary fees account for more than 50% of

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<sup>32</sup> Meeting with Mr. Pal Metaj, December, 2010.

<sup>33</sup> The statistics kept by courts, the Bailiff's Office and IPRO do not allow a reliable analysis about the number of cases where IPRO has refused to register court decisions or whether the refusal was justifiable or not under IPRO legislation.

<sup>34</sup> Meeting with Mr. Pal Metaj, December, 2010.

the transaction costs (excluding taxes) but in reality their actual role is little more than verification of signatures on documents.<sup>35</sup>

Notaries were traditionally used in Deeds registry systems because they performed a legal review of the various documents registered year by year in the deeds office. The notary also provided a guarantee that all relevant documents in the archive were found and reviewed and that his/her conclusion as to ownership, other rights and encumbrances for a property was legally valid. Under a title registry system, all relevant documents related to an immovable property are reflected on the *kartela* (the “mirror” and “curtain” principles described in section 2.3.2) and the state provides the guarantee and indemnification for the accuracy of the information. Thus, the main reasons for the high cost services traditionally provided by the notary are now covered by different mechanisms in the more efficient and cost-effective title registration system.

While a notary arguably performs important functions as to proof of identity and capacity to understand and make a transaction, many countries have liberalized these services and functions to include other professionals such as lawyers, licensed real estate agents and senior bank officials. Some countries such as Moldova and the Kyrgyz Republic have done away altogether with the need for notaries in land transactions and now use standard contracts and applications instead. Conversely, in Albania notaries (and many MoJ officials) advocate increasing their monopoly on services by restricting access to the IPRO except for notaries. While the monopoly would reduce the public’s interaction with IPRO, there is no proof that services or reliability would improve. Furthermore, such a move would go against the general trend in countries with modern land registration systems to have open and liberal access, with strong competition amongst land market professional. In a recent debate about the monopoly role of notaries in land administration and the land market, the overwhelming majority of land market professionals argued that a monopoly for notaries is no longer justified.<sup>36</sup>

IPRO has noted improvement in the relationship with notaries and the quality of documents prepared by them. The Tirana office has opened a special service window for notaries. The communication and relationship between the Chamber of Notaries and IPRO is increasingly seen as positive and could provide an example for the relationship with other land market professionals.

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<sup>35</sup> Kelm, Kathrine, Cost Estimates to Legally Register Former Parcel 93 Land Transactions in Kamza, University of Wisconsin- Land Tenure Center/USAID Immovable Property Registration Project document, 2001.

<sup>36</sup> World Bank hosted ECA Land e-learning debate “to use or not to use notaries in land administration”, November, 2010.

## 4 Conclusions and Recommendations

### 4.1 Conclusions

Solving the many problems related to immovable property ownership and land administration that increase the risk of corruption requires a holistic and comprehensive range of interventions at the policy, legal, regulatory and institutional level. Most of all, it requires **political will**. The current GoA has shown it is capable of creating and implementing reforms that reduce the tendencies for corruption such as the recent reforms in procurement, business registration and tax collection. Unfortunately, the same commitment and leadership has not been aimed at property issues or the IPRO. Political will is needed to improve the efficiency, transparency and reliability of the IPRO as well as for the remaining privatization programs, especially restitution/compensation. The current strong political support for legalization at the expense of restitution/compensation exacerbates tensions and directly affects security of title and reliability of the IPRO.

Second, it is of the utmost importance for the GoA to address and resolve the **institutional and land policy/strategy** issues. Without a clearly defined vision or an institutional structure that has effective coordination and oversight, the many issues related to property will remain unresolved. At a minimum, the relationship and the ability to use and exchange data between IPRO, ALUIZNI and AKKP needs to be better defined and carefully monitored. Ideally, the government will reconsider the institutional structure of agencies/institutions that issue or register immovable property titles and place those agencies/institutions under a single oversight body—either a Ministry or the Prime Minister’s office. Another option is to assign a steering committee to oversee immovable property policy and decisions, although past experience in Albania shows that steering committees or other forms of coordination bodies are not very effective in leading and controlling the work and decision making processes of government agencies. Whatever the final solution, coordination between the international community and within the government will be critical in addressing these policy and institutional questions.

Third, the **legal and regulatory framework** needs improvement. Although Law 7843 generally meets international standards for a registration system, the law should be revised to improve provisions related to the structure and status of IPRO, facilitating First Registration, improving title security and introducing new technology. Related to this issue is the need to improve the relationship and communication between MoJ and IPRO, with the MoJ facilitating the resolution of some important questions such as the approval of the pending Regulations and assisting in solutions to the problems for First Registration such as the annulment of parts of CoM Instructions 1 and 4. The MoJ should also advocate on behalf of the IPRO for resolution of the fundamental

problems related to courts decisions, and the Bailiff's office which place registrars in conflict with these institutions, by actively engaging with the High Council of Justice in the discussion of problematic case law.

Fourth, **increasing transparency** in IPRO functions and data will help reduce the opportunities for corruption. The single most important action toward an open and transparent system is to complete First Registration. The IPRO is leading completion of First Registration in urban and coastal areas through World Bank and EU funded projects but more focus and commitment to implementing the projects in a timely and effective manner would improve the results. Other countries have increased performance results and transparency by using the internet or other new technologies. For example, the Croatian registration agency put all scanned historical land books and documents on their website free of charge, allowing interested persons to access and review property data and prepare their applications and requests prior to visiting the registry office.

Fifth, both the GoA and IPRO need to review, adopt and adhere to the **IPRO Business Plan**. In conjunction with an overall land strategy, an IPRO Business Plan will provide more specific and targeted guidance for the development and investment in IPRO. It addresses issues such as (self) financing, IT needs and investment, future service provision and staff capacity building.

Sixth, **increasing the professionalism and capacity of staff** should be a priority for IPRO and MoJ directors. Risks for corruption or the perception of corruption, which comes from arbitrary decision making, are reduced when state employees are recruited under open and transparent conditions and provided with adequate salaries, training and a reason to have pride in the work they do and the institution they represent. The consequences must be equally clear and severe for those who do not meet expectations or follow the rules and regulations. Specific needs for the IPRO include:

- Implement a comprehensive and on-going training program
- Initiate open and competitive recruitment for all staff, including registrars
- Define status of IPRO employees and review the salary structure
- Define qualifications and introduce a certification process for key positions
- Introduce and enforce a Code of Ethics

Seventh, in addition to focusing on IPRO staff, **improving customer service** is another necessary step for reducing the risks of corruption. Serious implementation of the IPRO Modernization Strategy is far behind schedule. Specific needs under this heading include:

- Make Data Quality improvement a priority
- Upgrade IT infrastructure

- Increase accessibility of data: on-line access to scanned *hipoteka* books and documents, direct access to IPRO data for key intuitions such as prosecutors, bailiffs, courts, urban planning offices, etc.
- Improve communication with the public, government officials and state institutions
- Provide training and awareness raising programs for land market professionals and other users of the system, including government officials and state institutions and agencies

#### **4.2 Recommendations: summary and guide**

Recommendations are presented here in two forms:

- A list of recommendations which is divided into categories based on which institution or group should lead the process. It is important to underline that the steps identified require cooperation, coordination and input from the other groups/stakeholders.
- A table of recommendations which groups them by the main expected outcomes, and then identifies the actions required and responsible institutions involved.

While the final solution for the institutional issue and development of the land strategy will take some time, the GoA can take steps within 2011 to set up a working group, review the situation and come up with recommendations. With regard to IPRO improvements, many of the issues are already addressed in various strategies (Modernisation and Training Strategies and the Business Plan) and simply need to be implemented through serious commitment and leadership. IPRO has significant support for its activities through World Bank and EU funded projects. IPRO should engage more actively and effectively with project staff in order to address any of the substantive impediments to implementation. Any revisions to the documents referred to below can be completed by mid-2011.

#### **4.3 List of Recommendations by Institution**

- **Government of Albania**
  1. Develop a National Land Strategy or Policy

2. Define oversight authority for property issues to unify work, standards, technical specifications for institutions/agencies that generate, maintain and use property related data.
3. Make decision on national standards for the IT platform so the IPRO IT technical working group can develop the IT system

- **Ministry of Justice**

1. Approve Regulation for IPRO Operations without further delay;
2. Put Law 7843 amendments on 2011 legislative agenda and work closely with IPRO to develop the amendments. Amendments are needed for:
  - a. Institutional responsibility and competencies of MoJ, Chief Registrar, Registrars etc.
  - b. First Registration provisions
  - c. IT issues, digital data
  - d. Issues related to implementation of the Business Plan, especially move toward (partial) self-financing
3. Set up working group to resolve complex issues and problematic cases
4. Engage with the High Council of Justice on problematic court cases

- **IPRO**

1. Improve customer service and professionalism of staff
  - a. Implement Training Strategy without further delay, hire training manager and commit to have all staff complete a training course by the end of 2011.
  - b. Review and revise how staff is recruited, move to open and competitive recruitment,
  - c. Develop qualification standards and certification process for registrars and other key positions such as lawyers and geodetic engineers
  - d. Develop a Code of Ethics
  - e. Allow credit card payments in IPRO offices (review Macedonia as example)
2. Make data improvement a priority
  - a. Implement Modernization Strategy
  - b. IT solutions: automation of processes, front/back office functions, direct communications with institutions (such as prosecutor's office, courts, bailiffs office)

3. Engage with MoJ on approving and implementing Business Plan with focus on improving service delivery and move toward full or partial self-financing
4. Improve communications with:
  - a. government – to highlight importance of IPRO functions and data and to help officials understand the needs to register and maintain property data
  - b. customers (citizens, land market professionals, local governments etc)
  - c. Define mechanism for direct communication between institutions
5. Finalize First Registration in urban areas and the coastline (requires positive engagement with donors such as World Bank and OSCE)
6. Increase transparency of info by putting available digital data on the internet (for example scanned hipoteka books, base maps etc).

#### 4.4 Table of Recommendations according to Expected Outcomes

Outcome	Action	Responsible Party and other participants	Timeline	Comments
Improve institutional responsibility, oversight and coordination for property issues	Set up high level working group to make recommendations on improving institutional structure.	GoA (with relevant Ministries, IPRO, AKKP, ALUIZNI)	WG set up and recommendations made by July, 2011 GoA to respond to recommendations by end-2011	Support for the process from donors is possible (World Bank LAMP, EU etc.)  Could be combined with development of the National Land Strategy
National Land Strategy adopted	Set up working group to draft strategy	GoA (with relevant Ministries, IPRO, etc)	WG set up and meeting by May, 2011 Draft strategy presented to GoA for comment by end November 2011	Support for the process from donors is possible (World Bank LAMP, others?) Can use 2008 draft Inter-Sectoral strategy as basis for WG discussions
Improved legal and regulatory framework	Approve Regulations for IPRO Operations Draft amendments to IPRO Law (Law 7843) Draft solutions to problematic registration issues especially those related to GoA	MoJ (with IPRO)	By April, 2011  By May, 2011  By May, 2011  By June 2011	IPRO functions and First Registration contracts are hindered by a lack of solution to many problematic (but common) cases and must be a priority for resolution. However, the lack of a solution for every case should not



	Instructions 1 and 4 for IPRO. Engage with High Council of Justice and courts to address problematic court actions and decisions			prevent the adoption of the pending IPRO Regulations.
IPRO operations and investments based on strategic Business Plan	GoA to approve IPRO 5 year Business Plan that addresses critical issues such as self-financing, staff resources and IT investment	IPRO to finalize Business Plan and submit to GoA for approval; GoA to allocate adequate budget resources for implementation of the Business Plan	By July, 2010	IPRO developed a Business Plan in late 2010 and can be used as basis for completing the final proposal
Make decision on national standards for the IT platform	GoA to decide standard and facilitate IPRO IT working group	GoA and IPRO	March, 2011	
Increased transparency in registration information	Finalize First Registration Put existing scanned archive information on the internet	IPRO	By end 2013 By end 2011	World Bank LAMP and EU/OSCE are funding First Registration contracts
Improved professionalism of IPRO staff	Hire qualified training coordinator and implement Training Strategy Introduce open and	GoA, MoJ and IPRO	By March, 2011 By end 2011	

	competitive recruitment, define staff status, Code of Ethics, develop plan for certification process			
IPRO data improved	Update and expedite implementation of Modernization Strategy  Include a data improvement action plan	IPRO with support from MoJ and GoA	Revisions and concrete Action Plan approved for implementation by April, 2011 Action Plan for data improvement by June 2011	World Bank LAMP project support foresees assistance for Modernization Strategy
Better communications with system users and clients	Update IPRO communication strategy; Introduce regular communications mechanisms with IPRO system users (both state and private)	IPRO	Communication Strategy by end June, 2011 Implementation to begin in July 2011	World Bank LAMP project is funding Public Awareness Campaign contract to assist in process

## 5 Annex 1: List of Persons Met

Arben Qirjako	Chief Registrar, IPRO
Ivi Kaso	Director, Internal Administrative Control and Anti-corruption (Council of Ministers)
Gentjan Osmani	Tirana Prosecutors Office, Department of Economic Crimes
Elidon Laze	Head of Legal Department, Central IPRO
Marinela Kullaj	Chief of Legal Sector (court cases), Central IPRO
Altin Spaho	Deputy Registrar, Tirana IPRO
Rasim Bekteshi	Legal Officer, Tirana IPRO
Elona Syla	Director of Codification, Ministry of Justice
Enkeledi Hajro	Legal Officer, State Advocates Office
Pal Metaj	General Director, Bailiffs Office
Odetta Hyseni	Legal Advisor, Euralius Legal Support Project (former)

## 6 Annex 2: Bibliography

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