
ALBANIA SERIES

September 1997

An Insider's View on Establishing an Immovable Property Registration System in Albania

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AN INSTITUTE FOR
RESEARCH AND EDUCATION
ON SOCIAL STRUCTURE,
RURAL INSTITUTIONS,
RESOURCE USE,
AND DEVELOPMENT

UNIVERSITY OF WISCONSIN —
MADISON

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WORKING PAPER, NO. 5

ALBANIA SERIES

**Land Tenure Center
University of Wisconsin–Madison**

September 1997

This paper is an output of the Land Market Action Plan in Albania, implemented by the Project Management Unit of the Immovable Property Registration System and the Coordinative Working Group (Tirana, Albania), with support from the Government of Albania; from the Land Tenure Center, University of Wisconsin–Madison (financed by the U.S. Agency for International Development, contract no. EUR-0049-A-00-4031-00); from the European Union’s PHARE; and from the Terra Institute (financed by the World Bank’s Agricultural Sector Adjustment Credit project with the Albania Ministry of Agriculture and Food).

Prepared for
PROJECT MANAGEMENT UNIT, IMMOVABLE PROPERTY REGISTRATION SYSTEM,
TIRANA, ALBANIA
by
LAND TENURE CENTER, UNIVERSITY OF WISCONSIN–MADISON, USA
in
FEBRUARY 1995

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CONTENTS

	Page
1. Difficulties	1
2. Advantages	3
3. Planning	4

AN INSIDER'S VIEW ON ESTABLISHING AN IMMOVABLE PROPERTY REGISTRATION SYSTEM IN ALBANIA

by

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*The optimist sees the bottle half-full; the
pessimist sees it half-empty.*

Abstract: As will become clear in this article, my position shifts from pessimist to optimist as this writing progresses. The first section presents some of the difficulties that Albania is experiencing with respect to the immovable property registration system (IPRS) project (pessimist's position). The next section offers some of the advantages to be found in the Albanian system (optimist's position). The last section considers several plans used to deal with the problems; these programs are both tactical and strategic and, in my opinion, require careful coordination to resolve the difficulties encountered.

1. DIFFICULTIES

Given that Albanians have not had a chance to see other country models concerning immovable property systems, they tend to accept the first system they see, forgetting the peculiarities of the situation in Albania which strongly influence the way and the order of doing things. At the same time, they endlessly attempt to find the best model before they even start, with the result that no model is ever adapted for use.

Until now, Albania has had an owner-based deed registry system (*hipoteka*) for recording the rights of property owners. We do not want to explain here the disadvantages of such a system compared with a parcel-based one. After a long period of study and with the help and advice of international specialists, Albanian policymakers decided to opt for a parcel-based system. But, during the initial phase of implementation, we realized that a parcel-based system should incorporate vertical properties such as apartments. Given that privatization of apartments was already well advanced in Albania and that everyone preferred clear evidence of their ownership, policymakers determined to change to a property-based (not just parcel-based) system. We think this is the proper decision for Albania.

Since 1991, democratic movements and changes in Albania have been rapid; at the same time, legislation on immovable property issues has been inconsistent. Few people really understand or know about immovable property legal issues, because until now legal specialists have dealt only with state-owned properties. Moreover, intergenerational contradiction is even stronger in the legal profession than in other fields, because different age groups have very different viewpoints concerning the law.

The IPRS project is not only large but also broad: many activities are included and there is a substantial amount of money to be managed. We realize that administration of such a diverse and expensive project is not easy for people who have never dealt with such scales. People tend to fear decision-making, which results in long and inconclusive meetings. Even here, there is a tendency to let the international advisers handle the difficult problems.

We have observed that both younger and older generations are not involved or particularly interested in property issues. The university and its faculties, for their part, have not provided modern education in areas such as civil engineering, law, cadastre, property registry, and the like, and there are few people who have worked in these fields and can understand the existing problems. This has caused the old style of work to dominate, that is, centrally managed and controlled decision-making, without participation and creative input by the people. It is difficult to change the opinions of older people and to persuade them to accept new opinions and ideas.

Frequently there are delays because of the bureaucratic procedures of the European Union (EU) and the U.S. Agency for International Development (USAID). There are examples where tendering procedures have remained long and drawn out due to bad organization.

The lack of coordination between the ministries and agencies involved in this project has had an additional negative influence on its progress.

One disadvantage of the old system was that information concerning immovable property was collected at different places and with different methods. Cadastral offices were more technically oriented; Hipoteka offices (property deed registries) dealt with legal aspects of ownership and used different systems of organization at different periods of time, and mapping agencies and legal institutions lacked coordination on gathering ownership information. Today our project faces the difficulty that the sources for information to be compiled are numerous and that close coordination between them is needed.

The major and the most difficult part of the project seems to be the mapping of immovable properties as part of the information eventually to be kept at the registration offices. At present, there is no scheme to give an exact answer to the following questions: which surveying and mapping methods should we use for different areas; how can these approaches be coordinated in time in order to find the most cost-effective way; which are the main training issues; and so forth. Presently, we do not have a national agency or institution to supervise all the mapping activities in Albania like many other countries have. There are some thoughts, especially from the young specialists, to institute such a coordination agency. Current techniques for surveying and mapping are highly computer-oriented, yet Albania suffers from a lack of both computer scientists who understand mapping and surveyors/cartographers who understand computers.

As with any program, the most difficult period is the first phase. There are many difficulties encountered while processing initial registrations and establishing the operations of the registration offices. We find that the extensive experience of international advisers is not enough, for many of the Albanian problems are unique.

Passing from a system of mostly state-owned to mostly privately-owned properties has been accomplished through various laws. But complications arise because of lack of coordination between ministries, lack of experience, limited duration of international consultations, rapidity of the privatization process, and selection of improperly trained people to implement the law. For example, the district and village land commissions have not always adequately arranged the land distribution process and it is now the project's responsibility to correct the errors they made. Not all districts have well-qualified people, which can have serious implications under conditions of rapid and extensive change.

The implementation of this project becomes even more difficult to accomplish because of the poor system of communication between districts inside Albania and between Albania and other countries.

This project is financed by international agencies, and many European and American specialists are part of the technical assistance cadre working in Albania. The fact that not all the Albanian people know English well is also affecting results.

This project is dealing with immovable property which directly affects important interests; it is important to have a clear view of how the people will accept and be affected by the system. Yet there is no extensive experience with measuring the social effects and the impacts the system could have. Only limited groups of people have been seriously involved in the project at this point. The upcoming work we are talking about has many different parts and entails many different activities, but the private sector is currently not much involved in any of these activities. The work that now needs to be done is passing through private individuals and not through large, well-established private companies, because they are not yet operative in Albania and there is no strategy for developing them.

2. ADVANTAGES

The most important advantage of this IPRS project is the people who are involved—who are willing to work with the issue of setting up a novel system and who are optimistic in reaching their goal. Albania has a reserve of able specialists who are well aware of the problems to be encountered and can without delay develop a clear vision of how to solve them. There are survey, mapping, computer, legal, policy study, and land issue specialists. Although they may not be numerous, the project must create strategies to optimize use of their knowledge and experience.

The small size of the Albanian nation also offers several advantages: the amount of data to be compiled is not overwhelming, there is potentially good coordination among working entities, and issues can be generalized over particular areas.

The IPRS will be set up as a unique operation dealing with private and state properties. We have the opportunity to use the experiences of other countries, to learn from their failures and successes, and to adapt what we have learned to the Albanian situation.

The broad, diverse educational background of most Albanian specialists is an advantage. Thus, coordination between specialists is possible as well as essential for the success of this project. The absence of an army of lawyers, moreover, leaves space for a combination of legal and technical views. With an altogether weak legal profession, it is easier to make important technical proposals that will be accepted by the people who deal with legal issues.

Given that there have been conflicts among the various ministries dealing with property about the relative influence they each should have, we support the decision by law to have the chief registrar directly responsible to the Prime Minister. But we are concerned that serious problems could result if Parliament approves the Civil Code provision which allows the Ministry of Justice to deal with issues concerning immovable properties. This contradiction needs to be resolved.

The proposal of starting with some pilot districts is a good one and provides a way to look at emerging problems and find viable solutions.

The fact that this IPRS project is financed by committed international agencies and the people and institutions involved have high technical abilities is a kind of warranty for good progress.

The low average Albanian salary is advantageous to maintaining cost-effective budgets.

Albanians are accustomed to following a strict system of financial records, which is an important “habit” for a big project like this.

Despite Albania’s present difficulties, we can find people in the younger generation who are able and interested in going forward to face the various problems that could emerge.

The general tendency in Albania of using the private sector should help this project as well. The fact that the land privatization process was rapid in Albania compared with the other countries of Eastern Europe is another advantage.

This project needs the cooperation of people who, until recently, were not used to private property and, today, have a genuine desire for a reliable institution to legalize their ownership interests.

This project is not entangled with political decision-making. We must view it only as an immovable property registration system to be organized for the good of everyone in our society.

3. PLANNING

The basic motto of the land registration project is: “Start with what we have and with what the most experienced people judge as most effective.”

A property registration system requires fast implementation (broad privatization is ongoing); however, we must not let speed become a dominating factor in setting up the system. The job to be done needs to be planned effectively and discussed in depth with both national and international professionals.

The property registration system involves a massive data set (mapping and legal text) and needs to be guided through an extensive process of computerization. It is advisable to train people in the

capital and the districts on improving their computer knowledge and to create a Management Information System for the Project Management Unit (PMU).

The legal issues related to the registration system should be considered of primary importance, for they directly relate to the interests of the people. The technical personnel should cooperate with the legal advisers to find appropriate solutions.

A concise mapping strategy should be designed that can be used for different purposes and for different areas of the country. Within one area with the same kind of map, the procedures and the scheduling should be specified. A national surveying and mapping agency could be created to both carry out mapping and surveying activities and contract for their implementation by governmental and private bodies. The agency should also provide quality control and have the right to permit other state and private mapping and surveying companies to perform project work, which may increase the quality of the maps.

Project personnel should work on land policy studies and be encouraged to give suggestions for the other aspects of the project. Avoiding social problems that could arise from wrong solutions is more important than having the precise area of a parcel. Continual analysis of the system's cost and monitoring of the system's social and economic impacts should be undertaken.

Preparation of the operating procedures for recording the legal information of registration can begin by taking examples from other countries and adapting them to the specifics of Albania. These procedures should be easy for both the registration office staff and the general public. An interactive, realistic, and flexible system should be maintained, so different changes can be introduced in Albania.

District Council people should cooperate with solving the problem of office space once they are convinced of the importance of the registration system in Albania.

Having a multitude of translators available can lessen the severity of communication difficulties with the various international advisers. People must be trained in delicate procedures for interaction with EU and USAID.

Private business can be strategically involved in solving sundry problems, especially in the surveying and mapping sector.

University departments, that is, centers of education for young people, can cooperate with the IPRS project by changing their curriculums.

Albanian specialists can be sent abroad to gain qualifications in conjunction with the needs of the project. China provides a good example for the formulation of such international programs; once the Chinese government invested in the education of its specialists, the country had its own experts in most fields of national endeavor. Convincing the Albanian people of the advantages of trying modern solutions can impel them away from their old ways of doing things.

Possibilities for setting up concrete subprojects can be defined in the IPRS action plan, and proposals can be submitted to foreign countries and agencies which have specific allowances in their budgets for developing countries.

Work with pilot districts can intensify in this phase of development in order to locate the roots of particular problems. At the same time, project preconditions can be established in other districts in order to solve these problems more quickly and effectively.

Publicity campaigns should be inaugurated to get the Albanian people interested in recording the various transactions related with their ownership, thereby increasing the probability of their ready cooperation with instituting the property registration system.

During the formative stages of a new property registration system, it is important to maintain a mixture of manual- and technical-based operations.

Although the PMU, a temporary management unit, can work intensively at the beginning to establish the basics of the registry system, special effort must also be focused on the long-term institutionalization of registry offices both in the districts and at the center and on selecting the right people to guide the activities.

Once surveys are made to determine how the registration system can survive as a self-financing operation, pricing policies can be suggested on what to charge for maintaining registration office services.

People can be trained from the outset on the creation of simple GIS projects, but coordination among them, and their different agencies at the national level, must be maintained at all times to contain costs.

Intergenerational contradictions must be appeased in an appropriate manner.

As we computerize the registration system, we must solve the problems of user-friendly software, have a unique parcel identifier, try for a good response time, build clear archiving procedures, plan for future networking, use good coding, and keep uniform data. There is no need, however, to use only computers to format the data, organize the information, and so forth.

*Albania needs this project and, unless we know
who could do the job better, we should start
solving the problems ourselves.*