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PROJECT AGAINST CORRUPTION IN ALBANIA (PACA)

**OPINION ON CRITERIA AND METHODOLOGY THAT SHOULD BE USED BY
THE HIGH INSPECTORATE OF DECLARATION AND AUDIT OF ASSETS
(HIDAA) TO IMPLEMENT THE COOPERATION AGREEMENT BETWEEN
HIDAA AND THE IMMOVABLE PROPERTY REGISTRATION OFFICE (IPRO)**

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1 INTRODUCTION/EXECUTIVE SUMMARY

Within the PACA project Extension Workplan Expected Result 1, specifically ‘...institutions develop policies to address previous risk assessment findings and recommendations’, Ms Kathrine Kelm was commissioned to provide an opinion on how best to implement articles 6 and 7 of the Cooperation Agreement between the High Inspectorate for Declaration/Audit of Assets (HIDAA) and the Immovable Property Registration Office (IPRO).¹ The purpose is to try and ensure that HIDAA can control the asset declarations of public officials more effectively.

The Cooperation Agreement seeks to enforce monitoring and control of asset declaration as mandated by Law No. 9049, dated 10.04.2003, “On the Declaration and Audit of Assets and Financial Obligations of Elected Persons and Certain Public Officials”. The Cooperation Agreement aims to improve communication and exchange of information related to the process of the declaration of assets and financial obligations, to enhance work efficiency and coordination between HIDAA and IPRO, and to coordinate work and activities in the context of the prevention of corruption and fight against it.

However, due to the various stages of property registration currently on-going in Albania, the state of the IPRO register and the nascent electronic database, several options to review and verify declarations of property assets need to be developed.

One option, suggested by the PACA project, is for HIDAA to select lucrative areas each year and IPRO checks all properties located in that area.

¹ Articles 6 and 7 State:

ARTICLE 6: Identification of Zones Subject to Check-up

HIDAA shall, within March of each calendar year, identify one or more specific zones in order to request from IPRO a complete physical check-up of all binders and registers of immovable properties registered in those zones in the names of HIDAA-selected subjects.

ARTICLE 7: Criteria for the Selection of Zones Subject to Check-up

1. When determining the zone(s) in respect of which a complete physical check-up of immovable property registers and binders is sought, HIDAA shall perform a risk analysis each year, aimed at selecting those cadastral zones that present a special interest from the viewpoint of development and value of transactions. In particular, HIDAA shall take into account market developments, growth plans and other trends of the real estate sector.
2. When determining the zone(s) in respect of which a complete physical check-up of the immovable property registers is sought, HIDAA shall take into account the amount of work that must be carried out by the respective local IPRO, and the time limit available thereto for the completion of a complete check-up of the immovable property declarations. Prior to that, HIDAA may also seek IPRO’s advice on the matter.
3. HIDAA may each year (subject to the risk analysis outcome) change the zone(s) in respect of which it seeks a complete check-up of immovable property registers.

This report provides information on the current status of registration and resulting data for cadastral zones throughout the country as well as an update on the development of the electronic database for IPRO (known as the IPS). Second, it provides recommendations on how to select and monitor a sample of cadastral zones on an annual basis based on the typology, category and status of immovable property registration.

2 BACKGROUND ON IPRO AND DEVELOPMENT OF THE ELECTRONIC DATABASE (IPS)

In order to provide an understanding of the current situation related to immovable property registration and the on-going development of the IPRO, the following information provides important background:

The IPRO was created in 1994 as the institution responsible for registration of immovable property in Albania. The new Law No. 33/2012 'On Registration of Immovable Property' reflects important changes to the system, including the move to make IPRO a self-financing institution and the creation of the electronic database (the IPS). There are 35 local IPROs (LIPROs) at district level which manage the data within their respective territory and the Central IPRO (CIPRO) which oversees policy and other central functions, including the management of the new IPS. Immovable Property is divided into approximately 3,200 cadastral zones.

The process of systematic First Registration has been on-going since 1994 under the main registration initiatives:

- USAID/EU-PHARE: From 1994-2003 the Government of Albania was supported by a USAID/EU-Phare project which resulted in the completion of First Registration in over 2,000 rural cadastral zones (agricultural land). In addition, the project registered state-owned apartments that were privatized by *Ente i Banesave* (the state housing authority).
- Currently, under the World Bank Land Administration and Management Project (LAMP) more than 70 urban and 50 rural cadastral zones are in the process of systematic First Registration. The LAMP ends in June 2013.
- In addition, the EU is funding registration of approximately 50 cadastral zones in the southern coastal zones (Vlore-Sarande), implemented by the OSCE. The project ends in December 2012.²

² It is not clear whether the EU/OSCE project will finalize First Registration in any of the zones prior to closing in December, 2012. As of September, 2012 none of the zones had entered the 45 day Public Display phase which is a legal requirement for completion of First Registration. Nevertheless, the project is creating databases with information from various property-related documents. These databases should be reviewed as to the suitability for joint HIDAA-IPRO use.

Under the LAMP project, the new IPS is in the final stages of development and is currently being tested in three pilot cadastral zones in Tirana. It is anticipated that Tirana, Durres and Elbasan offices will be connected to the IPS by the end of 2012 and seven other offices (Shkoder, Fier, Korca, Lushnje, Kukes, Lac, Lezhe) by June 2013. Also noteworthy is that all legal documents in the archives of the above 10 cities have been scanned and can be used as a digital reference database. The scanned archive will be connected to the IPS.

It should be noted that LAMP does not include IPS connection to other offices, including the important tourist areas of Sarande or Pogradec and there is currently no funding allocated from either the Government of Albania or other sources to complete the IPS connection. IPRO will need to plan and budget for IPS completion and maintenance as part of its Business Plan and Mid-term Strategy to prepare for the transition to self-financing status.

3 ACCESS TO IPRO INFORMATION

In order to determine the optimal process for verifying the asset declarations of public officials, cadastral zones may be divided into three main categories with respect the status of immovable property registration within them:

1. Category 1: Systematic First Registration is complete and the data are uploaded and maintained in the new electronic register (the IPS);
2. Category 2: Systematic First Registration is complete but the data are not uploaded or updated in the IPS; and
3. Category 3: Systematic First Registration is not complete;

3.1 Systematic First Registration is complete and the data are uploaded and maintained in the new electronic register (called the IPS)

Category 1 is the optimal situation and will allow rapid access and monitoring capabilities for both IPRO and HIDAA to review and verify immovable property ownership information via the IPS. Whether a request is sent to IPRO or HIDAA has direct access, it will be relatively easy to search the database and complete the review within the 15 day time period foreseen in article 8 (11) of the Cooperation Agreement.³

Although there are only a few cadastral zones that currently meet these requirements, it is anticipated that registration in the 130+ cadastral zones under the

³A recent press release highlights the importance and support for HIDAA's direct access to the database: *The Ministry of Justice signed yesterday (28 August 2012) an agreement with the High Inspectorate of Declaration and Audit of Assets (HIDAA) giving them access to the immovable property digital archive. "As of today, the entire digital system of immovable property will be put in HIDAA's disposal, so that all properties of public officials and their relatives can be verified online in a couple of minutes," Minister of Justice Eduard Halimi said at the ceremony. (Gazeta Shqiptare, pp. 2-3, Koha Jonë, p. 3, Shqiptarja, p. 10)*

LAMP project will be finalized and uploaded into the IPS within the next year. The urban cadastral zones for Tirana, Durres and Elbasan should be in the IPS by December 2012 while the urban zones for another 7 cities (Shkoder, Fier, Korca, Lushnje, Kukes, Lac, Lezhe) should be in the IPS by June 2013. Unfortunately there is no specific timeframe for installing the IPS in the remaining LIPROs.

3.2 Systematic First Registration is complete but the data are not uploaded or updated in the IPS

Category 2 is more complex and will require review of both digital and manual data. In cadastral zones where First Registration was completed prior to 2011 (mostly rural cadastral zones but also important and active zones near the main cities but outside of the 'yellow line'⁴ and former state-owned apartments privatized by *Ente i Baneseve* information sources include:

- The data on ownership at the moment when First Registration was completed is recorded on both the Kartela and in the "Pasurite" computer program.
- All subsequent transactions have only been recorded manually on the kartela. The 'Pasurite' program has not been updated.
- In some zones IPRO offices may have continued to use the hipoteke books to register transactions
- Legal documents have been scanned in 10 main offices and a digital database has been created

While references (such as the Parcel Index Number) and some other data related to these properties (such as the owner as of the date of completion of First Registration) will be migrated into the IPS, updating of the information for these properties will be done on a case-by-case basis as a request for a transaction is made. IPRO staff will then review the manual kartelas and update the IPS record. After that update, information will be maintained in the IPS.

Thus, in order to implement the terms of the Cooperation Agreement and to verify the asset declarations it will be necessary to conduct a review of all databases and the manual kartelas. This manual review is likely to be very time consuming and the amount of time needed depends on how big the list of names from HIDAA is and how large and active the cadastral zone is. As a benchmark the consultant and IPRO legal advisor calculate the following:

- 1 IPRO staff member
 - 1 cadastral zone with 3000 properties
 - 1 subject on the HIDAA list to review/verify
 - 10 seconds to view each kartela and determine yes/no if the subject's name appears
 - 5 hours per day working on this activity
-

⁴ The 'yellow line' is the municipal boundary for a city.

= 1,800 properties/day or approximately 2 days for an IPRO staff member to review all kartelas and verify (yes/no) whether a subject is the owner or has other interests in a property. Additional time would be needed to find and photocopy the relevant documents noted under article 8 (12) of the Cooperation Agreement.

3.3 Systematic First Registration is not complete

Category 3 includes those cadastral zones where First Registration is not complete and a manual search of the following sources will be necessary:

- For urban zones, information is recorded in the hipoteke books
- For rural zones, information and copies of legal documents (such as the *tapi*)⁵ may be in local government archives or in the IPRO archive. The *tapi* for some zones or parts of zones may be subject to verification and/or completion under Law 9942, dated 07.07.2008, On Verification of Agricultural Land Titles.
- *Kartelas* have been opened for those properties where the owner has requested registration (sporadic registration) but are not finalized until the zone goes through the public display process as part of the systematic First Registration process.
- As noted in the point above, legal documents have been scanned for the 10 main offices and a digital database has been created

The amount of time and manpower necessary to complete a review under the Cooperation Agreement will be substantial and the calculation made for category 2, in the point above, is a minimum estimate. (i.e. 2 days for 1 IPRO staff member to review and verify the property for 1 subject in 1 cadastral zone).

4 IMPLEMENTATION OF THE COOPERATION AGREEMENT

The Cooperation Agreement is a comprehensive document that should allow for improved communication and data sharing between HIDAA and IPRO. However, both HIDAA and IPRO need to be realistic about the volume of work necessary to review and verify asset declarations, especially in those areas where the IPS is not functional. Thus, not all requests will be able to be completed within the 15 day time limit set forth in article 8 (11) and a realistic annual plan needs to be agreed between the two institutions.

4.1 Identification of Cadastral Zones

One of the points in the Terms of Reference for this study was suggestions on how to identify potential cadastral zones for review. Choosing zones where the land is most

⁵ The *tapi* (or Act of Taking Land Into Ownership) is the document issued by local land commission that identifies agricultural land division under Law No. 7501, (1991) On Land.

valuable and the land market most active is a reliable set of criteria to use. Sources of data to narrow the focus include:

- IPRO data on which zones have the highest volume of transactions: these data are reflected in the number of applications recorded for each cadastral zone at LIPROs or, where possible, in the IPS.
- Zones with high value land defined by land value maps approved by the government (under restitution/compensation legislation) or else with information from IPRO about average prices as recorded in sales contracts: Land value maps are compiled by the Agency for restitution and Compensation while the IPRO IPS is able to extract pricing information.
- Cadastral zones that include land designated as tourism priority and where special tourist villages are being developed: this information requires cooperation with the Ministry of Tourism but could be generalised as most zones along the coast, especially the Durrës-Kavaje corridor and the Vlore-Sarandë coast.
- Zones where the highest number of building permits has been issued: this would require information from local governments.
- Areas where newspapers and other media report abuses: while this is a possibility, the choice should be supported by other criteria such as very high value, very active land market or special tourism development.

4.2 Recommendation

A reasonable and realistic plan should be set for review of each of the 3 categories of properties noted above. It is hard to estimate the time and human resources necessary to complete a full review/verification of an asset declaration list. Thus, the first year will likely need to be a pilot where a reasonable list of subjects is checked in 1-2 cadastral zones and IPRO and HIDAA staff work closely together to test the process.

At the time of preparing the asset declaration request HIDAA should obtain updated information from IPRO on the status of cadastral zones divided into the 3 categories outlined in this paper. In the first year the following options provide a reasonable range of zones to test the elaboration of criteria and to calculate the resources necessary for a wider selection in subsequent years.

- One zone with high value and volume of transactions in Tirana and in Durrës. These zones fall under category 1.

For Category 1 zones (First Registration completed after 2011 and uploaded/maintained in the IPS properties) it should be possible to perform a full database search for a cadastral zone within the 15 day time limit using the IPS.

However, some properties within that zone may not be fully updated in the IPS and it will be necessary at the beginning to confirm whether digital data is being maintained (updated). If not, then additional time will be needed to review the manual data.

In general, the main criteria for category 1 properties should be zones with a high volume of transactions and high values. This information can be obtained annually from IPRO and AKKP (the restitution/compensation agency which is responsible for compiling the valuation maps). For each of the 10 cities with the functioning IPS, the one or two zones with the combined highest volume of transactions and highest value should be selected. If the same zones are identified the next year then HIDAA should select the next highest zone that has not been verified before.

Since First Registration is still on-going in most cities and a more complete list of category 1 properties will not be available until mid-2013, in the first year the pilot zone will need to be selected from one of the few zones already in the IPS. As of September 2012, zone 8270 in Tirana (which includes the 'Block' area) has been registered and is loaded into the IPS. This zone fulfills the dual criteria of (a) high volume of transactions, and (b) high property values. Since the IPS is functioning for zone 8270, HIDAA should be able to perform the initial check directly via the IPS database and then it would work with the Tirana IPRO staff to conduct any manual checks that are necessary. Alternatively, HIDAA could ask IPRO for information on other central Tirana or Durres zones that are finalized and loaded into the IPS with a similar ratio of volume and value.

- One zone near a large urban center but 'outside' the yellow line. This could be a category 2 zone.

For category 2 properties (those not updated in IPS): The search will mostly need to be done manually although it may be possible to use the digital archive of scanned documents in the 10 main cities. However, the feasibility of this suggestion needs to be verified with IPRO, and depends on how the scanned archive is set up and what parameters can be used to search it. For example, it would need to be verified whether the scanned documents could be searched by the name of the owner or whether the only possibility is to search by property identification number.

As with category 1 zones the main criteria for selecting zones in category 2 should be a high volume of transactions and high value. This information can be obtained from the IPRO and the AKKP. Peri-urban areas where the land category has been changed from 'agricultural' to 'industrial' or 'urban' (such as the Tirana-Durres corridor) is a good indicator of the land market. Thus, HIDAA should initially select the zone in the Tirana-Durres corridor that has had the highest volume of transactions over the past 5 years and where the AKKP land value map assigns the highest value (per m²). A similar selection can be made for other industrial areas in subsequent years.

However, it is recommended to select and search the category 2 zone only after HIDAA and IPRO have tested the process in a category 1 property. It is better to start with a relatively easy zone, to test and clarify the process, then move on to the more complicated zones. Also, IPRO is under intense pressure to complete First

Registration within the 2013 timeframe set forth in the Action Plan for the Cross-cutting Strategy for the Reform of Property Rights and due to the likely time-consuming nature of searching category 2 properties, HIDAA should wait until 2014 to test the process for these zones.

- One zone along the coast designated as high value tourism and where development is substantial.

For category 3 properties (those where systematic First Registration has not been completed): The search will need to be done manually in the hipoteke books, sporadic registration *kartelas*, IPRO archives and possibly the archives of other institutions if the IPRO archive is not complete.

The criteria should include a combination of high volume of transactions and high values but targeted to zones where tourism development is prioritized. HIDAA should first identify zones where special tourist villages or other development plans have been approved and then determine where the transactions/values are highest. In the future, the selection can be further divided by geographic location, with one zone north of Vlora and one zone to the south.

One possibility is to choose a zone that is under the current EC/OSCE project because these zones are in lucrative tourist areas and the project is collecting and creating a digital database of property related data which may make searching easier. However, due to local factors there has not been the massive tourist development in the southern coastal areas (for rural cadastral zones) as there has been further north along the Kavaje-Durres-Shkodra coast.

Thus, in the first year HIDAA should select the zone in Kavaje or Durres district which is designated as a tourism development priority zone and where the combined volume/value is highest.

Overall, as more zones enter the IPS and the verification process is clearly defined and understood, HIDAA will be able to conduct most of the work on its own. As the number of category 1 zones increases, they can be grouped into value bands and a lottery used to select a random number of zones. This process would help to avoid accusations about unfair targeting or political considerations.