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Albanian Immovable Property Registration System: Review of Legislation

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Land Tenure Center

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MADISON

**ALBANIAN IMMOVABLE PROPERTY
REGISTRATION SYSTEM:
REVIEW OF LEGISLATION**

by

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ALBANIAN IMMOVABLE PROPERTY REGISTRATION SYSTEM: REVIEW OF LEGISLATION*

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INTRODUCTION TO IPRS

The immovable property registration system (IPRS) in Albania focuses on physical immovable property which is owned. A physically immovable property is comprised of a parcel of land, an apartment, or other property. The system features one sheet (known as the *kartela*) per property, on which the physical features of the immovable property are described (physical location, area or size, name of owner, whether there is a mortgage or other reason which restricts the transfer of ownership, and whether the owner has transferred the use of all or any part of the property to another person, that is, created a contract of lease.

The immovable property is also described on a map called the Registry Index Map, which makes reference to each parcel of immovable property through the use of a unique number.

This registration system (described in the Registration Act) has been chosen for four basic reasons: (1) it protects the right of immovable property owners by providing strong and reliable evidence about ownership and other interests in immovable properties; (2) it is simple and inexpensive to administer and maintain; (3) it provides the public with easily accessible information which they need to buy and sell, mortgage, and rent immovable property, thereby providing the basis for a market-oriented economy; and (4) it permits the building of a Geographical Information System (GIS) with property information as an integral and fundamental segment.

Although this registration system is included in an independent procedural act, it incorporates the legal definitions of the Civil Code for different forms of ownership, mortgages, and leasing as well as other legal rights to immovable property.

* Paper originally prepared for the 1995 ACM/ASPERSE Convention, held in Charlotte, North Carolina, 27 February – 2 March 1995.

The registration system is similar in concept to what is used in Nordic countries, Austria, the Netherlands, Germany, Hungary, Slovenia, the Czech Republic, the Slovak Republic, Croatia, Macedonia, the United Kingdom, and the northern provinces of Italy. It is different from other European countries in that it is expressly “property” or “parcel” based and not simply a recording of transactions. It is an improvement over both types of European systems in that it combines property mapping with the recording of legal rights into a single administrative system.

In the creation of the Immovable Property Registration System, four basic principles are being followed:

- 1) the “mirror” principle, that is, the information about immovable property which is contained in the Registration Office should be a reflection of what really exists;
- 2) the “curtain” principle, that is, the property registers (*kartelas*) should show information about ownership and other interests that does not require further verification;
- 3) the “certainty” principle, that is, there is a guarantee that the information in the *kartela* is correct in that if someone is damaged by incorrect information in the IPRS, he/she can be compensated by the state.
- 4) the “accessibility” principle, that is, the costs of access to the Registration Offices should be minimized so that any person, regardless of wealth or location, can have easy access to the registration system.

PREPARATION OF SUBSTANTIVE LAW

In the preparation of the Registration Act, it was also decided that it did not make any sense to include substantive law rules in the legislation. The fact that the Albanian government was engaged in the drafting of a Civil Code was accepted by the drafting team. It was felt that the substantive law (as distinguished from the procedural law) of ownership, leases, mortgages, and other aspects that regulate legal rights and obligations relating to immovable property, which are traditionally found in a Civil Code, should remain in the Civil Code in Albania. In that light, all definitions of fundamental concepts of property law which were to be part of the Civil Code were integrated into the Registration Act to ensure that unity and coordination exist.

It was decided early on in the process that a separate Registration Act dealing with the procedural issues involving immovable property (land, houses, and so forth) should be prepared. The rationale for this was that the process of preparing for registration of immovable property was well under way well before preparation of the Civil Code began.

In truth, the importance of dealing with the Registration Act separately from the Civil Code was based on the fact that over one year of analysis had already taken place concerning the most appropriate model for a registration system. In addition, the issue of development aid for Albania was on the front burner. There was a great deal of interest in Albanian development by European and North American bilateral donors and multilateral agencies. Based on this interest it was felt that there was likely to be a conflict among donors concerning how a registration system should be developed that would accurately reflect the essential technological and legal needs of Albania for the future.

A dispute among the Albanians was already in place as registration (that is, legal) and cadastral (mapping and surveying) interests were already separate. The pre-World War II system of registering obligations on urban land took place in the *Hipoteka*, which was administered by the

Ministry of Justice, whereas the cadastral offices, which dealt with a multitude of agricultural land issues such as surveying, mapping, production, and soil, were administered either directly through the Ministry of Agriculture and Food or indirectly through special enterprises that came under the authority of that ministry. A multisectoral group, the Inter-Ministerial Land Market Working Group, including all ministries, agencies, enterprises, and the like that dealt with immovable property, was set up to explore the issues of property registration and to comment on plans for a registration law. The Ministry of Justice was a member of the group but remained concerned primarily with the Civil Code; it therefore did not participate actively in drafting the Immoveable Property Registration Act.

The exploratory activities were coordinated through the Ministry of Agriculture and Food primarily because the first privatization program was the massive distribution of agricultural land. Also, this link with the Ministry of Agriculture and Food was due to the nature of the donor's (in this case, USAID) relationship and plans for development assistance with the Albanian government, the close relationship between the Ministry of Agriculture and Food and the cadastral offices, and the earmarking of donor assistance as part of "agriculture." The cooperation with the Ministry of Justice was very limited. However, the European Union (EU) started providing advice on the provisions of the Civil Code before the drafting process was completed, and this portended further philosophical conflict because the EU countries take many different approaches to registration law.

There was another serious complication in preparing the basic legislation for the design of the registration system. The process of drafting a Civil Code had begun in 1993. The government had issued an order to the drafting group in the Ministry of Justice to complete the entire project in less than one year. The International Monetary Fund (IMF) had provided funds which allowed a professor from the University of Trento in Italy to prepare what has become known as the "Red Book," a complete draft of a proposed Civil Code. Although the entire draft was not analyzed section by section, the essence of the proposal seemed to be putting in place a version of the Italian Civil Code. The Red Book contained three parallel columns with each article presented in English, Italian, and Albanian. With the pressure on the Ministry of Justice drafting group to finish the Civil Code in such a short time, it was felt that the Civil Code might be completed without examining the best approaches for Albania to take on many issues. If the Albanian legal profession had been adequately prepared to debate the merits of different substantive positions, it might have been different. However, the reality was that different foreign interest groups (from bilateral and multilateral donors) were appearing in Tirana and lobbying for the adoption of their own systems.

The Inter-Ministerial Land Market Working Group, which had been appointed to monitor the situation, concluded that the section of the Civil Code that defined a registration system was not clearly thought out. They also felt there was a high likelihood that the Civil Code working group would simply adopt someone else's law without considering how well the system would meet special Albanian needs. This in itself is not bad, if there is a clear rationalization for the adoption. It was strongly felt that there should be coordination between the Civil Code working group and the Inter-Ministerial Land Market Working Group in assessing a proper registration system for Albania. This did not take place. Conflict developed over the different positions of the two working groups.

The analysis of the Inter-Ministerial Land Market Working Group ultimately led to the conclusion that a coordinated mapping and registration system should be created. It was not decided under whose authority property registration should be administered. (It was ultimately decided that the immovable property registration system would be directly responsible to the prime minister, though the Civil Code recognizes the authority of the Ministry of Justice for this same

administrative function.) However, the program of mapping and adjudication required to create the Immovable Property Registration System was scheduled to be carried out through a Project Management Unit (PMU) formed by the Ministry of Agriculture and Food once the legislation authorizing registration activities had been adopted. This was simply due to the fact that the funds for the proposed project activity were based in the Ministry of Agriculture and Food.

REGISTRATION LEGISLATION

In July 1994, the Immovable Property Registration Act (see annex 1), which had been completed earlier in the year, cleared its final hurdle with Parliamentary approval. The Act has eleven parts, presented in fifty-nine sections. The eleven parts are the following:

- 1) Preliminary;
- 2) Organization of the Immovable Property Registration System;
- 3) Maps, parcels and boundaries;
- 4) First registration of an immovable property;
- 5) Certificates and searches;
- 6) Registration of contracts of lease, mortgages, "in use" titles and other interests in immovable property;
- 7) Servitudes, restrictive agreements and restrictions;
- 8) Rectification and compensation;
- 9) Decisions of registrar and appeals;
- 10) Fees and offenses; and
- 11) Miscellaneous.

As noted above, the Act is designed to capture the basic concepts of a parcel-based registration system but, at the same time, fulfill the needs of an administrative system that can work in Albania.

Part I (Preliminary) contains only one section, which provides a series of working definitions essential to an understanding of the Act. Each of the included definitions is carefully chosen. An attempt was made not to include a long list of technical words. Anything that is clear from the text of the Act is provided for only in the relevant section. Basic concepts are included in the definitions section. Any concept which is also included in the Civil Code is defined in accordance with the Civil Code definition.

Part II (Organization of the Immovable Property Registration System) provides the organization of the IPRS. The system is administered throughout Albania by a chief registrar who is appointed by the Council of Ministers without a defined term of office. The chief registrar is supported by a deputy, who may act in place of the chief when necessary. The chief registrar appoints as many registrars and assistant registrars as are necessary to carry out the mandate of the Act. The Council of Ministers has divided Albania into a number of immovable property registration zones, which are further divided into administrative centers. Each administrative center has a registry which is headed by a registrar. The registrar is responsible to the chief registrar for the maintenance of records and all other aspects of the administration of the registry system.

Section 5 sets out the powers of the registrar which include:

- 1) issue certificates of ownership or lease, or of any other interest recorded on a register of immovable property, to a person who makes such a request and is entitled to such a certificate;

- 2) require any person to produce any ownership, lease, in use, or mortgage document and any other document and survey plan relating to the immovable property;
- 3) summon any person to appear before him/her or a person so delegated and give information or explanation respecting immovable property, a contract of lease, or a mortgage or to present ownership documents, certificate, or other document or survey plan relating to the immovable property, contract of lease, or mortgage in question;
- 4) suspend registration if not having complete or delivered any instrument, certificate or other document, survey plan, information or explanation required to be produced or given is withheld or any act which is required to be performed under the Act is not performed;
- 5) administer and verify anything mentioned above; and
- 6) charge a person, with the authorization of the Chief Registrar, who presents incorrect information to pay to the Registry the expenses which the Registry incurs in the process of verification of the incorrect information.

Each volume of registers includes a register (called *kartela* in Albania) of each publicly and privately owned parcel of immovable property (Sec. 8). Once there is a valid registration, every subsequent transaction involving rights to it must be registered in accordance with the provisions of the Act. When a valid registration exists, there is deemed to be notice that what is contained on that register exists (Sec. 9). Priority of registration is defined according to the order in which the instruments which lead to registration are presented to the registrar, irrespective of the dates of execution of the instrument and notwithstanding that the actual entry into the register may be delayed (Sec. 10). An instrument must be presented for registration within thirty days from the time the instrument is executed. A delay will lead to a penalty amounting to a percentage of the registration fee that is required to be paid (Sec. 12), but it will also jeopardize the priority of registration. The registrar may compel a person to submit for registration any instrument which, it is felt, was intentionally not submitted for registration (Sec. 13). Where an interest exists with more than one person, the register should identify each person and the ownership share of each co-proprietor (Sec. 15).

Part III (Maps, Parcels, and Boundaries) makes the registrar responsible for keeping what is called the Registry Index Map for the immovable property registration area over which he/she is responsible. The Registry Index Map must show the boundaries and geographical location of the immovable property and any other features. The property must have a unique identification number, which is the same on the register and the Registry Index Map. A survey plan may be filed of a particular immovable property to augment the information available from the Registry Index Map. If a survey plan is filed, it is noted in the register (Sec. 16). If it is felt necessary, the registrar may order that a survey of the immovable property take place. After informing every person affected by such action, the registrar may correct the Registry Index Map. The registrar may also correct any error in the Registry Index Map that does not affect the interest of any person (Sec. 17).

The boundaries which are shown on the Registry Index Map are approximate boundaries. If there is a dispute concerning boundaries and the parties are able to resolve the dispute, the registrar shall record the agreement on the Registry Index Map and the Register and shall file the agreement signed by the disputants. If the parties to a dispute cannot agree to a settlement, the Registrar shall instruct them to present the dispute to the court of competent jurisdiction. A notation is entered on the Register.

Every proprietor of immovable property must maintain in good order any features which demarcate the proprietor's boundary. The Registrar decides which of the adjoining proprietors is responsible for maintaining the feature which demarcates a common boundary. The registrar may also, in writing, order the demarcation, within a specified time, of any boundary in the manner in which he/she may direct (Sec. 19). Any proprietor has the right to appeal from an order of the registrar. If the proprietor takes no action within thirty days, the order is considered to have been accepted. The registrar may combine or subdivide parcels, on the application of the proprietor, once it is determined that the application is accurate. The registrar must not allow any changes that would require an instrument of transfer and, therefore, a new entry in the register.

Part IV (First Registration of an Immovable Property) of the Act contains provisions relating to a first registration of immovable property. It should be noted that there is no separate immovable property adjudication act in Albania. The provisions relating to such an action are included in Section 23–27 of the Registration Act. Registration may be affected by the presentation of any instrument which confers private ownership on an individual. However, individuals, families, and any legal persons, private or state, who possess the property in accordance with the law and do not possess ownership documentation, are obliged to present to the registrar an application for registration of ownership. The application must contain: (a) a notarized personal declaration of ownership, (b) a survey plan of the immovable property, (c) notarized declaration from neighbors and other persons indicating the correctness of the boundaries and the claim, and (d) certified copies of any additional documents that support the application for registration. Provisional registration shall be prepared from the information presented to justify first registration.

Public display of the provisional registration shall take place for ninety days in a prominent and relevant place for public examination within the geographic zone where the property is located. Notice shall also be provided, in an appropriate journal, newspaper, or other socially acceptable source, for ninety days in a manner designed to notify persons who might make a claim to the immovable property in question. Following the ninety-day period, all immovable properties for which there is no outstanding claim shall be given valid registration and all certificates which may be requested regarding the content of the registers and the index map may be issued by the registrar. If there is an outstanding claim, the registrar shall consult with the parties involved and, with their agreement, correct any errors and resolve any pending disputes. Anything that cannot be resolved shall be referred to the court of proper jurisdiction. A notation is made on the provisional register of such information.

Part V (Certificates and Searches) provides for the issuance of Certificates of Ownership and Lease (Sec. 28). Where no certificate has been issued, the proprietor of the immovable property or lease may request a certificate which shall be issued. The certificate shall show all the information in the register affecting that immovable property as of the date of issuance. Only one certificate of ownership or lease shall be issued for each immovable property and is only prima facie evidence of what is shown on the certificate.

The certificate is subject to the entries on the register whether they are shown on the certificate or not. The date of issue of a certificate shall be noted on the register (Sec. 28). If a certificate is lost or destroyed, the registrar may issue a new certificate if he/she is satisfied with the evidence that the certificate has been lost or destroyed. Section 30 allows for the public to consult and examine any register of immovable property and to request a certified copy of any register, part of register, registry index map, or filed instrument or survey plan by presenting a proper written request and

paying the appropriate fees. The certified copy has the same force as an original unless the contrary is proved.

Part VI (Registration of Contracts of Lease, Mortgages, “in Use” Titles and Other Interests in Immovable Property) deals with the registration of various interests in immovable property. Ownership interests, of course, are required to be registered immediately. A contract of lease of less than one year need not be registered. If the contract of lease is for part of a state-owned immovable property and has a duration of more than one year, a separate register must be created for each part of the immovable property that is subject to such a lease and a corresponding notation made on the Registry Index Map.

All mortgages must be appropriately registered and upon satisfaction canceled from the register. Any in-use title pertaining to state-owned immovable property shall be registered in a separate register and a notation made on the Registry Index Map. The holder of an in-use interest shall be noted in the parent register wherein the state is registered as owner. Any property acquired by prescription can be registered in the name of the new owner when a copy of the court decision has been presented to the registrar. Finally, the registration of a partition of co-owned immovable property can be made by the registrar when application in the prescribed form is received by the registrar from one or more of the proprietors or from a person in whose favor an order has been made for the sale of an undivided share in immovable property. Part VII (Servitudes, Restrictive Agreements, and Restrictions) includes the registration requirements of encumbrances such as servitudes, restrictive agreements, and restrictions.

Part VIII (Rectification and Compensation) allows the registrar to rectify the register. It can be done when appropriate documentation or evidence is presented to show that what is included in the register is incorrect. A request to the chief registrar to review the decision of the registrar to rectify the register may be made (Sec. 48). The registrar shall make a decision whether the error on the register has resulted in a right to compensation because of the incorrect information. A decision as to compensation by the Registrar, must be approved by the chief registrar.

Parts IX (Decisions of Registrar and Appeals), X (Fees and Offenses), and XI (Miscellaneous) deal with general matters involving fees, appeals, offenses, and some miscellaneous matters such as when the Act goes into effect and the repeal of all conflicting provisions in any other pre-existing law. Two points should be noted. First, when the Act was being drafted, an attempt was made to put the registries on a self-sustaining basis. A formula was designed which would allow each registry to retain the funds it generated from its own activities to allow it to purchase equipment and so on. Guidelines were developed to ensure that parity would exist between the different registries. Parliament rejected the self-financing idea, but in Sec. 54 required only income in excess of the budget of the Registration Office be paid over to the central state treasury. Second, this Act does not assign the administrative authority of the registration system to a specific ministry or other government office. It calls for the appointment of the chief registrar by the Council of Ministers and the appointment of the registrars by the chief registrar. The Act does not say that the system of immovable property registration shall operate directly under the authority of the Council of Ministers. This decision, it is felt, has not yet been made, notwithstanding the fact that the Civil Code specifically calls for the registration system to be administered through the Ministry of Justice.

CONCLUDING REMARKS

This immovable property registration system has been designed because of its applicability to a defined parcel of immovable property and because of its flexibility for a multitude of immovable property and mapping related purposes. The Immoveable Property Registration Act is procedural, but it sets the stage for a dynamic use of technical concepts that will lead to an enhanced and better understood management of property.

ANNEX A

LAW ON THE REGISTRATION OF IMMOVABLE PROPERTY[†]

As amended by Law 8090, 21 March 1996,

“Some Amendments to Law no. 7843, 13 July 1994”

[†] Translation prepared by Armand Simo and David Stanfield, 26 August 1994, from previous drafts prepared by Lida Stamo, Norman Singer, Rezarta Gaba, Naim Sula, Romeo Sherko, Kastriot Myftiu, and Maksi Raço.

REPUBLIC OF ALBANIA

LAW ON THE REGISTRATION OF IMMOVABLE PROPERTY

As amended by Law 8090, 21 March 1996,

“Some Amendments to Law no. 7843, 13 July 1994”

REPUBLIC OF ALBANIA
LAW ON THE REGISTRATION OF IMMOVABLE PROPERTY

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REPUBLIC OF ALBANIA
LAW ON THE REGISTRATION OF IMMOVABLE PROPERTY

On the basis of ARTICLE 16 of Law no. 7491, dated 29 April 1991, on the main dispositions of the Constitution, "On proposal of the Council of Ministers," The People's Assembly of the Republic of Albania decided: to present an Immovable Property Registration Act as follows:

PART I. PRELIMINARY

SECTION 1. Definitions

In this Act the following definitions shall apply:

- "Chief Registrar" means a person appointed who assures that the registrars of the immovable property registries throughout the country manage their registries in accordance with the law;
- "court" means the place which resolves disputes concerning immovable property;
- "immovable property" means land, water sources, buildings as well as other immovable objects defined in relevant legal acts;
- "immovable property registration zone" means a local subdivision or geographic area designated by the Council of Ministers in collaboration with the Chief Registrar for purposes of registration of immovable property under this or any other law;
- "instrument" includes any ownership document, court judgment, legal state agency document, or other document requiring or capable of registration under this Act;
- "proprietor" means the person whose name is registered under this Act as the owner of immovable property;
- "the register" means the page of the volume of the Register Book which is kept for each immovable property;
- "to register" means to make an entry, note, or record in the register kept under the provisions of this Act;
- "Register Book" means the set of all registers for immovable properties in a specific immovable property registration area;
- "Registrar" means the person responsible for the Immovable Property Registry of a defined administrative sector;
- "Registry" means the immovable property registry office established under this Act;
- "Registry Index Map" means the map or series of maps referred to in Part III of this Act;
- "restriction" means an order of the Registrar to restrict the registration and/or dealing of a particular immovable property;
- "restrictive agreement" means a documented restriction on the use of immovable property;
- "survey" means the determination of the boundaries of an immovable property;
- "survey plan" means the document that shows the boundaries of an immovable property which is owned, leased, or held in use.

PART II. ORGANIZATION OF THE IMMOVABLE PROPERTY REGISTRATION SYSTEM

SECTION 2. Immovable property registries

There shall be established and maintained in each administrative center of the Immovable Property Registration Zone defined under the authority of the Council of Ministers, an Immovable Property Registry, which is a juridical person, in which there shall be kept:

- a) Immovable Property Registers, in accordance with the provisions of Part II of this Act;
- b) a Registry Index Map of the administrative zone, in accordance with the provisions of Part III of this Act;

- c) all contracts of transfer, court judgments, mortgages, inheritances, and other legal documents which affect rights to immovable property as well as survey plans of immovable properties, indices of these records, and other records necessary for the operation of an immovable property registry;
- d) all the information which is not prohibited by law, such as that of the *kartela*, registration index maps, and submitted documents for registration are made available to any person who requests them.

SECTION 3. Chief Registrar

The registration of the immovable properties throughout the territory of the Albanian Republic is directed by the Chief Registrar and his deputies. The authority of the Chief Registrar is equal to those of the members of the Council of Ministers.

In the absence of the Chief Registrar, for whatever reason, the Chief Registrar may designate a Deputy Registrar to exercise any of the powers vested in the Chief Registrar by this Act.

- ♦ The Chief Registrar of Immovable Properties of the Republic of Albania organizes and directs the Central Office of Immovable Property Registration and up to the full functioning of the registration system it depends on the Council of Ministers.

- ♦ The Central Office of Immovable Property Registration is a juridical person, it has its seal, and it is located in Tirana.

SECTION 4. The Registrar

The Chief Registrar nominates the Registrar, the Assistant Registrar, and approves the organizational structure of registration offices to administer the registration system, according to the provisions of this law, in a registration zone of immovable properties.

The Registrar for each immovable property registration area shall be responsible to the Chief Registrar for the maintenance of records and all other aspects of the administration of his/her registry.

SECTION 5. Powers of the Registrar

The Registrar may exercise the following powers in addition to any other powers conferred on him/her by this Act:

- a) issue certificates of ownership or lease or of any other interest recorded on a register of immovable property to a person who makes such a request and is entitled to such a certificate;
- b) require any person to produce any ownership, lease, in use, or mortgage document and any other document and survey plan relating to the immovable property, and that person shall be obligated to produce it;
- c) summon any person to appear before him/her or a person delegated by him/her and give any information or explanation respecting immovable property, a contract of lease, or a mortgage; present ownership documents, certificate, or other document or survey plan relating to the immovable property, contract of lease, or mortgage in question, and that person shall appear and give the requested information or explanation;
- d) suspend registration if not having complete or delivered any instrument, certificate, or other document, survey plan, information, or explanation required to be produced or given is withheld or any act required to be performed under this Act is not performed;
- dh) administer and verify the above information;
- e) by the authorization of the Chief Registrar, the Registrar has the right to fine any person who submits incorrect information, in order to pay off the registration office for the expenses it had in the process of correcting this incorrect information.

SECTION 6. Seal of the registry

There shall be a seal for the Registry. Every document issued by this office should contain its seal.

SECTION 7. Liability of registry officers

The Chief Registrar and any Registrar shall not, nor shall any other officer of the registry, be liable to any documented action in respect of any act or matter done or omitted to be done in good faith in the exercise of the powers and duties under this Act, or any regulations made under it. Such officers shall be subject to the prescribed penalties for violations of law.

SECTION 8. The Immovable Property Register

Each volume of the Register Book in the immovable property registry shall include a register for each publicly owned immovable property and a register for each privately owned immovable property.

SECTION 9. Effect of registration

Once an immovable property has valid registration, every subsequent transaction involving rights to it shall be registered in conformity with the provisions of this Act.

The registration of an immovable property gives a person as individual, co-owner, or as representative of a family the right to enjoy the immovable property in conformity with the law.

Every proprietor acquiring any immovable property, contract of lease, or mortgage shall be deemed to have had notice of every entry in the registry relating to the immovable property, contract of lease, or mortgage.

SECTION 10. Priority of registration

Registration priority is defined according to the order in which the instruments which led to their registration are properly presented to the Registrar, irrespective of the dates of execution of the instruments and notwithstanding that the actual entry in the register may be delayed.

SECTION 11. Required registration

Any contract or other document affecting rights to immovable properties shall be presented for registration no later than 30 days from the time the instrument or other document is executed.

SECTION 12. Delay in registration

Where an instrument is presented more than 30 days after the date of the execution of the instrument, then, in addition to the registration fee, an additional fee equal to 10 percent of the registration fee shall be payable for each day which has elapsed since such date.

This fee will be paid by every juridical and physical person, whose rights over immovable properties are affected by the instrument.

SECTION 13. Power to compel registration

If the Registrar is satisfied that any person has intentionally failed to register any instrument which is registrable under this Act, the Registrar may by notice in writing order such person to present such instrument for registration, and thereupon the registration fee and any additional fee payable shall become due and shall be payable by such person whether the instrument is presented for registration or not.

SECTION 14. Stay of registration.

A person proposing to deal with registered immovable property, with the consent in writing of the proprietor, may apply to the Registrar for the suspension of any other transactions or actions concerning this property. If this application for suspension is approved, the registration of any instrument affecting the immovable property shall be stayed for a period (hereinafter referred to as the suspension period) of 15 days from the time at which application for the suspension was approved by the Registrar, and a note shall be made in the *kartela* accordingly.

If within the suspension period a properly executed instrument is presented for registration by the person who has requested the suspension, such instrument shall have priority over any other instrument which may be presented for registration during the suspension period.

SECTION 15. Registration of co-proprietors of immovable properties

Every instrument that certifies the ownership of two or more persons, and its registration in the Registry must show the identity and where possible the appropriate share of each co-proprietor.

PART III. MAPS, PARCELS, AND BOUNDARIES

SECTION 16. Registry index map

The Registrar shall be responsible for and maintain a map or series of maps, to be called the Registry Index Map, for the immovable property registration area covered by that registry.

The Registry Index Map shall show the boundaries and geographical locations of immovable properties as well as other features.

The immovable properties have a unique identification number, the same number being used to identify the immovable properties on their registers and on the Registry Index Map.

A survey plan may be filed of a particular immovable property to augment the information available from the Registry Index Map, and the filing of the survey plan shall be noted in the register.

SECTION 17. Correction of the registry index map and new editions

The Registrar may cause to be made a survey of any immovable property for the purposes of this Act and, after informing every person affected thereby, may cause the Registry Index Map to be corrected as a result of the mentioned survey.

The Registrar may correct any error in the Registry Index Map which does not affect the interest of any person.

The Registrar may, at any time, direct the preparation of a new Registry Index Map or any part thereof, and there may be omitted from the map any matter which the Registrar considers obsolete.

SECTION 18. Boundaries

The Registry Index Map indicates the approximate boundaries, areas, and location of the immovable properties.

When the parties to a dispute concerning a boundary or boundaries agree to resolve the dispute, the Registrar shall record the agreement on the Registry Index Map and on the affected registers, and shall file the agreement signed by the parties to the dispute.

Where any uncertainty or dispute arises as to the position of any boundary, and the parties to the dispute cannot agree concerning such boundary, the Registrar shall instruct them to present the dispute to the competent court within 15 days, and shall make a notation on the register. If there is no petition to the court within the specified time, the Registrar shall make the appropriate notation.

SECTION 19. Maintenance of boundary features

Every proprietor of immovable property shall maintain in good order any features which demarcate the proprietor's boundaries.

The Registrar may in writing order the demarcation within a specified time of any boundary in such manner as he/she may direct.

The Registrar decides which of adjoining proprietors shall be responsible for the care and maintenance of any feature demarcating a common boundary, and the person so identified will have the responsibility.

Within 30 days the proprietors have the right to appeal in court against the order of the Registrar. If within this period of time there is no exercise of this right, the order is considered as accepted.

SECTION 20. Interference with boundary features

Any person convicted of illegally modifying or damaging any boundary whether or not any penalty is imposed upon him/her, shall be liable to pay the cost of restoring the boundary feature, and such cost shall be considered as a civil debt by any person responsible for the maintenance of the feature.

SECTION 21. Combinations and subdivisions

Where contiguous immovable properties are owned by the same proprietor and are subject in all respects to the same rights and obligations, the Registrar, on application by the proprietor, may combine those properties by closing the registers relating to them and opening a new register or registers and revising the Registry Index Map in respect of the immovable property or properties resulting from the combination.

Upon the written application of the proprietor or successors for the division of an immovable property into two or more immovable properties, the Registrar shall effect the division by closing the register relating to the subdivided immovable property and opening new registers and revising the Registry Index Map in respect of the new immovable properties resulting from the division, and recording in the new registers all existing entries appearing in the closed register.

The Registrar, on the application of the proprietors of contiguous immovable properties who are desirous of changing the boundaries of their properties, and with the consent in writing of all other persons in whose name any right in such properties is registered, may cancel the registers relating to such properties and update the registers and Registry Index Map in accordance with the revised layout;

In case that the Registrar determines that the proposed reparcellation involves substantial changes of ownership which should be effected by transfers, the Registrar may in his/her discretion refuse to effect such reparcellation.

The Registrar must not allow any transfer which deletes legal rights.

Where a proprietor wishes to subdivide his/her immovable property, the Registrar shall require the proprietor to submit a survey plan of the proposed subdivisions prepared by a licensed surveyor and certified by the appropriate authority as conforming with the requirements of law.

SECTION 22. Transfers of part of the immovable property

No part of the immovable property included in a register shall be transferred unless the proprietor has first subdivided the immovable property, in accordance with the law, and new registers have been opened in respect of each subdivided portion of the immovable property.

PART IV. FIRST REGISTRATION OF AN IMMOVABLE PROPERTY

SECTION 23. First registration

The first registration of any immovable property shall require the preparation of a register in accordance with the provisions of this Act, and in accordance with the provisions of any other Act which define ownership or agreements or obligations which exist for the immovable property.

SECTION 24. Manner of first registration

The Registrar, a person, or any group designated by the Chief Registrar shall require that the ownership and boundaries of each property to be registered shall be documented, using the following criteria:

- a) Ownership and boundaries of immovable properties shall be considered as properly defined by a title issued under Law 7501 of 19 July 1991, contracts of sale under Law 7652 of 23 December 1992, decisions of the Commissions of Restitution under Law 7698 of 15 April 1993, other laws, other official instruments which confer private ownership, and Court decisions legally approved or issued after 19 July 1991.

- b) For those individuals, families, and legal persons, private or state, who possess the property in conformity with law and do not hold any ownership document under Paragraph a, are obliged to present to the Registrar an application for registration of ownership. This application shall contain a notarized, personal declaration of ownership, a survey plan of the immovable property, and notarized declarations from neighbors and other persons as to the correctness of the boundaries and as certified copies of different documents which support the application for registration.
- c) Provisional registration shall be prepared from the information produced from a) and b).

SECTION 25. Public notice

A public display of the provisional registration shall take place for 90 days in a prominent and relevant place for public examination within the geographic zone where the properties are located.

Notice shall also be provided for that 90-day period in a public manner designed to notify individuals who might make a claim to the immovable properties in question.

During that display period all errors or claims shall be made known to the Registrar in writing. No claim presented after that 90-day period will be accepted.

SECTION 26. Legalization of first registration

Under the first paragraph of Section 25, following the public display period, all immovable properties for which there are no pending claims of error shall be given valid registration and from this moment certificates of ownership and other certificates which may be requested regarding the content of the registers and the index maps may be issued by the Registrar.

SECTION 27. Resolution of conflicting claims in first registration

The Registrar shall consult with the parties making claims about the information contained in the Registers or in the Registry Index Map to clarify and correct any errors and resolve any disputes. Such corrections and resolutions shall be made in a notarized document. Any disputes already resolved by any legally constituted commission or court precludes any further action by the Registrar.

Any disputes which cannot be resolved in this way with the agreement of the parties involved shall be referred to the competent court, and a notation placed on the relevant registers concerning the existence of the disputes and the court to which the disputes have been referred.

PART V. CERTIFICATES AND SEARCHES

SECTION 28. Certificates of ownership and lease

The Registrar shall, if requested by a proprietor of immovable property or a lessee where no certificate of ownership or certificate of lease has been issued, issue to the proprietor a certificate of ownership or a certificate of lease in the prescribed form showing all information in the register affecting that immovable property or contract of lease.

For any immovable property registered in the appropriate *kartela* for ownership, mortgaging, or for different contracts that are carried out on this property, only one certificate shall be issued.

A certificate of ownership, lease, or mortgage shall be only prima facie evidence of the matters shown therein, while ownership, lease, or mortgage shall be subject to all entries in the register whether they are shown on the certificate or not.

The date of issue of a certificate of ownership, lease, or mortgage shall be noted in the register.

SECTION 29. Lost or destroyed certificates

If a certificate issued to a person under Section 28 is lost or destroyed, he/she may apply to the Registrar in the registry where the immovable property is located for the issuance of a new certificate, and shall produce evidence to satisfy the Registrar of the loss or destruction of the previous certificate.

If the Registrar is satisfied with the evidence as to the loss or destruction of the certificate, and after the publication of such notice as the Registrar may think fit, the Registrar may issue a new certificate.

When a lost certificate is found, it shall be delivered to the Registrar for cancellation.

SECTION 30. Inspections and copies

Any person can examine and consult any register and can request a certified copy of it, a part of the Registry Index Map, any filed instrument or survey plan deposited in the registry, by presenting a written request by paying the appropriate fees.

SECTION 31. Evidence

A copy certified by the Registrar of the register or part of the Registry Index Map or any survey plan or instrument filed in the registry shall be acceptable with the same value as the original in all actions and questions regarding it and for all persons or parties until the contrary is proved.

SECTION 31a.

The contract of the selling of an immovable property is registered in the relevant section of the immovable property *kartela*.

PART VI. REGISTRATION OF THE CONTRACTS OF BUYING AND SELLING, LEASING, MORTGAGING, AND OF ACTS OF TAKING THE LAND “IN OWNERSHIP” AND “IN USE” AND OF OTHER INTERESTS IN IMMOVABLE PROPERTIES

SECTION 32. Registration of contracts of sale and lease

A contract for the sale of an immovable property shall be registered in the appropriate section of the relevant register.

A contract of lease for an immovable property for a period less than one year is not required to be registered. Any other contract of lease for an immovable property must be registered by noting it in the proper section of the register of the lessor's immovable property.

If a contract of lease is for a part of a state-owned immovable property and has a duration of one year or longer, a separate register shall be created for each part of the immovable property and a notation made on the Registry Index Map.

SECTION 33. Registration of mortgages

The mortgage shall be completed by its registration in the appropriate section of the register of the immovable property, or part of it, which is used as security for the mortgage and the registration of the person in whose favor it is created as its proprietor and by filing the instrument.

SECTION 34. Registration of legal mortgages

The Registrar shall enter legal mortgages which result from sale contracts in the appropriate section of the register of the affected immovable property which the seller owned.

SECTION 35. Satisfaction of a mortgage

The Registrar, based on a written request prepared in the appropriate form required by law, shall order that the mortgage be canceled from the register of immovable property when the necessary acts required by relevant law or regulations to satisfy the mortgage are performed. Any request for cancellation of a mortgage must be accompanied by the document which justifies the cancellation and is signed by the Registrar.

SECTION 36. Registration of in-use titles

A separate register shall be created and a notation made on the Registry Index Map for any "in use" title pertaining to state-owned immovable property. The holder of the in-use title shall be noted in the appropriate section of the register and the state shall be noted as the proprietor.

SECTION 37. Registration of immovable property acquired by prescription

Registration of immovable property acquired by prescription is accomplished by presenting to the Registrar a copy of the decision of the court which has declared that ownership has been achieved through prescription.

The Registrar, shall, in accordance with the decision of the court, register the immovable property in the name of the person who has acquired ownership by prescription.

SECTION 38. Registration of transfer of ownership by law, by judgment of the court, or by administrative acts

Where the State or any physical or legal person has become entitled to the right of ownership of any immovable property, has contracted a lease, or has acquired a mortgage based on a law, court decisions, or any administrative agency, the Registrar shall, on the application of any interested person supported by such evidence as the Registrar may require, register the State, physical or legal person as the proprietor.

SECTION 39. Registration of a partition of co-owned immovable property

If all the co-proprietors agree through a notarial act, partition of immovable property owned by them may be made.

An application for the partition of co-owned immovable property may be made in the prescribed form to the Registrar by:

- a) any one or more of the proprietors; or
- b) any person in whose favor an order has been made for the sale of an undivided share in the immovable property in execution of a court decision.

Partition shall be completed by following the procedure set out in Section 21.

SECTION 40. Registration of powers of attorney

Upon the application of the person giving the power of attorney to another person, or the holder of the power of attorney, such power of attorney shall be entered in the ownership section of the Register of the immovable property in question, and the original shall be stored in the archive.

SECTION 41. Registration of instruments completed abroad

All relevant instruments prepared abroad, when presented for registration, shall be translated and legalized according to law.

PART VII. SERVITUDES, RESTRICTIVE AGREEMENTS, AND RESTRICTIONS**SECTION 42. Registration of servitudes**

The proprietor of an immovable property may record a servitude through the presentation to the Registrar of the act of the creation of the servitude in the form required by law, which specifies:

- a) the nature of the servitude, the period for which it is granted and any conditions or restrictions intended to affect its enjoyment; and
- b) the immovable property or part of it affected by the servitude.

The instrument in legal form which applies for a servitude shall be filed and shall include a survey plan sufficient to describe the location and extent of such servitude.

The registration of the servitude shall be completed by its notation in the appropriate section of the register of the immovable property affected.

SECTION 43. Registration of restrictive agreements

Where an instrument contains a restrictive agreement and is presented to the Registrar, the Registrar shall note the restrictive agreement in the appropriate section of the register of the immovable property burdened by the restrictive agreement, either by entering particulars of the agreement or by referring to the instrument containing the agreement, and shall file the instrument.

SECTION 44. Registration of restrictions

For the prevention of any fraud or improper dealing, the Registrar may order that a restriction be recorded in the appropriate section of an affected immovable property. This order may be given either with or without the application of any person interested in the immovable property, contract of lease, or mortgage after directing inquiries to be made and notices to be served and hearing of such persons as the Registrar thinks fit. That restriction shall prohibit or restrict transactions involving the immovable property.

A restriction may last:

- a) for a particular period; or
- b) until the occurrence of a particular event; or
- c) until the making of a further order.

The Registrar shall order a restriction to be entered on the register in any case where it appears to the Registrar that the power of the proprietor to deal with the immovable property, contract of lease, or mortgage is restricted.

SECTION 45. Notice and effect of restrictions

Upon the entry of a restriction, the Registrar shall give notice in writing to the proprietor affected thereby.

So long as any restriction remains registered, no instrument which is inconsistent with it shall be registered except by court decision or by the order of the Registrar.

SECTION 46. Removal and variation of restrictions

Upon application by any interested person based on a notarized instrument certifies that there is no reason for the restriction being placed on the immovable property, the Registrar may order the removal or variation of a restriction.

The owner affected by the restriction has the right of appeal to a court, which will decide the case.

SECTION 47. Release and modification of servitudes and restrictive agreements

Upon presentation of a request and appropriate documents by the person in whose favor the servitude has been granted, or upon the presentation of a request by the parties to the restrictive agreement in the prescribed form, the appropriate registration is done.

PART VIII. RECTIFICATION AND COMPENSATION

SECTION 48. Rectification by the Registrar

The Registrar may rectify the register or any instrument presented for registration in the following cases:

- a) in the case of errors or omissions not materially affecting the interest of any proprietor;
- b) where any person has presented a certified copy of the court decision which proves that he/she has acquired ownership by prescription;
- c) in any case and at any time with the consent of all persons interested; or
- d) where, upon resurvey, a dimension or area shown in the register or on the Registry Index Map is found to be incorrect, but in such case the Registrar shall first give notice to all persons appearing on the register who are interested or affected by the Registrar's intention so to rectify.

Upon proof of the change of the name or address of any proprietor, the Registrar shall, on the written application of the proprietor, make an entry in the register to record the change.

The Chief Registrar, if so requested, may review the decision of the Registrar concerning the rectification of the register.

SECTION 49. Procedure for requesting compensation

Upon the request of any interested party, the Registrar shall make a rapid decision as to whether any right to compensation should be awarded for damages caused, which resulted from incorrect information. Upon approval by the Chief Registrar, the awarded compensation for the damages caused will be defined.

SECTION 50. Amount of compensation

When compensation is awarded in respect of any loss relating to any interest in immovable property, it shall be calculated in accordance with the regulations to this Act.

PART IX. DECISIONS OF REGISTRAR AND APPEALS

SECTION 51. Power of Registrar to make a statement

For any claim or dispute presented to the Chief Registrar concerning the exercise of the duties of any registrar, the Chief Registrar is required, before making a decision, to request in writing the statement of the registrar.

SECTION 52. Appeals

Any person aggrieved by a decision, direction, order, determination or award of the registrar, which has been reviewed by the Chief Registrar, may, within 30 days of the rendering of the final decision, direction, order, determination, or award by the Chief Registrar, give notice to the Registrar in the prescribed form of the intention to appeal to the appropriate court against the decision, direction, order, determination, or award.

On receipt of a notice of appeal, the registrar shall prepare and send to the appropriate court, with an information copy to the Chief Registrar and to the appellant, and to any other person appearing to the registrar from a review of the register to be affected by the appeal, a brief statement of the question in issue.

Where an aggrieved party requires the registrar to make a statement for the opinion of the court, such party shall deposit with the registrar such sum as the registrar shall consider sufficient to meet the costs of the document compilation.

SECTION 53. Effect of appeal

A note that an appeal to the Chief Registrar or to the court is pending shall be made in the register affected by the appeal and any disposition shall be subject to such notice.

PART X. FEES AND OFFENSES

SECTION 54. Fees

Fees shall be payable in respect of certificates for immovable properties, certificates of leases, certified copies, searches, survey plans, printed forms, and all other matters connected with registration.

The Registrar shall refuse registration until the fees are paid.

At the end of each financial year, the income in excess of the budget of the Registration Office goes to the central office budget.

SECTION 55. Offenses

Any declaration or action which is contradictory with Sections 11, 19, 24, 44, or 45 is an offense. When the offense does not constitute a penal act, the Registrar shall apply a fine from 5,000 lek to 50,000 lek. An appeal against the decision of the Registrar must be presented within 5 days from the day of the notification of the fine in the court of the district where the offense occurred.

The review of the administrative offenses and administrative decisions are made under the "Law of Administrative Offenses."

PART XI. MISCELLANEOUS

SECTION 56. Rules

The Council of Ministers shall issue legal rules for the application of the provisions of this law.

SECTION 57. Beginning operation of a registry

The date for entering into operation of any registry under this law is defined by a decision of the Council of Ministers. Upon beginning to function of a registry, all existing instruments and documents under Section 24 from all appropriate agencies from before the approval of this law shall pass to the administration of the registry.

Section 58:

All dispositions which are contrary to this Law are repealed.

Section 59.

This law enters into effect 15 days after its publishing in the *Fletoren Zyrtare*.

Tirana, 13 July 1994

No. of Law: 7843

PRESIDENT OF THE POPULAR ASSEMBLY

(signature)

(Signed by the President of the Republic, 16 August 1994, and published in volume 8 of Z.V.)